



COMMERCIAL CASH MANAGEMENT AGREEMENT

WHAT THIS AGREEMENT COVERS

This Internet Banking Agreement between you and Metropolitan Capital Bank (“MCB”) governs your use of **MCB Corporate Cash Management (“MCBCCM”)**, an electronic service that permits MCB’s customers to access financial services through the use of the World Wide Web. Accounts and services provided by MCB that you access through MCBCCM may also be governed by other agreements with you.

This Agreement (“Agreement”) governs your use of MCBCCM. This is the Master and supersedes, to the extent that specific addendum “Service Agreements” are silent or inconsistent, such Service Agreements. In this Agreement, we will use the term MCB Corporate Cash Management to refer to all services currently accessible by you through this Internet based service. Additional services may be available in the future.

In addition to this Agreement and other Account agreements that have been separately provided to you, our Privacy Policy also applies to your Accounts, but is not legally binding except as required by applicable law. We suggest that you review these items in order to understand all of your relative rights and responsibilities in connection with your use of MCBCCM. You may use MCBCCM to access your MCB business accounts through the Internet. Currently, you can access your savings, checking and loan accounts.

Terms Used in this Agreement

- “We,” “us,” “our” and “MCB” refer to the Metropolitan Capital Bank pursuant to this Agreement;
- “You” or “your” refers to the owner of a MCB account.
- “Authorized representative” refers to a person whom you authorize to transact business on your account.
- “Account” refers to any business deposit or loan account maintained at an FDIC insured MCB Branch not used for personal, family or household purposes.
- “ACH Addendum” refers to the addendum to this Agreement that is required to activate the ACH module enabling ACH file and fund transfers.
- “Client Authorization” refers to your Application by an Authorized Signer for MCBCCM services.

Accepting the Agreement

You understand that by using MCBCCM services or by authorizing others to use them, you have agreed to the terms and conditions of this Agreement and that no signature by you is required on this Agreement, but manual execution may be required by us. You agree to use MCBCCM solely as provided in this Agreement. When any transfer, payment or online service generates items to be charged to your MCB Account, you agree that we may debit your Account without requiring a signature by an authorized representative on the item and without prior notice to you.

We may, from time to time, introduce new MCBCCM services. When this happens, we will update the Website to include them. By using any MCBCCM service, you agree to be bound by the terms contained in this Agreement and any account agreements, as they may exist at that time. **In addition you agree to be bound by all applicable rules, regulations, statutes and laws of our clearinghouse, any governing regulatory agency, the State of Illinois and the United States of America, including but not limited to, all National Automated Clearinghouse (NACHA) guidelines and any Office of Foreign Assets (OFAC) enforced Sanctions.**

Changes in Terms/Fees

We may change the MCBCCM services and the terms, including fees, set forth in this Agreement, the Service Agreements, or otherwise, at any time. You will be notified of any such change as required by applicable law, either by mail, by an electronic message, e-mail or by a posting on the website. You understand that by using MCBCCM after a change becomes effective, you have agreed to it.

Maintaining Your Accounts

You agree to properly maintain your MCB Accounts, to comply with the rules governing your MCB Accounts, and to pay any fees associated with the use or maintenance of your MCB Accounts. Any issue relating to a MCB Account or service with MCB which you access through MCBCCM shall be governed by our rules and by-law(s) specified in the agreement for that MCB Account or service.

Your MCB deposit and loan accounts that you link can be viewed and accessed in MCBCCM and all internet usage of such services shall be governed by this agreement. Your MCB Accounts will continue to be governed (for non-internet usage purposes) by the Terms and Conditions of your Account Agreements and your loan agreements, except where it is noted in this Agreement. This Agreement will control if there is a conflict with your other agreements (or such agreements are silent) and this Agreement for MCBCCM services. In addition, each MCB Account and MCBCCM service is subject to the following:

- Terms or instructions appearing on a screen when using MCBCCM services.
- MCB's rules, procedures and policies applicable to your Accounts;
- Rules and regulations of any funds transfer system used in connection with MCBCCM; and
- Applicable state and federal laws and regulations.

