

Corporate Mobile Remote Deposit Capture User Agreement

(Effective January 2016)

I. INTRODUCTION – PARTIES AND DEFINITIONS

This Corporate Mobile Remote Deposit Capture User Agreement, as amended from time to time (“**User Agreement**”) governs each User’s use of the mobile remote deposit capture service provided by ZB, N.A., Member FDIC (the “**Bank**”). The Bank does business under the following trade names, and provides the remote deposit capture service through the following divisions: Amegy Bank of Texas, California Bank & Trust, The Commerce Bank of Oregon, The Commerce Bank of Washington, National Bank of Arizona, Nevada State Bank, Vectra Bank Colorado and Zions Bank (each a “**Division**”). This User Agreement contains a “Dispute Resolution Provisions” section that waives class action and jury trial rights, and can require arbitration or judicial reference.

“**Customer**” means the deposit account owner that has entered into a Primary RDC Agreement with Bank.

“**Mobile Device**” means a cellular telephone or similar wireless communications device that is installed with mRDC Software.

“**mRDC**” means Bank’s service that allows a check or other item to be deposited via a Mobile Device with mRDC Software that capture and transmit an image of that item to Bank.

“**mRDC Banking Software**” means software that we permit for use with our mRDC service.

“**Primary RDC Agreement**” means and includes all the agreement(s) that, in addition to this User Agreement, the Customer has entered into with Bank for remote deposit services generally. This User Agreement is in addition to, and not in derogation of, the Primary RDC Agreement. The term Primary RDC Agreement also includes any addendum granting Customer mobile access to its general remote deposit service.

“**User**” means any entity or individual person that downloads or permits downloading of mRDC Software to a Mobile Device that it or he owns, or a Mobile Device that it or he is authorized to use. In addition, “User” always includes the Customer. (For example, if an employee or other authorized agent of Customer downloads mRDC Software to his personal Mobile Device in order to make mRDC deposits to the Customer’s deposit account, then both the employee or agent and the Customer are a User.)

“**We**”, “**us**” and “**our**” mean Bank.

“**You**” and “**your**” mean each User.

User accepts and reaffirms the terms of this User Agreement each time User conducts an mRDC transaction. For Customer, this User Agreement is hereby made an integral part of the Primary RDC Agreement, and is subject to all the terms, conditions, restrictions, limitations, and exclusions therein.

This User Agreement is governed by the laws of the United States and the following state based on the specific Division of ZB, N.A. that provides your mRDC service: the state of Texas for Amegy Bank of Texas, California for California Bank & Trust, Oregon for The Commerce Bank of Oregon, Washington for The Commerce Bank of Washington, Arizona for National Bank of Arizona, Nevada for Nevada State Bank, Colorado for Vectra Bank Colorado and Utah for Zions Bank.

the copy fee, if any, specified in the fee schedule governing Customer's registered deposit account).

2. CUSTOMER AND NON-CUSTOMER USERS. Each User represents, warrants and agrees that it or he:

- a. Owns the Mobile Device (or is authorized by its owner to use the Mobile Device, to download mRDC Software thereto, and to conduct mRDC transactions thereon);
- b. Is authorized by Customer to conduct mRDC transactions on the Mobile Device on behalf of the Customer;
- c. Shall use the mRDC Software only to conduct transactions that are expressly authorized by Customer, and not on behalf on anyone other than Customer;
- d. Shall conduct transactions only in such manner as Customer has trained and instructed User (e.g., User shall not deposit types of items that Customer has trained User are not permitted by Customer's Primary RDC Agreement);
- e. Shall conduct transactions only in accordance with any instructions from Bank, including any instructions provided within the mRDC Software (e.g., instructions regarding types of items that are and are not permitted for deposit);
- f. Accepts and is bound by the terms of this User Agreement.

3. mRDC SERVICES

3A. mRDC Functions. To access mRDC service, your Mobile Device must be Internet-enabled and connected to the Internet through your mobile communications service provider. Customer must have a Primary RDC Agreement permitting mobile access to Customer's general remote deposit service. You must enroll register each Mobile Device(s) that you wish to use with mRDC. You must also un-register any Mobile Device that you no longer wish to be capable of using mRDC, or which Customer no longer authorizes you to use for mRDC (for example, if you terminate your employment by Customer). To un-register, contact the specific Division providing your mRDC service at the phone number or address at the beginning of this Agreement. When you un-register a Mobile Device, you must also uninstall and delete the mRDC Software from your Mobile Device. (For Mobile Devices not owned or possessed by Customer, Customer shall use commercially reasonable efforts to cause the owner or possessor to uninstall and delete the software.)

