



## Remote Deposit Capture/Mobile Deposit Agreement

---

This Remote Deposit Capture/Mobile Deposit Agreement (“Agreement”) contains the terms and conditions for the use of First IB iScan and/or other remote and/or mobile deposit capture services (“RDC Services”) that First Internet Bank of Indiana (“First IB”, “us”, “we”) may provide to you (“you” or “User”). Other agreements you have entered into with First IB, including the Deposit Account Terms and Conditions and Online Banking Access Agreement governing your First IB account(s), are incorporated by reference and made part of this Agreement.

### 1. RDC Services

The RDC Services are designed to allow you to make deposits to your checking, savings, or money market savings accounts from home or other remote locations or mobile devices by imaging checks and delivering the images and associated deposit information to First IB or First IB’s designated processor. There is currently no charge for the RDC Services. All other fees related to deposit accounts apply. The First IB Fee Disclosure will be updated, and customers provided at least 30 days notice, should a fee be instituted in the future. Your continued use of the RDC Services will indicate your acceptance of any such change to the fee charged for the RDC Services.

### 2. Acceptance of these Terms

Your use of the RDC Services constitutes your acceptance of this Agreement. This Agreement is subject to change by the Bank from time to time. We will notify you of any material change via email or on our website by providing a link to the revised Agreement. Your continued use of the RDC Services will evidence your acceptance of the revised Agreement. Further, First IB reserves the right, in its sole discretion, to change, modify, add, or remove functionality of the RDC Services. Your continued use of the RDC Services will indicate your acceptance of any such changes to the RDC Services.

### 3. Limitations of RDC Services

When using the RDC Services, you may experience technical or other difficulties (i.e. sign on, connectivity, scanning, check acceptance, etc.). We are not liable and will not assume responsibility for any technical or other difficulties or any resulting damages that you may incur. We reserve the right to change, suspend or discontinue the RDC Services, in whole or in part, or your use of the RDC Services, in whole or in part, immediately and at any time without prior notice to you.

### 4. Eligible items

You agree to image and deposit only checks as that term is defined in Federal Reserve Regulation CC (“Reg CC”). You agree that the image of the check transmitted to First IB shall be deemed an “item” within the meaning of Article 4 of the Uniform Commercial Code as adopted in Indiana. You agree that you will not use the RDC Services to image and deposit any checks or other items as described below (“prohibited items”):

- A. Checks or items initially payable to any person or entity other than you.
- B. Checks or items containing obvious alteration to any of the fields on the front of the check or item, or which you know or suspect, or should know or suspect, are fraudulent

or otherwise not authorized by the owner of the account on which the check or item is drawn.

- C. Checks or items previously converted to a substitute check, as defined in Reg CC.
- D. Checks or items drawn on a financial institution located outside the United States.
- E. Checks or items that are remotely created checks, as defined in Reg CC.
- F. Checks or items not payable in United States currency.
- G. Checks or items dated more than 6 months prior to date of deposit.
- H. Checks or items prohibited by First IB's current procedures relating to the RDC Services or which are otherwise not acceptable under the terms of your First IB account(s).
- I. US Savings Bonds.

## **5. Image Quality**

The image of an item transmitted to First IB using the RDC Services must be legible. The RDC Services allow for the electronic transmission of items only (i.e. scanned and transmitted via a secure online banking session). The image quality of the items must comply with the requirements established from time to time by the American National Standards Institute, the Check 21 Act (12 U.S.C. §§ 5001 *et seq.*), the Board of Governors of the Federal Reserve Board, or any other regulatory agency, clearing house or association. The Bank makes FAQs available on our website to address many commonly asked questions regarding the RDC Services. The FAQs may be updated from time to time to address changes or enhancements in the RDC Services.

## **6. Endorsements and Procedures**

You agree to restrictively endorse any item transmitted through the RDC Services as "For deposit only, First IB account # \_\_\_\_\_" or as otherwise instructed by First IB. Deposits made with a mobile device additionally require that the words "FOR MOBILE DEPOSIT" be included in the endorsement. You agree to follow any and all other procedures and instructions for use of the RDC Services as First IB may establish from time to time. You agree that you will not transmit any item through the RDC Services more than once, and that once an item has been transmitted through the RDC Services, you will not deposit or present the original item, unless we do not accept the item for remote deposit and we instruct you to deposit by another method. You agree that the aggregate amount of any items which are deposited more than once will be debited from your account, and to the extent funds in your account are insufficient to cover such amount, any balance shall be debited by First IB from any other deposit accounts you hold with First IB, in its sole discretion. You further acknowledge that you and not First IB are responsible for the processing and handling of any original items which are imaged and deposited utilizing the RDC Services and you assume all liability to the drawer of any item imaged using the RDC Services or liability arising from First IB's printing of any substitute check from those images.

