



CIBC Commercial and Corporate Banking Financial Services Agreement

Note: Bank Act requirements specify that we must provide access to the Commercial and Corporate Banking Agreement for review. These are standard banking terms for all business or corporate accounts. A number of the items listed are inapplicable in the current circumstance. Any question regarding this documentation can be directed to the MFA.

Commercial Banking and Corporate Banking Business Account Operating Terms and Agreement

Introduction

PART I – Account Operation Agreement

~~PART II – Commercial Bank Machine Service (for Full/Deposit Only Function)~~

~~PART III – Instructions by Telephone, Fax and Internet E-Mail~~

Introduction

Unless otherwise defined in this Agreement, in this Agreement:

- “Account” or “your account”, if you have more than one account with CIBC, means each such account, and includes a mutual fund account.
- “Agreement” means this Commercial Banking and Corporate Banking Business Agreement, including any schedule to Part IV hereof that is, in accordance with Part IV, incorporated into Part IV.
- “Branch” means any branch/business contact centre of Canadian Imperial Bank of Commerce indicated on a Business Account and Services Application and Agreement or other document that you have signed that incorporates the terms of this Agreement.
- “CIBC” means Canadian Imperial Bank of Commerce.
- “We”, “us” and “our” refer to CIBC.
- “You” and “your” and “Customer” refer to the sole proprietor, partnership, corporation, unincorporated association or other person or entity or any other type of business structure who has signed as “Customer” a document that incorporates the terms to this Agreement.

Unless the context requires otherwise, words in this Agreement which are in the singular include the plural meaning, and words which are in the plural include the singular meaning.

This Agreement may not be amended except as set forth in a notice given to you by CIBC, which may be given after the amendment takes effect. Notice of the change will be given by posting a notice in your branch of account and/or providing notice to you (with or on your account statement, or otherwise). You may obtain a copy of the revised Agreement at any CIBC branch in Canada.

If any clause of this Agreement or any document that incorporates this Agreement is found by a court to be void or unenforceable, that clause will be severed without affecting any other provisions of that document or this Agreement.

This Agreement will be governed by and construed in accordance with the laws of the Province where the Branch that administers your account is located and the laws of Canada. You irrevocably submit to the exclusive jurisdiction of the courts of such Province for the purposes of any legal or other proceedings relating to this Agreement.

Part I – Account Operation Agreement

In consideration of CIBC dealing with or continuing to deal with you in connection with your banking business with CIBC, you agree with CIBC as follows:

1. **Statements, Account entries and balances.** We will provide you with electronic or online access to your statements, Account entries and balances through Online Banking, CIBC Cash Management Online™ (“CMO”), Telephone Banking and/or CIBC automated bank machines. If you receive paper-based statements for your Account and copies of Items that relate to it, you authorize CIBC, until further notice, to mail your statements and copies of related Items to you (at your risk) from time to time (by ordinary mail) to the most recent address recorded by the Branch that administers your Account, or such other address specified by you in writing to CIBC. You will notify CIBC promptly in writing of any change of your address. Such notice must be made to the manager of your Branch of account. If you maintain Accounts at more than one branch, you must notify each such branch. If a statement is returned to CIBC as undeliverable, you understand that until such time as you provide CIBC with a current mailing address, no further paper-based statements will be mailed to you, you will be liable for all damages, losses and expenses incurred by you and CIBC arising from your failure to notify CIBC in accordance with this section, and you will be bound by the terms of this Agreement that apply to electronic or online access to statements and Items, Account entries and balances.
2. **Responsibility to review statements, Items, Account entries and balance and give notice.** You agree to review your statements, Items, Account entries and balances at least once every 30 days. You further agree to notify CIBC in writing of any errors, irregularities or omissions that you discover including, among other things, improper debits, and Instruments that are altered, are missing signatures or bear forged or unauthorized signatures, as follows:
 - a) within 30 days after your electronic or online statement (“eStatement”) has been made available to you;
 - b) within 30 days of the date CIBC mails your paper-based statement to you; or
 - c) within 60 days after the date on which the entry was, or should have been, posted to your Account according to CIBC’s records, if you elect to use CIBC Cash Management Online, Telephone Banking or CIBC automated bank machines to review your Account entries in lieu of receiving paper-based statements or eStatements.

CIBC’s records will be conclusive evidence of the date CIBC makes available your eStatement or Account entries to you, or mails your paper-based statement. You assume all risk of loss and are bound by the terms of this Agreement even if a statement or related Item is delayed or lost in the mail or is returned to CIBC for any reason, or if you fail to update your bankbook or use Online Banking, CIBC Cash Management Online, Telephone Banking, or CIBC automated bank machines to review statements or Account entries as required above. Failure to notify CIBC will have the result described in section 3.