Not all functions that are described in your Primary RDC Agreement or available in your general remote deposit service are available using the mRDC service. From time to time, with or without prior notice, we may add, modify or delete particular functions, limits (including limits on the number of items and/or dollar amounts of deposits) and geographic areas. We reserve the right to refuse to make or process any transaction that you may request or attempt through mRDC.

3B. mRDC Service Availability. We will use reasonable efforts to make mRDC service available for your use on a continuous basis. We do not represent or guarantee functionality of mRDC service on all Mobile Devices, on all communications networks, in all geographic regions, or at all times. mRDC service may at any time be temporarily unavailable for regular or emergency system maintenance. Your access to mRDC service may be interrupted because of conditions beyond our control, including outages in Internet availability. We will use commercially reasonable efforts to re-establish mRDC service in those instances, but we do not promise the mRDC service will always be available for your use. We may elect to discontinue mRDC service or your enrollment therein at any time. If we choose to discontinue mRDC service, we will provide you with reasonable notice. In the case of a disaster, your mRDC service may be suspended to allow emergency and responding personnel to use the cellular networks. In no event, regardless of cause, shall we be liable to you for unavailability of mRDC services, or your inability to access mRDC services or to execute mRDC functions.

3C. Fees Charged by Bank. Currently, we charge no fees to Users who are not the Customer with a Primary RDC Agreement. Fees applicable to Customer are disclosed separately in connection with its Primary RDC Agreement. We reserve the right to institute or change fees for mRDC after sending you prior notice. See the section below entitled "Amending this User Agreement or Fees."

3D. Mobile Device and Mobile Communications. You are responsible for providing your own Mobile Device that supports 128-bit encryption. Users must download, install and use certain software systems and programs developed by us, our licensors or other third-parties. We are not responsible for any damage to your Mobile Device resulting from those activities, and you will be engaging in those activities at your own risk. Depending on its make and model, your Mobile Device may need to be capable of receiving an SMS text message to initiate the download.

You are responsible for obtaining your own mobile communications service provider. Your mobile communications service provider may charge you for Internet-related use and for text (SMS) messages, so please see your mobile carrier for further details about its charges. You are responsible for all fees and charges that you may incur to any mobile communications service provider or any other third parties while using mRDC. We are not a party to, and we have no duty, liability or responsibility with respect to or in connection with (i) your mobile communications service provider agreement, or (ii) any Mobile Device, hardware, software or other any product or service you may purchase from others. This User Agreement does not amend or supersede any agreements that you have with third parties (such as your Mobile Device supplier and your mobile communications service provider), and you remain subject to all terms, fees, costs, other charges, limitations and restrictions in those agreements with third parties. Your Mobile Device supplier and your mobile communications service provider are responsible for their products and services. You agree that any problems you may have concerning those companies' products, services or agreements shall be resolved by you directly with them, and without involving us.

Your Mobile Device may become subject to unauthorized tracking, "hacking" or other manipulation by spyware, viruses or other malicious code ("malware"). We are not responsible for advising you of the existence or potential effect of any malware. Your use of your hardware and software is at your own risk.

BY THIS AGREEMENT, YOU ARE PROHIBITED FROM MAKING ANY mRDC TRANSACTION, OR OTHERWISE USING THE mRDC SERVICE FROM OUTSIDE OF THE UNITED STATES OF AMERICA OR SUCH OTHER COUNTRY AS BANK HAS AGREED WITH COMPANY IN WRITING.

YOU CONSENT AND AGREE THAT BANK MAY USE THE mRDC SOFTWARE AND YOUR MOBILE DEVICE TO VERIFY THAT YOUR LOCATION AT THE TIME OF AN mRDC TRANSACTION IS NOT IN A COUNTRY (1) WHERE IT IS ILLEGAL UNDER APPLICABLE UNITED STATES OR FOREIGN LAW TO PROCESS YOUR TRANSACTION, OR (2) THAT IS PROHIBITED UNDER THIS AGREEMENT.