Access to MCB Corporate Cash Management

You may access MCBCCM and your MCB Accounts to check balances, transfer funds, view transaction history, and view check images. To access this service, you must have **ACCESS I.D.s** and **PASSWORDS** and the required hardware and software. You are solely responsible for having the required hardware and software and for securing an Internet service provider. Subject to the terms of this Agreement, MCBCCM will generally provide access to your Accounts at www.metcapbank.com Internet site seven days a week, 24 hours a day. A transfer requested through MCBCCM before the transfer cutoff time on a business day will generally be posted to your MCB Account the same day. All transfers requested after the posted transfer cutoff time on a business day or on a day that is not a business day, will be posted on the next business day. Every day is a business day except Saturdays, Sundays, and banking holidays.

At certain times, MCBCCM may not be available due to system maintenance or circumstances beyond our control. During these times, you may use an automated teller machine ("ATM") or the Bank to obtain information about your MCB Accounts.

Password and Access I.D.

You will be given **PASSWORDS** and **ACCESS I.D.s** with specific authorities and restrictions designated by you that will give you and each of your authorized representatives access to MCBCCM. During the first logon session, you and each of your authorized representatives are required to change the Password we sent to you. Going forward, passwords can be changed online at any time for MCBCCM. Online passwords are case sensitive and must be between 4 and 6 alpha and/or numeric characters with a minimum of 4 numeric characters. We recommend that passwords be changed regularly.

We are entitled to act on instructions received under your company's **PASSWORDS** and **ACCESS I.D.s** You are responsible for familiarizing all authorized signers with the terms of this Agreement and for keeping your MCBCCM **PASSWORDS** and **ACCESS I.D.s** confidential.

Electronic Mail (E-mail)

You can communicate with us via e-mail. Please remember that we will not immediately receive an electronic message sent by you. If you need to contact us immediately, please call 1-312-640-2300. No action will be taken on any electronic message you send to us until we actually receive your message and have a reasonable opportunity to act on it. You cannot use e-mail to make an account balance inquiry, a stop payment or a funds transfer. You cannot use e-mail to cancel a transfer, or a loan payment. Never send us your ACCESS I.D.s or your PASSWORDS, your account numbers or other sensitive Account information via e-mail.

MCBCCM SERVICES

To use MCB Corporate Cash Management you need:

- A MCB business checking account or business money market deposit account or a business loan account located at any MCB branch;
- Service through an Internet service provider;
- Online ACCESS I.D.s and PASSWORDS for each authorized representative, and
- A computer, internet access and Internet Explorer version 5.5 or above and 128 bit SSL (Secured Sockets Layer) encryption.
- Other funds transfer provisions for Cash Management, which may require the execution of additional agreement(s).

You may use MCBCCM to:

- Transfer funds between your linked MCB business accounts either on a one-time or recurring basis.
- View previous day balance information for your linked MCB checking, money market deposit, loan and savings accounts.
- Review transactions for the current statement cycle and transactions from your previous bank statement
- Send us email messages and questions regarding your online banking.

Features, Transactions and Fees

Features and transactions are available as per attached schedule with corresponding fees. You will submit a form (*Cash Management Application*) that designates all the features you want. The corresponding fees relating to the selected features and authorized transactions will be aggregated and charged to a single account of your choosing; however, the account type must be a MCB Commercial Checking (allowing for all charges to be analyzed and potentially offset by earnings credits).

Account Access

You choose the MCB accounts that you want to access through MCBCCM. You can also customize the authority of authorized employees and you can limit their online access time.

Business Days

Our business days ("Business Days") are Monday through Friday, except bank holidays. Although transfers are processed by MCB on business days only, you can initiate a transaction through MCBCCM 24 hours a day, seven days a week, except during maintenance periods; however, the transfer will be completed on the next business day.

ACH Credit and Debit Entries (If applicable and approved.)

We will initiate properly authorized and completed ACH Credit and Debit Entries (subject to funds availability) on the later of the next business day or a future requested business day provided the requests are received by us prior to the posted online Cutoff Time and are in compliance with the MCB *ACH* Addendum. You agree to comply with and

be subject to the applicable NACHA Operating Rules (you hereby acknowledge receipt of a copy), as amended from time to time. Your specific duties and responsibilities set forth in this Agreement and the ACH Addendum shall in no way limit this undertaking.

