



ELECTRONIC DEALING AGREEMENT

This electronic dealing agreement ("**Agreement**") is entered into between the CIBC Bank USA ("**CIBC**") and _____ ("**Customer**") as of this _____ day of _____, 20__ (the "**Effective Date**").

This Agreement will govern the use of various CIBC trading platforms as further detailed below (the "**Trading Platforms**"). The provision by CIBC of access to such Trading Platforms and the functionality therein will be collectively referred to as, the "**Services**".

For good and valuable consideration, receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

1. Trading Platforms Covered.

This Agreement governs the use by Customer of Foreign Exchange Online. In addition, this Agreement will also govern the use of any additional online Trading Platforms where the Customer has requested access to such platform, now or in the future, from the Electronic Solutions Group (or successor thereof) of the Capital Markets Division at CIBC, and CIBC has provided access along with authentication and/or security credentials to allow Customer to use such platform.

2. Terms and Conditions.

- a) The Customer hereby agrees to comply with the electronic dealing terms of use ("**Terms of Use**"), attached hereto, that govern the provision of and access to the Services.
- b) The following Trading Platform user guides will be considered to be terms and conditions of this Agreement and are herein incorporated by reference:
 - (i) The Foreign Exchange Online User Guide posted at <https://e.cibcwm.com/guide/fx-online-userguide-us.pdf>; and
 - (ii) any other user guides associated with other Trading Platforms, where the use of such other Trading Platforms is governed by the terms of this Agreement.

3. Customer's Responsibility for Orders.

Customer will be bound by any instructions, bids, offers, or other trading orders placed through or facilitated by the Services that are accompanied by the valid user identification and access code assigned to Customer or to one of Customer's Authorized Users (as defined in the Terms of Use).

4. Notice.

CIBC's address for the purpose of notice in accordance with Section 10(c) of the Terms of Use is:

161 Bay Street, 5th Floor
Brookfield Place
Toronto, Ontario M5J 2S8
Attention: CIBC e-Client Services
Facsimile: 416-594-8335

With copy to:

425 Lexington Avenue
New York, NY 10017
Attention: Achilles Perry, Esq.
Facsimile: 212-667-8361
Email: achilles.perry@cibc.com

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be duly executed and for it to be effective as of the Effective Date.

CIBC BANK USA

By: _____
Name:
Title:

CUSTOMER

By: _____
Name:
Title:

By: _____
Name:
Title:

By: _____
Name:
Title:



ELECTRONIC DEALING TERMS OF USE

These Terms of Use, in addition to those set out in the Electronic Dealing Agreement (the "Agreement") govern the use by Customer and the provision by CIBC of the Services. These Terms of Use are incorporated in, and made a part of, the Agreement between Customer and CIBC.

1. Definitions. In these Terms of Use, the following terms will have the meaning set forth below:

"**Access Code**" has the meaning set out in Section 3(d)(i) of these Terms of Use.

"**Applicable Laws**" means any law, rule, statute, regulation, by-law, order, ordinance, protocol, code, guideline, treaty, policy, notice, direction or judicial, arbitral, administrative, ministerial or departmental judgment, award, decree, treaty, directive, or other requirement or guideline, including published or in force at any time during the term of the Agreement which applies to or is otherwise intended to govern or regulate any person (including either or both parties), property, transaction, activity, event or other matter (including the Services), including any rule, order, judgment, directive or other requirement or guideline issued by any exchange on which any transactions through the Services are effected or by any Governmental or Regulatory Authority, including federal, state securities, derivatives or commodities laws, and the regulations, rules and interpretations of Securities Commissions.

"**Authorized Users**" has the meaning set out in Section 3(c) of these Terms of Use.

"**Business Day**" means any day excluding Saturday, Sunday and any day on which banking institutions located in Toronto, Ontario, Chicago, Illinois and New York City, New York are closed.

"**CIBC**" has the meaning set out in the body of the Agreement.

"**CIBC IP**" has the meaning set out in Section 4 of these Terms of Use.