3E. Notices Under this User Agreement; Amending this User Agreement or Fees. We may change this User Agreement or the mRDC Banking Software that we permit by sending you prior notice. You may choose to accept or decline the change. The change is effective on the date stated in the notice. In addition, by continuing to use mRDC after the effective date stated in the notice, you further ratify that change.

Any notice under this User Agreement, including but not limited to notices of amendment, may be given by any commercially reasonable means, including electronic notice as set forth in the beginning of this User Agreement. Notice to any User who is not the Customer shall be deemed notice to the Customer as well. Customer hereby accepts responsibility for notifying all affected Users of any notice given to Customer by Bank, and such notice by Customer to a User shall also be deemed notice to such User by Bank. Bank may notify Customer in any manner specified in the Primary RDC Agreement. Bank may also notify any User in any manner specified in any other agreement that Bank may have with that User.

Notices from a User to Bank should be communicated by Customer to Bank in writing by hand-delivery, overnight delivery service or U.S. mail to the address provided at the beginning of this Agreement for the specific Division that provides your mRDC service. Customer may also use any electronic messaging system established by Bank for Customer, but any legal notice must also be made in writing.

If prior notice is required by this user Agreement or applicable law, then the notice period shall be a commercially reasonable number of days (which you agree shall not exceed ten days) or the period specified by applicable law, whichever is longer. Reasonable notice period may be shorter than ten days if we determine necessary due to matters of

security or other exigent circumstances.

3F. Lost or Stolen Mobile Device or Password; Unauthorized Transactions. If you believe your Mobile Device, user name (Login ID), password, or other approved access device has been lost or stolen, or that someone has or may have made an unauthorized transaction in Customer's account without your authorization, **IMMEDIATELY CONTACT THE BANK and also advise the Customer.** Customer should also review its Primary RDC Agreement and its deposit account agreement. Contact the Bank by calling the specific Division that provides your mRDC service: **1-214-754-9500** (Dallas), **1-713-235-8810** (Houston), and **1-210-343-4500** (San Antonio) for Amegy Bank of Texas, **1-800-316-0900** (Northern California), **1-800-316-6500** (Southern California) for California Bank & Trust, **1-503-548-1000** for The Commerce Bank of Oregon, **1-206-292-4550** for The Commerce Bank of Washington, **1-888-241-5550** for National Bank of Arizona, **1-800-693-7695** for Nevada State Bank, **1-800-341-8156 or 720-947-7689** for Vectra Bank Colorado and **1-800-726-7503** for Zions Bank.

3G. In Case of Errors or Questions about Your Account. In case of errors in or questions about your deposit or credit accounts, or for other questions or concerns regarding your mRDC service, please contact the specific Division providing your mRDC service at the phone number or address at the beginning of this Agreement. Customer should also review its Primary RDC Agreement and its deposit account agreement.

3H. DISPUTE RESOLUTION PROVISIONS. Customer acknowledges that any claim arising under or in connection with this User Agreement, or any mRDC transaction, is subject to the Dispute Resolution Provisions set forth in its Primary RDC Agreement and deposit account agreement.

Jury Trial Waiver: Users who are not the Customer hereby agree that any claim arising under or in connection with this User Agreement or any mRDC transaction (collectively a "Dispute") shall be decided by a state or federal judge sitting without a jury. User hereby waives all rights to demand or request trial of such Dispute by a jury. **if but only** if the court rules that the foregoing jury waiver is unenforceable, then User or Bank shall be entitled to demand and require alternative resolution of the Dispute as set forth below. In addition, **if but only if** a User's Dispute regards services provided by Bank primarily for User's personal, family or household purposes (a "Consumer Dispute"), the User shall be entitled to demand and receive alternative resolution of the Dispute as set forth below.

Alternative resolution of Dispute: If a party is entitled to demand and receive alternative resolution of the Dispute, then resolution shall be by Arbitration (as set forth below) unless the the court action is filed in California, in which case resolution shall be by Judicial Reference (as set forth below).