Funds Transfer (Wire Transfer)

We will initiate properly authorized and completed Funds Transfer Requests, as defined by UCC 4A (subject to funds availability) communicated to us on line or telephonically on the date requested provided the request is received by us prior to our posted on line cut off time and provided the request includes all required information. We may make payments solely on the basis of the account number provided, as proper identification of the intended beneficiary. We shall not be liable for any delay or refusal to honor instructions for a transfer or related act if, in good faith, we are unable to satisfy ourselves that the instructions are given by an authorized employee. Our failure to verify or authenticate the transactions shall not be evidence of any failure to exercise reasonable care or good faith. If you did not authorize a payment order, the applicable provisions of UCC 4A will govern liability.

If you engage in funds transfers you must execute our Funds Transfer Procedures and Agreement form in addition to this Agreement.

We agree to make reasonable efforts to complete all fund transfers as requested. We will be responsible for acting only on those instructions actually received by us and cannot assume responsibility for malfunctions in communications facilities or acts of others not under our control that may affect the accuracy or timeliness of messages you send. We are not responsible if you provide incorrect instructions or if your instructions are not received prior to our published cut off times.

You have no right to cancel or amend a transfer after we execute it. We may attempt to revoke an order, which has not been executed if the request is received in a time, and manner that gives us a reasonable time to act upon it, but we make no warranty as to our ability to revoke or cancel a transfer once made. You agree to hold us harmless against claims of third parties when you revoke or cancel any Funds Transfer instructions.

Stop Payment Request

We will accept online requests from an authorized employee to stop payment on any check, except for cashier's checks, official checks or other cash equivalent items. We will process requests received prior to the posted cutoff time on the same Business Day received. Requests received after the posted cutoff time will be processed on the next business day. We must receive a stop payment request at a time that will give us a reasonable opportunity to act on it prior to payment of the item. Generally stop payments are not processed until the cutoff time or later on the business day received by us.

STOP PAYMENT REQUESTS ARE NOT EFFECTIVE IF, EITHER BEFORE OR WITHIN 24 HOURS OF WHEN THE STOP PAYMENT ORDER WAS PLACED, WE HAVE ALREADY CASHED THE ITEM OR BECOME OTHERWISE LEGALLY OBLIGATED FOR ITS PAYMENT. STOP PAYMENT REQUESTS ARE PROCESSED BY COMPUTER. WE WILL ASSUME NO RESPONSIBILITY IF ANY INFORMATION PROVIDED IS INCORRECT OR INCOMPLETE THAT WOULD CAUSE THE CHECK TO BE PAID (i.e., incorrect check number, amount, account number or date). ONCE PLACED, THE STOP PAYMENT ORDER WILL REMAIN IN EFFECT FOR SIX MONTHS FROM THE DATE WHEN IT WAS AUTHORIZED. AN AUTHORIZED BUSINESS REPRESENTATIVE MAY RENEW THE STOP PAYMENT ORDER FOR AN ADDITIONAL SIX-MONTH PERIOD WHEN THE EXPIRATION DATE ARRIVES. YOU ARE RESPONSIBLE FOR MONITORING THE EXPIRATION OF STOP PAYMENTS. NO NOTICE WILL BE PROVIDED TO YOU THAT A STOP PAYMENT IS EXPIRING.

A fee will be charged for each stop payment and extension of a stop payment. In order to cancel a stop payment, an authorized representative is required to fax or deliver a written request to a MCB Branch. Stop payments cannot be canceled via e-mail.

LIABILITY

Your Responsibility to Notify Us

Call us **IMMEDIATELY** at 1-312-640-2300 if you believe that any **ACCESS I.D.s** or **PASSWORDS** has been lost or stolen, or if you believe someone has transferred or may transfer money from your MCB Account without your permission, if you suspect any fraudulent activity on your MCB Account or any change of **ACCESS I.D.s**, **PASSWORDS** or authorized users.

Contact by Metropolitan Capital Bank Employees

No MCB employee will contact you via email or phone requesting your Online **ACCESS I.D.S** or your **PASSWORDS**. If you are contacted by anyone requesting this information please contact us immediately.

Our Liability

Our liability to you is limited to the extent stated in any other Account and/or loan agreements, notices, and disclosures that are separately provided to you from time to time regarding your MCB Accounts and/or this Agreement. This section, in addition to other relevant sections of this Agreement, explains our liability to you only to the extent that any other agreements, notices or disclosures are inconsistent with this Master Agreement or have not separately disclosed our liability.