"**CIBC Parties**" has the meaning set out in Section 7(i) of these Terms of Use.

"**Content**" has the meaning set out in Section 4 of these Terms of Use.

"**Customer**" has the meaning set out in the Agreement.

"**Governmental or Regulatory Authority**" means: (i) any government, governmental department, agency, commission, board, tribunal, dispute settlement panel or body, bureau, official, minister, securities commission, or court or other law, rule or regulation-making entity; and (ii) any regulatory authority, self-regulatory organization or other entity having or purporting to have jurisdiction over Customer, CIBC or any person, property, transaction, activity, event or other matter related to this Agreement.

“**Order**” has the meaning set out in Section 3(e) of these Terms of Use.

“**Securities Commission**” means each of the various applicable national and state securities commissions and any successor thereto.

“**Services**” has the meaning set out in the body of the Agreement.

“**Terms of Use**” means this Electronic Dealing Terms of Use.

“**Trading Data**” has the meaning set out in Section 4 of these Terms of Use.

“**User Identification**” has the meaning set out in Section 3(d)(i) of these Terms of Use.

2. Agreement to Provide Access. CIBC will permit Customer’s Authorized Users to use the Services subject to and in accordance with the terms of this Agreement.

3. Use of Services.

(a) Scope of Use. Authorized Users may use the Services solely for Customer’s internal business purposes. Customer will not sell, lease, license, transfer, provide or otherwise make available the Services or any portion thereof to any third party, whether as a demonstration or otherwise. Customer acknowledges and agrees that CIBC will not have any obligation to provide any Service, or any replacement therefor, after such time that CIBC has ceased providing such Service to its customers.

(b) Counterparty Risk. Customer agrees to proceed solely against its counterparty to collect or recover any amounts owed to it or to enforce any of its rights in connection with or as a result of any transaction facilitated by the Services.

(c) Authorized Users. Customer will communicate, in writing, the names of all persons who will be permitted to use the Services (“**Authorized Users**”) on behalf of the Customer, and such use of the Services will be subject to all of the limitations and obligations of Customer hereunder, and Customer will at all times be responsible for the use of the Services by its Authorized Users and the compliance by such Authorized Users with the terms of the Agreement, including that any transaction effected through the Services by an Authorized User will be enforceable against Customer. Customer will familiarize all of its Authorized Users with its obligations hereunder. Upon becoming aware of any improper access to or use of the Services by any Authorized User, Customer will promptly notify CIBC thereof, and will, as promptly as reasonably possible, take immediate actions to terminate such Authorized User’s authorization to access or use the Services. Any use of the Services through use of User Identifications and Access Codes will be deemed to be use by an Authorized User and CIBC will have no responsibility for putting in place additional authentication protocols for purposes of determining the identity of any user who is making use of a User Identification and Access Code.

(d) Security.

- (i) CIBC will assign to each Authorized User a unique user identification ("User Identification"). Authorized Users will also be provided with a corresponding primary access code (the "Primary Access Code"). Each time the Authorized User logs-in using its Primary Access Code, the Authorized User will receive an additional access code via SMS text message, interactive voice response ("IVR"), or other method of communication, as applicable ("Secondary Access Codes, and together with the Primary Access Code, the "Access Codes"). To the extent that the Authorized User opts for receiving Access Codes via SMS text messaging, the Authorized User will only receive one SMS text message per login attempt, and in such cases, standard messaging and data rates may apply. Authorized Users receiving Access Codes via SMS text message may reply (i) HELP for customer assistance (or dial **1-877-224-2239**) or (ii) STOP to receive instructions on how to switch to receiving Access Codes via IVR or other methods where applicable. Access Codes will only be provided by participating carriers ("Carriers"). CIBC and the Carriers are not liable for delayed or undelivered SMS text messages or IVR. Customer accepts the risk that SMS text messages and IVR are non-secure methods of communication and any such messages or IVR may be lost, intercepted, heard, reviewed or altered by others, as applicable, and CIBC and the Carriers will not be liable to Customer for any resulting losses.
- (ii) Customer is responsible for the confidentiality and use of the Access Codes, and Customer will not permit any person other than an Authorized User to access or use Services on its behalf. Customer will maintain adequate procedures to monitor for unauthorized access to, or use of, any of its Access Codes, and will immediately notify CIBC of any unauthorized access to, or use of, any of its Access Codes.
- (iii) Customer acknowledges and agrees that Customer and its Authorized Users may access or use the Services through the Internet and that such connection is not necessarily secure and CIBC does not warrant that such connections and methods of access are secure. Customer will be responsible for ensuring the security of Customer's and its Authorized Users' access to or use of the Services.