Arbitration: Resolution of a Dispute by Arbitration shall be conducted before a single arbitrator through either the National Arbitration Forum ("NAF") or JAMS, as selected by the initiating party, in accordance with the rules of NAF or JAMS (the "Administrator"). However, if the parties agree, a licensed attorney may be selected by the parties to conduct the Arbitration without an Administrator. If NAF and JAMS both decline to administer the Arbitration, and if the parties are unable to mutually agree upon a licensed attorney to act as arbitrator without an Administrator, then either party may file a lawsuit and move for an arbitration order. The arbitrator, howsoever appointed, shall have expertise in the subject matter of the Dispute. Judgment upon an Arbitration award may be entered in any court having jurisdiction except that, if the Arbitration award exceeds \$200,000, either party shall be entitled to a de novo appeal of the award, filed within thirty days thereof, to a panel of three arbitrators. If the Arbitration is commenced by the User in a Consumer Dispute, Bank shall pay one half of the Administrator's initial filing fee, up to \$500. In a Consumer Dispute that has not sought damages from Bank of \$75,000 or more, if Bank commences the Arbitration (or is the moving party obtaining an arbitration order), Bank shall pay all Administrator and arbitrator fees, regardless of whether or not the User is the prevailing party, so long as User's claim is not found by the arbitrator to be frivolous. .

In Arbitration proceedings only, "Dispute" does not include issues regarding (i) the validity, enforceability, meaning, or scope of this Dispute Resolution Provision, or (ii) class action claims brought by either party as a class representative on behalf of others and claims by a class representative on either party's behalf as a class member, which matters may be determined only by a court without a jury.

To request information on how to submit an arbitration claim, or to request a copy of an Administrator's rules or fee schedule, please contact the Administrators as follows: JAMS: 1920 Main St., Suite 300, Irvine, CA 92614, Phone: (949) 224-1810, Fax: (949) 224-1818, E-mail: info@jamsadr.com, Website: www.jamsadr.com; NAF: National Arbitration Forum, P.O. Box 50191, Minneapolis, MN 55405-0191, Phone (800) 474-2371, E-Mail: info@adrforum.com, Website: www.adrforum.com.

Judicial Reference: Resolution of a Dispute by Judicial Reference shall be conducted in accordance with California Code of Civil Procedure, Sections 638, et seq., including without limitation whether the Dispute is subject to a judicial reference proceeding. The referee shall be a retired judge, agreed upon by the parties, from either the American Arbitration Association (AAA) or Judicial Arbitration and Mediation Service, Inc. (JAMS). If the parties cannot agree on the referee, the party who initially selected the reference procedure shall request a panel of ten retired judges from either AAA or JAMS, and the court shall select the referee from that panel. The referee shall be appointed to sit with all of the powers provided by law, including the power to hear and determine any or all issues of fact or law. The costs of the judicial reference proceeding, including the fee for the court reporter, shall be borne equally by the parties as the costs are incurred, except (i) as otherwise awarded by the referee, or (ii) Bank shall pay all referee fees under the same circumstances as described above for Administrator and arbitrator fees with respect to arbitration of Consumer Disputes. The referee may enter equitable relief as well as legal relief, provide all temporary or provisional remedies, enter equitable orders that are binding on the parties and rule on any motion that would be authorized in a trial, including without limitation motions for summary adjudication. Judgment upon the award shall be entered in the court in which such proceeding was commenced and all parties shall have full rights of appeal.

Class Action Waiver: User and Bank hereby waive all rights to file or participate in any class action of any Dispute, whether as a class representative or a class member, or to act as a private attorney general, whether in court, Arbitration or Judicial Reference.

3I. mRDC Software License Rights Generally. In connection with your use of mRDC Software, we and our licensors (or other third-parties who have directly or indirectly granted rights in those software systems and programs with respect to mRDC) may require your agreement to certain license rights arrangements and/or end-user agreements ("Licenses"). By downloading and installing mRDC Software, you agree to the terms and conditions of any Licenses presented to you at the time of such downloading. We may also at any time condition your use or continued use of mRDC Software upon you subsequently agreeing to such Licenses (e.g., by use of clicking an acceptance box, or by your use of the mRDC Software after being presented the License terms).