IN NO EVENT SHALL WE BE LIABLE TO YOU FOR FAILURE TO PROVIDE ACCESS TO YOUR COMMERCIAL CASH MANAGEMENT ACCOUNTS. UNLESS OTHERWISE REQUIRED BY APPLICABLE LAW, WE ARE ONLY RESPONSIBLE FOR PERFORMING THE COMMERCIAL CASH MANAGEMENT SERVICES AS DELINEATED IN THIS AGREEMENT OR APPLICABLE SERVICE AGREEMENTS. NEITHER MCB OR OUR SERVICE PROVIDERS, NOR ANY OF OUR DIRECTORS, EMPLOYEES OR AGENTS MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND REGARDING THE PERFORMANCE OR QUALITY OF THE MCB ONLINE BANKING SERVICES OR THE RESULTS THAT MAY BE OBTAINED FROM USING THE MCB ONLINE BANKING SERVICES. MCB SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, WARRANTIES OF MERCHANTABILITY OR WARRANTIES AGAINST INFRINGEMENT.

THE ONLINE SERVICES AND RELATED DOCUMENTATION ARE PROVIDED "AS IS", YOU AGREE TO USE THE SERVICES AT YOUR OWN RISK, AND WE DO NOT MAKE ANY FURTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, CONCERNING THE SERVICES, THE HARDWARE, THE SOFTWARE, OR ANY PART THEREOF, INCLUDING, WITHOUT LIMITATION, WITH RESPECT TO INTERNET HACKING, VIRUSES, TROJAN HORSES, WORMS, ETC.

IN NO EVENT SHALL MCB OR OUR SERVICE PROVIDERS, NOR ANY OF OUR DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE FOR ANY DAMAGES OR LOSSES, INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, CONSEQUENTIAL (SUCH AS LOST PROFITS AND ATTORNEY'S FEES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES), SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES, RESULTING FROM OR CAUSED BY THE USE, OR ATTEMPTED USE, OF THE MCB ONLINE BANKING SERVICE, OR ITS CONTENT, INCLUDING, WITHOUT LIMITATION, LOSSES RELATED TO: YOUR USE, OR INABILITY TO USE, THE MCB ONLINE BANKING SERVICE; ANY ERRORS, OMISSIONS OR DEFECTS IN ANY CONTENT; ANY INTERRUPTIONS OR DELAYS IN TRANSMISSION TO THE MCB ONLINE BANKING SERVICE; OR COMPUTER VIRUSES RECEIVED BY YOU AS A RESULT OF YOUR USE OF THE MCB ONLINE BANKING SERVICE. IN ANY EVENT, ANY LIABILITY OF MCB, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONTENT PROVIDERS AND LICENSORS SHALL NOT EXCEED THOSE AMOUNTS SPECIFICALLY PROVIDED FOR IN THIS AGREEMENT.

Further, we will not be obligated to honor, in whole or in part, any transaction or instruction which:

- is not in accordance with any term or condition applicable to the relevant service in this Internet Banking Agreement or your MCB Account Agreement;
- we have reason to believe may not have been authorized by you or any third person whose authorization we believe is necessary, or which involves funds subject to a hold, dispute, restriction or legal process we believe prevents their withdrawal;
- would violate any applicable provision of any risk control program of the Federal Reserve or any applicable rule or regulation of any other federal or state regulatory authority;
- is not in accordance with any other requirement of our applicable policies, procedures or practices; or
- we have reasonable cause not to honor for your protection, or ours.

Indemnification

You agree to indemnify, defend and hold us, our Service Providers and our respective affiliate companies, directors, vendors, officers, employees and agents harmless against any loss, cost, damage, third party claim, demand, suit, action or other proceeding and any expenses (including legal and accounting fees) arising out of, or in any way connected with, directly or indirectly, your use or misuse of MCBCCM and/or related to a Commercial Cash Management account, regardless of whether due to use by you or an authorized representative.