(e) Customer's Responsibility for Orders. Customer will be bound by any instructions, bids, offers, or other trading orders placed through or facilitated by the Services, that are accompanied by a valid User Identification and a valid Access Code assigned to Customer or to one of its Authorized Users (collectively, "Orders")

and individually, an "Order"). CIBC will have no duty to verify whether any such Order, whether sent by an Authorized User or otherwise, has been authorized by Customer. Customer will be deemed to have given an Order to CIBC when CIBC receives such Order through the Services (whether or not Customer receives, or actually becomes aware of, any acknowledgment of such Order). CIBC may act on such Orders and any resulting trades or transactions, and other related rights and obligations, will be binding on Customer. Customer acknowledges that regulatory requirements imposed by Governmental or Regulatory Authorities may require that Orders submitted by Customer be conveyed to other marketplaces for execution or may be executed against orders conveyed to CIBC by other marketplaces.

(f) Electronic Communications. Any electronic communication, including instructions, Orders, and other communications that CIBC receives, from or in the name of Customer, including any electronic communication accompanied by a valid User Identification and a valid Access Code assigned to Customer or to one of its Authorized Users, will be considered to be duly authorized and binding upon Customer, and CIBC is authorized to rely and act upon any such communication regardless of any notice (implied or otherwise) that CIBC may have received. Customer agrees that any electronic communication will be deemed to constitute a "writing" for the purposes of any statute or rule of law that requires the terms of such communication to be in writing and expressly waives any right to raise any defense or waiver of liability based on the absence of a writing. As a condition for using any Service, Customer accepts and agrees that its use of such Service will be subject to legends, disclaimers and other disclosures set forth on such Service.

(g) Customer's Responsibility for Records. To the extent required by law, as between CIBC and Customer, Customer will be solely responsible for maintaining its own records of transactions facilitated by the Services.

(h) CIBC's Control of the Services. CIBC will have sole and complete control over, and reserves the right at any time to make changes to the functionality, configuration, appearance, or Content of the Services, including controlling, changing, or restricting: (i) the selection of or access to Services made available; and (ii) the parameters, processes, and requirements by which Orders are placed, routed or otherwise facilitated by the Services. CIBC may provide all or any part of the Services through a branch or an agency or through a CIBC affiliate. For the purposes of the Agreement and these Terms of Use, the term "CIBC" includes such branches, agencies and affiliates.

(i) CIBC's Right to Control Use. Customer's and Authorized Users' access to and use of the Services may be subject to suspensions, restrictions, or limitations imposed by CIBC at CIBC's sole discretion, including, but not limited to, limits on the aggregate dollar volume of trading transactions per day and limits on markets and instruments available for trading, whether due to market conditions or closings, technical considerations, restrictions on the offer or sale of particular securities, or otherwise. Customer acknowledges and agrees that: (i) it will be a material breach of the Agreement to evade, or attempt to evade, any such suspension, restriction or limitation; and (ii) Customer will not rely on CIBC to

implement any such suspension, restriction or limitation for Customer's protection or benefit.

(j) Unauthorized Use and Access. Except in accordance with this Agreement, Customer will not frame, mirror, scrape or data-mine the Services or any Content in any form or by any means. Neither Customer nor any Authorized User will attempt to access any restricted areas of the Services or CIBC's systems or attempt to perform any functions that are not authorized under this Agreement.