We and our service providers (including without limitation third-party providers of mRDC Software) reserve all rights not expressly granted to you in this User Agreement or the terms of such Licenses. If you obtain a different Mobile Device, you will be required to download and install mRDC Software to that different Mobile Device under the same terms set forth in this User Agreement. You agree to delete all such software from your Mobile Device promptly if the Licenses or this User Agreement terminate for any reason. (For Mobile Devices not owned or possessed by Customer, Customer shall use commercially reasonable efforts to cause the owner or possessor to delete the software.) We reserve the right to change, add to, or terminate services with our third-party mRDC Software providers, to substitute different mRDC Software providers, and to enter into or arrange for the provision of mRDC Software by other licensors and third-parties.

ALL mRDC SERVICES AND mRDC SOFTWARE ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF PERFORMANCE, OR MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, OR ANY WARRANTY AS TO PERFORMANCE, ACCURACY OR COMPLETENESS. YOUR USE OF THE mRDC SERVICE AND mRDC SOFTWARE, AND ANY MATERIAL OR SERVICES OBTAINED IN CONNECTION THEREWITH, IS AT YOUR OWN DISCRETION AND RISK, AND YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE RESULTING FROM THEIR USE.

3K. mRDC Software Terms and License.

(i) **Ownership.** You acknowledge and agree that Bank or its third party vendors is the owner of all rights, title and interest in and to the mobile technology solution made available to you hereunder, including but not

limited to any downloaded software and the computer programs contained therein, as well as any accompanying user documentation, and all subsequent copies, updates or versions thereof, regardless of the media or form in which they may exist.

(ii) **License.** Subject to the terms and conditions herein and any other end user agreement or license provided to you in connection with downloading or using the mRDC Software, you are hereby granted a personal, nonexclusive, nontransferable license to use the mRDC Software (in machine readable object code form only) for the sole purpose of enabling you to use Bank's mRDC service. This is not a sale of any Software. All rights not expressly granted to you are hereby reserved by Bank and its third party vendors. Nothing herein entitles you to receive hard-copy documentation, technical support, telephone assistance, or updates to the mRDC Software. Your license may be terminated at any time, for any reason or no reason, by you, Bank or its third party vendors. Upon termination, you agree to immediately destroy all copies of any mRDC Software which has been downloaded to your Mobile Device or otherwise in your possession or control.

(iii) **Restrictions.** You shall not: (i) modify, revise or create any derivative works of the mRDC Software; (ii) decompile, reverse engineer or otherwise attempt to derive the source code for the mRDC Software; (iii) redistribute, sell, rent, lease, sublicense, or otherwise transfer rights to the mRDC Software; or (iv) remove or alter any proprietary notices, legends, symbols or labels in the mRDC Software, including, but not limited to, any trademark, logo or copyright.

(iv) **Export Controls.** Software programs, materials, tools, and technical data may be subject to U.S. export controls or the trade laws of other countries. You agree to comply with all export control regulations. You also acknowledge that you, not Bank, have the responsibility to obtain such licenses to export, re-export or import as may be required. You agree not to export or re-export to entities on the most current U.S. export exclusion lists or to any country subject to U.S. embargo or terrorist controls as specified in the U.S. export laws.

(v) **Updates.** This "mRDC Software Terms and License" section shall govern any updates that replace and/or supplement the mRDC Software, unless such update is accompanied by a separate license in which case the terms of that license will govern.

(vi) **Consent to Use of Data.** You agree that Bank and third party vendors of the mRDC Software may collect and use technical data and related information, including but not limited to technical information about your Mobile Device, system and application software, and peripherals, that is gathered periodically to facilitate the provision of software updates, product support and other services (if any) related to the mRDC Software. We and they may use that information, as long as it is in a form that does not personally identify you, to improve their products or provide services or technologies.

(vii) **Disclaimer of Warranty.** NO WARRANTY IS PROVIDED THAT THE mRDC SOFTWARE WILL BE FREE FROM DEFECTS OR VIRUSES OR THAT OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED. YOUR USE OF THE SOFTWARE AND ANY MATERIAL OR SERVICES OBTAINED OR ACCESSED VIA THE SOFTWARE IS AT YOUR OWN DISCRETION AND RISK, AND YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE RESULTING FROM THEIR USE.

(viii) **Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL BANK, ITS THIRD PARTY VENDORS OF mRDC SOFTWARE, OR THEIR RESPECTIVE AFFILIATES OR LICENSORS BE LIABLE FOR ANY DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE mRDC SOFTWARE, INCLUDING BUT NOT LIMITED TO ANY GENERAL, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH ANY CLAIM IS BASED.