Corporate and Partnership Authorizations

You represent that each authorized representative who has been issued ACCESS I.D.s and PASSWORDS has general authority from your organization to give instructions within the access capability associated with such ACCESS I.D.s and PASSWORDS (including general authority over the movement of your organization's funds and over accounts with MCB), all as evidenced by the banking resolution, partnership declaration or other agreements you have provided to MCB (or have not been provided to MCB, except that authorized names must be provided), and that MCB has full authorization from your organization to rely and act upon instructions identified by such ACCESS I.D.s and PASSWORDS.

Protecting your Passwords

You agree that we may send notices and other communications, including ACCESS I.D.s and PASSWORDS, to the current address shown in our records, whether or not that address includes a designation for delivery to the attention of any particular individual. You further agree that MCB will not be responsible or liable to you in any way if information is intercepted by an unauthorized person, either in transit or at your place of business. You agree to: 1) keep your PASSWORDS secure and strictly confidential, providing it only to authorized representatives on your account(s); 2) instruct each person to whom you give a PASSWORD that he or she is not to disclose it to any unauthorized person; and 3) immediately notify us and select a new PASSWORD if you believe a PASSWORD may have become known to an unauthorized person.

WE WILL HAVE NO LIABILITY TO YOU FOR ANY UNAUTHORIZED PAYMENT OR TRANSFER MADE USING YOUR PASSWORDS THAT OCCURS BEFORE YOU HAVE NOTIFIED US OF POSSIBLE UNAUTHORIZED USE AND WE HAVE HAD A REASONABLE OPPORTUNITY TO ACT ON THAT NOTICE. We may suspend or cancel your PASSWORDS even without receiving such notice from you, if we suspect a PASSWORD is being used in an unauthorized or fraudulent manner.

Acknowledgement of Commercially Reasonable Security Procedures

You acknowledge that use of the internet for MCBCCM transactions inherently involves risk of unauthorized interception and other forms of internet hacking or interception. By using our Commercial Cash Management Internet Banking, you acknowledge and agree that this Agreement sets forth security procedures for electronic banking transactions that are commercially reasonable. You agree to be bound by instructions, whether authorized or unauthorized, which we implement in compliance with these procedures, unless you have given us prior notice of possible unauthorized use as described above (and we had a reasonable opportunity to act on such notice).

You acknowledge that it is critical to maintain up to date anti-virus software on your devices with which you will conduct MCBCCM transactions.

Limitation of Metropolitan Capital Bank Liability

If we fail or delay in making payment or transfer pursuant to your instructions, or if we make a payment or transfer in an erroneous amount which is less than the amount per your instructions, unless otherwise required by law our liability shall be limited to interest on the amount which we failed to timely pay or transfer, calculated from the date on which the payment or transfer was to be made until the date it was actually made or you canceled the instructions. We may pay such interest either to you or the intended recipient of the payment or transfer, but in no event will we be liable to both parties, and our payment to either party will fully discharge any obligation to the other. If we make a payment or transfer in an erroneous amount which exceeds the amount per your instructions, or if we permit an unauthorized payment or transfer after we have had a reasonable time to act on a notice from you of possible unauthorized use as described above, unless otherwise required by law our liability will be limited to a refund of the amount erroneously paid or transferred, plus interest thereon from the date of the payment or transfer to the date of the refund, but in no event to exceed 60 days' interest. If we become liable to you for interest compensation under this Agreement or applicable law, such interest shall be calculated based on the average federal funds rate at the Federal Reserve Bank in the district where the Bank is headquartered for each day interest is due, computed on the basis of a 360-day year.

UNLESS OTHERWISE REQUIRED BY LAW, IN NO EVENT WILL WE BE LIABLE TO YOU UNDER THIS PROVISION FOR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR ATTORNEYS' FEES, EVEN IF WE ARE ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES.

Client Internal Security

You agree to establish, maintain and update commercially reasonable policies, procedures, equipment and software ("Internal Security Controls") that will safeguard the security and integrity of your computer system and information from unauthorized use, intrusion, takeover or theft, and prevent your Password from unauthorized discovery or use (collectively "Internal Security Breaches"). You bear all risk of fraudulent transfers and other losses arising from your Internal Security Breaches or from the interception of your communications prior to their receipt by us (collectively "Internal Security Losses"). We will not reimburse you in connection with Internal Security Losses. You agree that we are authorized to execute, and it is commercially reasonable for us to execute, any instruction received by us with your Password. You are encouraged to consider purchasing insurance to cover your Internal Security Losses.