(k) CIBC's Right to Cease Service. CIBC reserves the right at any time, in its sole discretion: (i) to discontinue transmitting any information; (ii) to designate certain information as only being indicative (subject to offerings); (iii) to temporarily or permanently suspend or restrict the access of Customer or an Authorized User, as the case may be, to any Service; (iv) to refuse to post or suspend any particular Order through a Service; and (v) to refuse to facilitate any or all transactions, in each case including, but not limited to, for reasons relating to the following: market conditions; the quality or quantity of inventory contributed by Customer (including, but not limited to, posting of inventory that is not realistically likely to result in execution of transactions); failure by Customer or an Authorized User to post bids and offers or solicitations for bids and offers that are reasonably related to market prices; the offer or sale of securities in violation of the registration requirements under Applicable Laws; other business or financial considerations as may be determined by CIBC in the exercise of its sole discretion; technical conditions; and/or court or government order.

(l) Third Party Links. The Services may contain links to third party websites, services, or content that are not owned or controlled by CIBC. CIBC has no control over, and assumes no responsibility for, the content or practices of any such third party websites, services or content. The existence of such a link in the Services does not constitute a recommendation or other approval by CIBC of any third party websites, services, or content and any opinions or recommendations expressed in such third party websites, services, or content are those of the relevant third party provider and are not the opinions or recommendations of CIBC.

(m) Compliance with Laws. Customer acknowledges that its access to and use of any Service may be restricted or limited as a result of Applicable Laws. Customer undertakes to familiarize itself, keep current with and comply with Applicable Laws including, without limitation, laws or other requirements governing the sale and resale of securities, prohibiting price manipulation, deceptive trading, fraud, short selling or insider trading, requiring "best execution" or the display of Order-related information or the recording, transmission to third parties or maintenance of records in relation to the use of any Service by Customer, its Authorized Users or the provision of information to exchanges and/or Governmental or Regulatory Authorities, where obliged to do so.

(n) Disclosure of Customer Information. Subject to Applicable Laws, Customer will supply CIBC with all information requested by CIBC concerning Customer and its access to and use of the Services which is reasonably deemed by

CIBC to be necessary in connection with CIBC's obligations under Applicable Laws and Customer understands and agrees that CIBC may report such information to exchanges, trade repositories, and Governmental or Regulatory Authorities as CIBC determines in its sole discretion to be necessary. Customer understands and agrees further that CIBC may disclose Customer information to a CIBC Party, as defined in Section 7(i), on an as needed basis to provide Services.

(o) Use of Services. Customer acknowledges that it is responsible for arranging access to the internet and for any communication costs associated therewith and for any actions or omissions of the internet service provider. Customer acknowledges that any of the Services may be unavailable from time to time due to maintenance or unanticipated circumstances. CIBC is not responsible in any manner for direct, indirect, special or consequential damages, however caused, arising out of Customer's use of any web browser and any Service, including any damages Customer may suffer if Customer transmits confidential or sensitive information to CIBC or if CIBC communicates such information to Customer at its request over the internet.

4. Intellectual Property. As between Customer and CIBC, exclusive ownership of, and title to, all copyrights, trademarks, service marks, patent rights, trade secrets and all other proprietary and/or intellectual property rights in and relating to the Services and the Application Software, or any financial or other content therein (the "Content"), including, but not limited to, prices and volumes of bids and offers and all other trading data (together, the "Trading Data") generated by or in connection with the Services, including, but not limited to Customer's access thereto and use thereof (collectively, "CIBC IP") will remain with, and vest in, CIBC or its affiliates. Nothing in this Agreement will be deemed to convey any right, title or interest in the CIBC IP to Customer.

5. Application Software. Customer may be required to download and install a software application in order to access or use a Trading Platform (the "**Application Software**"). Upon downloading of the Application Software, CIBC grants to Customer a full paid-up, revocable, non-exclusive limited license to use the Application Software solely for the purposes of using the applicable Trading Platform for Customer's business purposes. Customer will not in any way reverse engineer, decompile or disassemble the Application Software. The provision of access to and the functioning of the Application Software will be considered to be a Service for purposes of the Agreement.