## **7. Receipt of Items**

We reserve the right to reject any item transmitted through the Services, at our discretion, without liability to us. We are not responsible for items we do not receive or for images that are dropped during transmission. An image of an item shall be deemed received when you receive a confirmation from First IB that we received the image. Receipt of such confirmation does not mean that the transmission was error free or complete. You will know that your deposit is accepted and credited to your account when you see it in your transaction history. The manner in which the

items are cleared, presented for payment, and collected shall be in First IB's sole discretion subject to the Deposit Account Terms and Conditions governing your account. Any credit to your account is provisional only until collection is final. Deposited items subsequently returned to us for any reason will be processed in accordance with our normal returned item procedure. You will indemnify us and hold us harmless from any loss we may incur as a result of our lawfully reversing a provisional credit to your account.

## **8. User Warranties and Indemnification**

Each time you transmit an item for deposit using the RDC Services, the act of transmitting the item will mean that you represent and warrant to First IB that:

- A. The item is eligible for deposit under this Agreement and is not a prohibited item.
- B. The image you transmit is an accurate image of the paper original of the item and meets the image quality standards of the RDC Services.
- C. You are entitled to deposit the item.
- D. You have not transmitted and will not transmit a duplicate of the item without our consent.
- E. You will not deposit or represent the paper original of the item without our consent.
- F. All information you provide to First IB regarding your remote deposit is accurate and complete.
- G. You have complied with this Agreement and all applicable rules, laws and regulations.

You agree to indemnify and hold harmless First IB from any loss, cost, damage, liabilities, and expenses, including attorneys' fees and expenses that First IB incurs as a result of any breach of any of the foregoing representations and warranties.

## **9. Availability of Funds**

You agree that items transmitted using the RDC Services are not subject to the funds availability requirements of Reg CC. Our general policy is to make funds from checks deposited using RDC Services available within seven (7) Business Days after the Business Day on which the funds are deposited. First IB may make such funds available sooner based on such factors as credit worthiness, the length and extent of your relationship with us, transaction and experience information, and such other factors as First IB, in its sole discretion, deems relevant. Please see our Funds Availability Policy for more information.

## **9. Disposal of Transmitted Items**

When your deposit transaction has been completed, you agree to prominently mark the item as "Electronically Presented" or "VOID" and to properly and securely dispose of the item to ensure that it is not represented for payment. And, you agree never to represent the item. You shall retain the original of all imaged items that have been deposited via the RDC Services for a reasonable period of time in order to verify settlement and credit or to balance periodic statements, but in no case beyond 90 days from the date processed, and shall properly destroy and dispose of such original checks after such time. You will promptly provide any retained item, or a sufficient copy of the front and back of the item, to First IB as requested to aid in the clearing and collection process, to resolve claims by third parties with respect to any item, or for First IB's audit purposes.

## **10. Deposit Limits**

We reserve the right to impose limits on the amount(s) and/or number of deposits that you transmit

using the RDC Services and to modify such limits from time to time. We will disclose those limits to you in writing, via the RDC Services and/or through Online Banking. You agree that the total number of items you transmit for remote/mobile deposit each business day, and the total dollar amount of items you transmit for remote/mobile deposit each business day will not exceed the deposit limits disclosed to you. You agree that First IB, in its sole discretion, may accept remote/mobile deposits in excess of those limits without liability to you, and without any obligation to accept remote/mobile deposits in excess of those limits at any subsequent time. You agree that First IB may change such limits at any time.

### **11. Responsibility for Imaging**

You are solely responsible for imaging deposit items, accessing the RDC Services from First IB and for procuring, operating, maintaining, and securing your own imaging equipment (e.g., scanner and/or mobile device(s) with built-in camera). It is your responsibility to establish and maintain procedures to safeguard against unauthorized deposits or access to your information. Not all imaging equipment will produce a useable image. You will be responsible for the payment of all telecommunications expenses associated with the RDC Services. First IB shall not be responsible for providing or servicing any equipment for you.