Security Recommendations

To protect your system from security breaches, you should adopt internal controls and guidelines that include:

- a) **Implement dual custody.** Adopt dual authorization and/or transaction-based authentication procedures for financial transfers.
- b) **Protect your machines.** Place limits and controls on who has access to your computer systems.
- c) **Protect your Password.** Protect and frequently change your Password and never share your user credentials.
- d) **Update antivirus software and patch your machines.** Ensure that your company's firewalls, servers and client machines are updated with all vendor-recommended patches and that antivirus and anti-spy ware software is installed and updated. Use commercially reasonable and up-to-date firewalls and intrusion prevention technologies.
- e) **Be cautious.** Use caution if you receive an e-mail or text message expressing an urgent need for you to update your information, activate an account, and verify your identity by calling a phone number or submitting information on a Web site. Also practice caution

with e-mail attachments and downloadable files. Know that Metropolitan Capital Bank & Trust does not ask for confidential information through e-mail and that e-mail attachments and downloadable files from any external source could be harmful to your computer.

f) **Educate your employees.** Educate your employees about online fraud and train them never to give out their online banking access credentials. Their passwords, PINs, and token codes open the door to your accounts. Remind employees to stay on their guard. Allow online banking services to be accessed only from a secure location on your premises.

g) **Limit your exposure.** Implement procedures to avoid infection by malicious software, such as: controlling what websites are visited by your computers; controlling the connection of other devices (e.g., flash drives) to your computers; controlling what documents, e-mail attachments, programs and other files are opened or installed on your computers; and limiting which of your computers are used for online banking. Prohibit your authorized users from leaving a computer unattended while connected to our system or from communicating or accessing sensitive information from insecure locations (e.g., terminals at Internet cafes and airports).

h) **Use stand-alone PCs for your online banking.** If possible, use stand-alone PCs for your online banking transactions that are not enabled for e-mail or general web browsing. If using stand-alone PCs is not possible, do not conduct non-essential e-mail or Web browsing, specifically to social media sites, from your PC.

i) **Protect your network.** Identify trusted Web sites for your business and block access to any site/Web address that would not be relevant to your employees' business needs.

k) **Keep up to date.** We have attached a recent FS-ISAC publication explaining threats and security countermeasures. Regularly check antifraud sites for new threats and best security practices.

<http://www.ftc.gov/bcp/edu/microsites/infosecurity/>

Vigilance and regular monitoring of account activity is thoroughly recommended. Audit and verify all transactions on a regular basis, and regularly reconcile your accounts.

l) **Monitor online accounts daily.** Actively monitor your online accounts to detect suspicious activities. Immediately contact your customer service group if you notice anything out of the ordinary.

This is not a complete listing of the internal security controls that you may need. You are responsible for determining and implementing whatever controls are necessary to prevent security breaches and internal security losses. We do not warrant that any or all of the above recommendations will prevent a security breach.

You remain solely responsible at all times for your Internal Security Controls, Internal Security Breaches and Internal Security Losses. Although we may employ various systems and procedures from time to time to prevent losses to us, we assume no obligation for Internal Security Breaches or Internal Security Losses, provided we have acted in accordance with this Agreement and/or instructions that are accompanied by your Password.

GENERAL PROVISIONS

Term and Termination

Unless otherwise required by applicable law:

This agreement will become effective on the Effective Date and shall remain in full force and effort until termination in accordance with the following provisions. MCB or you may terminate with 10 days prior notice.

We may immediately terminate your electronic banking privileges without notice to you under the following conditions: 1. you do not pay any fee required by this Agreement when due or 2. you do not comply with the agreement governing your deposit or loan accounts or your accounts are not maintained in good standing.

We will promptly notify you if we terminate this Agreement of your use of all or any of the Services for any other reason or without cause (in our discretion), which termination notice may be effective immediately.

To terminate this Agreement, you must notify the Bank and provide your name, address, the Service(s) you are discontinuing, and the termination date of the Service(s), which must be received by Bank at least 10 days prior to such date. You may notify the Bank by one of the following methods:

- **By calling 312-640-2300, followed by written confirmation mailed or delivered as below within 3 days**
- **By writing a letter and either sending it to the following address: Attention: Commercial Cash Management Department, Metropolitan Capital Bank, 9 East Ontario, Chicago, Illinois 60611 or giving it to a Customer Service Representative at any of the Bank's locations.**

If you are not paying a monthly service charge for the Service, we may convert your account to inactive status if you do not sign on to the Service or have any transaction scheduled through the Service during any consecutive 90-day period. If your account is considered inactive, you must contact us to have the Service activated before you will be able to schedule any transaction through the Service.