6. Customer Representations, Warranties and Covenants.

(a) Customer's Representations and Warranties. Customer represents and warrants to CIBC, and acknowledges that CIBC is relying upon such representations and warranties, that, at the time each Order is submitted:

- (i) Customer has the necessary licenses, registrations and/or regulatory approvals to carry on its business in compliance with Applicable Laws and this Agreement;

- (ii) Customer and each Authorized User is authorized to enter into the transactions that are facilitated by the Services, and that such transactions create legal, valid and binding obligations on Customer enforceable by CIBC and its clients;
- (iii) Customer will act as principal in connection with, and will assume full responsibility for the performance of, each transaction effected through the Services;
- (iv) Customer meets the eligibility criteria to render its use of any Service and CIBC exempt from any registration, offering document or other requirement under Applicable Laws;
- (v) Customer's access to and use of the Services will comply with the Agreement and all Applicable Laws, and Customer agrees that it will be a material breach of the Agreement to evade, or attempt to evade any such restrictions or limitations under Applicable Laws; and
- (vi) Customer represents that it is an "eligible contract participant" as defined in the U.S. Commodity Exchange Act, as amended.
- (vii) unless Customer advises CIBC in writing otherwise, no transaction executed by Customer through a Service will be on behalf of a plan subject to the United States Employee Retirement Income Security Act of 1974 or any similar statute.

(b) Customer's Acknowledgements. Customer acknowledges and agrees that:

- (i) any transaction utilizing the Services involves risks, including but not limited to the risk of losses associated with currency fluctuations, and Customer is willing to accept and is capable of understanding any and all such risks;
- (ii) it is familiar with the Services and fully understands its payment and settlement obligations being created thereunder;
- (iii) the price or rate charged by CIBC in respect of any transaction in connection with the Services may include a spread or other fee or commission; and
- (iv) it is not relying on any information or communications from CIBC including as may be found on CIBC's website as related to any online trading platforms,

and Customer acknowledges and agrees that (i) any such information is not legal, tax, accounting, business or investment advice and (ii) it

has made its own independent decision to enter into this Agreement and any transaction under the Services based upon its own judgment.

7. No Warranty; Limitation of Liability.

- (i) CIBC, ITS AFFILIATES AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS (COLLECTIVELY, THE "CIBC PARTIES" AND INDIVIDUALLY, A "CIBC PARTY") MAKE NO WARRANTY TO CUSTOMER AS TO THE SERVICES, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ANY WARRANTY OF NON-INFRINGEMENT, OR ANY WARRANTY REGARDING THE USE OR THE RESULT OF THE SERVICES WITH RESPECT TO THEIR CORRECTNESS, QUALITY, ACCURACY (INCLUDING ACCURACY OF TRADING DATA), SECURITY, RELIABILITY, PERFORMANCE, COMPLETENESS, TIMELINESS, PRICING, CONTINUED AVAILABILITY, THE PROTECTION OF ANY CONFIDENTIAL OR SENSITIVE INFORMATION, OR OTHERWISE. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS AT CUSTOMER'S SOLE RISK.

- (ii) No CIBC Party shall have any liability, contingent or otherwise, to Customer or to third parties, for the correctness, quality, accuracy, security, completeness, reliability, performance, timeliness, pricing or continued availability of the Services or for delays or omissions of the Services, or for the failure of any connection or communication service to provide or maintain Customer's access to a Service, or for any interruption in or disruption of Customer's access or any erroneous communications between any CIBC Party and Customer. No CIBC Party shall be liable for any special, indirect, incidental or consequential damages which Customer may incur or experience because Customer entered into this Agreement or relied on the Services, even if a CIBC Party knows of the possibility of those damages. NO CIBC PARTY SHALL BE RESPONSIBLE FOR INFORMING CUSTOMER OF ANY DIFFICULTIES A CIBC PARTY OR OTHER THIRD PARTIES EXPERIENCE CONCERNING USE OF THE SERVICES FOR ITS ACCOUNTS OR OTHER ACCOUNTS OR TO TAKE ANY ACTION IN CONNECTION WITH THOSE DIFFICULTIES. NO CIBC PARTY SHALL HAVE ANY DUTY OR OBLIGATION TO VERIFY, CORRECT, COMPLETE OR UPDATE ANY INFORMATION DISPLAYED IN THE SERVICES. CUSTOMER IS SOLELY RESPONSIBLE FOR ANY LOSSES, DAMAGES OR COSTS RESULTING FROM ITS RELIANCE ON ANY DATA OR INFORMATION THAT ANY CIBC PARTY MAY PROVIDE IN CONNECTION WITH CUSTOMER'S USE OF THE SERVICES. CUSTOMER WILL MAKE ITS OWN INDEPENDENT