### **12. Errors**

You agree to notify First IB of any suspected errors regarding items deposited through the RDC Services right away, and in no event later than 60 days after the applicable First IB account statement is made available to you. Unless you notify First IB within 60 days, such statement regarding all deposits made through the RDC Services shall be deemed correct, and you are prohibited from bringing a claim against First IB for such alleged error.

### **13. Ownership and License**

You agree that First IB retains all ownership and proprietary rights in the RDC Services, associated content, technology, and website. Your use of the RDC Services is subject to and conditioned upon your complete compliance with this Agreement. Without limiting the effect of the foregoing, any breach of this Agreement immediately terminates your right to use the RDC Services. Without limiting the restriction of the foregoing, you may not use the RDC Services (i) in any anti-competitive manner, (ii) for any purpose which would be contrary to First IB's business interest, or (iii) to First IB's actual or potential economic disadvantage in any aspect. You may not copy, reproduce, distribute or create derivative works from the content and agree not to reverse engineer or reverse compile any of the technology used to provide the RDC Services.

### **14. DISCLAIMER OF WARRANTIES**

YOU AGREE YOUR USE OF THE RDC SERVICES AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS AT YOUR RISK AND IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WE DISCLAIM ALL WARRANTIES OF ANY KIND AS TO THE USE OF THE SERVICES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. WE MAKE NO WARRANTY THAT THE RDC SERVICES (i) WILL MEET YOUR REQUIREMENTS, (ii) WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE RDC SERVICES WILL BE ACCURATE OR RELIABLE, OR THAT (iv) ANY ERRORS IN THE RDC SERVICES OR TECHNOLOGY WILL BE CORRECTED.

### **15. LIMITATION OF LIABILITY**

YOU AGREE THAT WE WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED

TO DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATE OR OTHER LOSSES RESULTING FROM THE USE OR THE INABILITY TO USE THE RDC SERVICES INCURRED BY YOU OR ANY THIRD PARTY ARISING FROM OR RELATED TO THE USE OF, INABILITY TO USE, OR THE TERMINATION OF THE USE OF THE RDC SERVICES, REGARDLESS OF THE FORM OR ACTION OR CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF FIRST IB HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.

#### **16. Force Majeure**

First IB shall not be responsible for liability, loss, or damage of any kind resulting from any delay in the performance of or failure to perform its responsibilities hereunder due to causes beyond First IB's reasonable control.

#### **17. Assumption of Risks**

When using the RDC Services, you may experience technical or other difficulties (for example, problems with sign on, connectivity, scanning, image transmission, etc.). We are not liable for and you assume all responsibility for any technical or other difficulties or any resulting damages that you may incur. You bear the risk that we do not receive an item you intend to transmit to us, that any item is altered in the process of transmission, and that any image we receive does not meet the image quality standards of the RDC Deposit Services. We will not be liable for any failures or alterations in the transmission of items to us through the RDC Services. You agree that we shall have no liability to you for any damages, losses, or expenses you incur as a result of fraud by third parties, including any of your agents, employees, or representatives, in connection with RDC Services. You agree that it is your responsibility to have a contingency plan for depositing items that for any reason cannot be deposited using the RDC Services.

#### **18. Other Terms**

You may not assign this Agreement. This Agreement is entered into in Fishers, Indiana, and shall be governed by the laws of the State of Indiana and of the United States. You or we may terminate this Agreement at any time. Termination shall not affect any of your obligations arising under the Agreement in connection with any items deposited through the use of RDC Services prior to such termination. A determination that any provision of this Agreement is unenforceable or invalid shall not render any other provision of this Agreement unenforceable or invalid. First IB reserves the right to periodic audits of your equipment, process and records, including IT infrastructure related to the RDC Services. First IB shall also have the right to audit your compliance with the provisions of this Agreement. You agree to comply with all such audits, policies and procedures.

#### **19. Electronic Contract**

This Agreement is an electronic contract that sets out the legally binding terms of your use of the RDC Services. You indicate your acceptance of this Agreement and all of the terms and conditions contained or referenced in this Agreement by using the RDC Services. By utilizing the RDC Services or otherwise consenting to this Agreement, you represent and warrant that (i) this Agreement and User's performance of its obligations hereunder has been duly authorized and approved, (ii) such person is either the User or a duly authorized officer, agent or employee of the User and has been duly authorized to consent to this Agreement for and on behalf of such User; (iii) the User is individually obligated and bound by the terms of this Agreement; and (iv) all information supplied by or on behalf of User in connection with the RDC Services is true and correct.

You have the right to receive and should retain a copy of this Agreement.