You may request reinstatement by calling Metropolitan Capital Bank at 312-640-2300 or by contacting your Private Capital Manager.

Assignment

We may assign our rights and delegate our duties under this Agreement to a company affiliated with us or to any other party. We may also assign or delegate certain of our rights and responsibilities under this Agreement to independent contractors or other third parties, including outsource service bureaus. You cannot assign your rights and duties under this Agreement directly, indirectly or by operation of law, without our prior written consent under any circumstance.

NOTICES

UNLESS OTHERWISE REQUIRED BY APPLICABLE LAW, IN THE EVENT THAT WE ARE REQUIRED TO PROVIDE A NOTICE OR OTHER COMMUNICATION TO YOU IN WRITING, THAT NOTICE OR OTHER COMMUNICATION MAY BE SENT TO YOU ELECTRONICALLY TO YOUR INTERNET ADDRESS AS REFLECTED IN OUR THEN CURRENT RECORDS.

Disclosure of Information

The circumstances under which we will disclose information about you or your MCB Accounts, has been separately disclosed to you in our Privacy Policy and in other disclosures which have been provided directly to you. Our Privacy Policy may change from time to time and is always available at our banking locations, is not legally binding, except as is required by applicable law.

Authorization to Obtain Credit Information

You agree that we may obtain and review your credit report from a credit bureau at any time during the life of this Agreement.

Area of Service

Online Banking services are available through MCB. Banking services are generally available only to businesses located in Illinois and are solely offered to business registered to do business in the United States of America.

Venue

Any action at law, suit in equity or other judicial proceeding for the enforcement of this Agreement or any provision hereof shall be instituted only in federal, state or municipal courts in the State of Illinois.

Legal Process

If we are served with any notice of lien, attachment, levy, garnishment or other legal process relating to you or your MCB Account, we are authorized without notice to you or any joint Account Holder, except where required by law, to withhold the withdrawal or payment of so much of the funds in your MCB Account that may be the subject of such notice or legal process. We may disburse such amount out of your Account to a court or to such persons as applicable state or federal law either requires or permits because of such powers. We have no liability to you for such withholding or disbursements or for refusal by us to permit withdrawals or payment against your Account because of a court order or other legal process including the return by us of items presented against your Account as unpaid that otherwise would be paid. Any lien, attachment, levy, or garnishment against your Account is subject to our right of set-off as provided in the Agreement unless prohibited by law. You agree to pay our costs and expenses for complying with such legal process, including legal costs and attorney’s fees, costs of research and copying and administrative fees.

Headings, Severability; Waiver; Governing Law

The headings herein shall not be used in interpreting this Agreement. This Agreement shall be deemed severable. We shall not be deemed to have waived any of our rights hereunder unless such waiver is in writing and signed by us. This Agreement is governed by the laws of the State of Illinois (or federal law as applicable) and you and MCB. You and MCB hereby expressly agree to waive any right to trial by jury in connection with any litigation relation to this Agreement.

Miscellaneous

Copyright in the pages, screens, text and images appearing at the Commercial Cash Management website are owned by MCB, our Service Providers or others. The information and materials contained in the site may not be copied, displayed, distributed, downloaded, licensed, modified, published, reposted, reproduced, reused, sold, transmitted, used to create a derivative work or otherwise used for public or commercial purposes without the express written permission of MCB.

The parties have executed certain Exhibits and Addendums to this Agreement, which shall be attached to and incorporated herein by reference. These include:

- Cash Management Application**
- ACH Addendum**
- Funds Transfer Procedure and Agreement**
- Positive Pay/Account Reconciliation Agreement**
- OTHER _____**

By signing below, I am verifying and confirming that I have read and understand the terms and conditions of this Agreement, and that I agree to the terms and conditions of this Agreement.

Date: _____

THE CUSTOMER: _____

THE BANK: Metropolitan Capital Bank (MCB)

By: _____

By: _____

Its: _____

Its: _____