DECISION TO ACCESS OR USE ANY SERVICE OR TO EXECUTE ANY ORDER AND CUSTOMER ACKNOWLEDGES AND AGREES THAT THE SERVICES DO NOT AND WILL NOT SERVE AS THE PRIMARY BASIS FOR ANY OF ITS INVESTMENT DECISIONS CONCERNING ITS ACCOUNTS OR ITS MANAGED OR FIDUCIARY ACCOUNTS. CUSTOMER IS SOLELY RESPONSIBLE FOR ANY INVESTMENT OR TRADING DECISIONS IT MAKES WITH RESPECT TO PRODUCTS IDENTIFIED ON THE SERVICES AND NO CIBC PARTY IS RESPONSIBLE FOR DETERMINING WHETHER ANY ORDER CUSTOMER MAY ENTER INTO IS SUITABLE, APPROPRIATE OR ADVISABLE. NO CIBC PARTY IS OR WILL BE, BY VIRTUE OF PROVIDING THE SERVICES, AN ADVISOR OR FIDUCIARY TO CUSTOMER OR CUSTOMER'S MANAGED OR FIDUCIARY ACCOUNTS.

8. Indemnification. Customer will indemnify, defend and hold harmless all CIBC Parties from and against any and all liabilities, claims, losses, damages, costs, suits, proceedings, and expenses of any nature or kind (including, without limitation, legal fees) incurred or suffered by, or asserted against any CIBC Party, that are caused by, result from, arise out of, are based upon or relate to, directly or indirectly, (i) this Agreement; (ii) the provision by CIBC of any Service to Customer; (iii) any security breach by or in connection with Customer, an Authorized User, User Identifications, or Access Codes, including without limitation any unauthorized access to, entry into, or use of any Service, or any other CIBC system; and (iv) any claim by a third party Customer client.

9. Termination. Customer may terminate this Agreement upon giving CIBC 30 days prior written notice. CIBC may terminate this Agreement immediately upon giving Customer written notice. Termination will not affect any transaction previously entered into and will be without prejudice to any accrued rights and obligations of either party.

10. General.

(a) Equipment. Customer acknowledges and agrees that Customer is solely responsible for acquiring, installing, maintaining and supporting any hardware and/or software necessary to access and use the Services.

(b) Independent Legal Advice. Customer acknowledges that it has read, understood, and agrees with all of the provisions of this Agreement, and acknowledges that it has had the opportunity to obtain independent legal advice with respect to it.

(c) Notices. All notices to CIBC will be in writing and will be hand delivered, sent by registered or certified mail, return receipt requested, or sent via facsimile to CIBC at the addresses set forth in the Agreement (as may be changed by CIBC by written notice to Customer) and will be deemed given and received on the date such notice is issued. All notices to Customer may be given to Customer by electronic display during use of the Service, or via email or registered, certified,

or regular mail to the address(es) provided by Customer (as may be changed by Customer by written notice to CIBC) and will be deemed given and received on the date such notice is issued.

(d) Assignment; Binding Nature. The Agreement may not be assigned by Customer without CIBC's prior written consent, which consent may be arbitrarily withheld, and any such purported assignment will be null and void. The Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and permitted assigns.

(e) Amendments. CIBC reserves the right, at CIBC's sole discretion, to change, modify, add, or delete portions of the Agreement, any User Guide or these Terms of Use alone at any time by posting or displaying such amendments on our website for a minimum of 30 days prior to becoming effective. Any amendment will not affect any Order received by CIBC prior to the effective date of the amendment. Customer's use of any Service after CIBC posts an amendment means that Customer agrees to and accepts such amendment. If Customer does not agree to an amendment, Customer must immediately stop using the Services. Customer waives any claims that may result from CIBC amending the Agreement, the User Guides or these Terms of Use in this manner.

(f) Waivers. A waiver of any default, breach or non-compliance under this Agreement is not effective unless in writing and signed by the party against whom the waiver is to be effective. The waiver by a party of any default, breach or non-compliance under this Agreement will not operate as a waiver of that party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-compliance (whether of the same or any other nature).

(g) Severability. If any provision or term hereof is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remainder of the Agreement will not be affected.

(h) Entire Agreement. Customer acknowledges that it has not been induced to enter into the Agreement by any representation or warranty not expressly set forth herein. The Agreement contains the entire agreement of the parties with respect to its subject matter and supersedes all other oral, written or other communications between them concerning this subject matter. The headings in the Agreement are intended for convenience of reference and will not affect its interpretation.

(i) Injunctive Relief. Customer acknowledges that a breach by Customer of any provision of Sections 3, 4 and 5 of these Terms of Use may cause CIBC irreparable injury and damage and therefore any such breach may be enjoined through injunctive proceedings in addition to any other rights and remedies which may be available to CIBC at law or in equity.

(j) Relationship Between the Parties. There is no joint venture, partnership, agency or fiduciary relationship existing between the parties and the parties do not intend to create any such relationship by the Agreement. The

Agreement does not create, and will not be construed to create, any right for the benefit of any third party, except for the limitation of liability specified in Section 7 and the indemnity specified in Section 8 of these Terms of Use.

(k) Governing Law and Dispute Resolution. This agreement shall be governed and construed in accordance with the laws of the State of Illinois, regardless of the laws that might otherwise govern under applicable principles of conflicts of law thereof. The parties hereby consent to submit to the jurisdiction of any court of competent jurisdiction located within the city of Chicago in the State of Illinois to resolve any dispute relating to this agreement and waive any right to move to dismiss or transfer any such action brought in any such court on the basis of any objection to personal jurisdiction or venue. EACH PARTY HEREBY WAIVES ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING WHICH PERTAINS DIRECTLY OR INDIRECTLY TO THIS AGREEMENT, ANY ALLEGED TORTIOUS CONDUCT BY THE OTHER PARTY OR WHICH, IN ANY WAY, DIRECTLY OR INDIRECTLY, ARISES OUT OF OR RELATES TO THE RELATIONSHIP BETWEEN THE PARTIES. IN NO EVENT SHALL CIBC BE LIABLE FOR LOST PROFITS OR OTHER SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES.

(l) Force Majeure. Neither party will be liable for any delay or failure in the performance of its obligations hereunder if and to the extent such delay or failure is caused, directly or indirectly, by fire, flood, explosion, war, terrorism, earthquake, elements of nature or acts of God or the public enemy; riots, civil disorders, rebellions or revolutions in any country; embargo; strikes, lockouts, or labor difficulties; any failure in electrical or air conditioning equipment; unavailability of parts; civil or military authority; inability to secure materials or transportation facilities; act or omission of carriers or suppliers; inability to obtain any relevant data, access links or other communication facilities; any governmental requirements or any acts or failures to act of any governmental authority; or any other cause, whether or not similar to the foregoing, beyond the reasonable control of such party. Any party so delayed in its performance will notify the other party, and such notice will describe in reasonable detail the circumstances causing such delay. During the time that any of the events specified above continue to exist, each of the obligations of each party hereto, other than those affected by the events listed above, will remain in full force and effect and each party will continue to perform such obligations hereunder.

(m) Survival. The provisions of Sections 4, 5, 7, 8 and 10 of these Terms of Use will survive any termination of the Agreement.

These Terms of Use were last revised on May __, 2018.