Commercial Banking and Corporate Banking Business Account Operating Terms and Agreement

3. **Failure to notify CIBC.** Except as stated in section 4, upon the expiry of the applicable period mentioned in section 2, it will be finally and conclusively settled between CIBC and you that:
 - a) all entries and balances on your Account are true and correct;
 - b) all Instruments paid from your Account are genuine, duly authorized and properly signed;
 - c) all amounts that have been charged to your Account are properly chargeable to you (including, among other things, all interest and service charges, even if the statement does not disclose how any interest or charges are calculated);
you are not entitled to be credited with any amount that is not shown on your statement or Account entries; and
 - d) you release CIBC, its directors, officers, employees and agents from all claims in connection with your Account and any Items related to your Account.

4. **Exceptions.** The provisions of section 3 do not apply to:
 - a) errors, irregularities and omissions if you notify CIBC in writing within the applicable time period mentioned in section 2 except as stated in section 5, and,
 - b) any amounts mistakenly or improperly credited to your Account which CIBC may correct at any time.

5. **Exclusion of Liability.** CIBC will not under any circumstances be liable to you for any damages or losses, even if CIBC is notified within the applicable time period mentioned in section 2, arising, directly or indirectly, from or in connection with:
 - a) your failure to comply with any provision of this Agreement,
 - b) incomplete or incorrect information you supplied to CIBC,
 - c) any act or omission by you or any of your employees, agents or other representatives,
 - d) any forged or unauthorized endorsement on, or alteration of, an Instrument drawn on your Account (unless CIBC negotiated the Instrument), or
 - e) any forged or unauthorized signature upon an Instrument, unless you prove:
 - the loss was not caused in whole or in part by any of the events described in (a) to (c) of this section 5; and
 - the loss was unavoidable despite your having taken all reasonable steps to prevent the forged or unauthorized signature and the resulting loss and your having in place the procedures and controls to supervise and monitor your employees, agents or other representatives.

6. **Preparation of Instruments and internal supervision.** You either have in place or will immediately put into place systems, procedures and controls effective to prevent and/or detect thefts of, and forgeries and frauds involving, Instruments. You will also notify CIBC as soon as possible, (but in no event later than 24 hours) after learning or suspecting of any loss or theft of Instruments or any other circumstances from which one may reasonably infer that a fraud may occur in connection with your Account.

7. **Stop payments.** (This section does not apply if you have made other arrangements in writing with CIBC in regards to stop payment of Instruments and/or pre-authorized debits). If you give CIBC instructions to stop payment of any Instrument or any pre-authorized debit (such Instrument or pre-authorized debit, as the case may be, is referred to in this section as the "Debit Item"), you acknowledge that you will provide CIBC with complete details of the Debit Item, and pay the appropriate service charge. CIBC will use all reasonable efforts to stop payment of the Debit Item. You acknowledge that stop payment instructions for a Debit Item remain in effect only for a limited period as established by CIBC from time to time, and that CIBC will have no liability to you or any other person if such Debit item is paid after the expiry of such period. If your stop payment instructions are received after a Debit Item has already been paid, CIBC will refund you the service charge and you will have no further claim against CIBC. CIBC is only required to stop payment of the Debit Item if it matches exactly the details you have provided. If any of the relevant details are wrong and CIBC pays the Debit Item, CIBC does not have to reimburse you for the amount of the Debit Item or the service charge. If for any other reason the Debit Item is paid, then subject to the terms of this section, CIBC will reimburse you for the amount of the Debit Item (and refund you the service charge) unless it represents payment of a just debt. You will review your account statements to determine if the Debit Item has been paid in error, and, if so, you will notify CIBC immediately. CIBC will not, however, be required to reimburse you for the amount of the Debit Item unless you notify CIBC within the time period specified in section 2 above.

8. **Holds Policy.** You agree that a waiting period or "hold" as disclosed in CIBC's hold policy (as amended from time to time) will be placed on the amount of Instruments deposited or transferred to your Account before you are able to withdraw the funds. CIBC may, however, in its sole discretion, establish an access to deposited funds limit for your Account which is the portion of your deposit to which you may have immediate access during the hold period. CIBC may change or cancel this limit at anytime with or without any notice to you. Instruments may be returned unpaid for any reason, either during or after the expiry of the applicable hold period, or after release by CIBC of the hold. You will be solely responsible for returned Instruments and CIBC has the right to charge the amount of any returned Instrument to any of your Accounts. In that case, CIBC may attempt on your behalf to obtain payment for the Instrument from the drawer of the Instrument or the drawer's financial institution, but CIBC will not be liable for doing so late or improperly or not doing so at all.

Commercial Banking and Corporate Banking Business Account Operating Terms and Agreement

- 9. Debiting your account.** CIBC may debit any Account of yours at any branch of CIBC with the amount of (i) any counterfeit or otherwise invalid currency deposited or transferred to your Account, (ii) any Instrument that is payable at a CIBC Branch and that is drawn, made or accepted by you, or (iii) any Instrument that, having been previously cashed by CIBC or credited to any of your Accounts is returned to CIBC for any reason or in respect of which CIBC does not receive settlement for any reason (whether or not such return or non-settlement is in compliance with the CPA Rules or the Settlement Rules of any other jurisdiction).

You will owe CIBC each amount so debited. You will reimburse CIBC for any charges and expenses that CIBC reasonably incurs in connection with any of the above matters.

If you draw any Instrument on CIBC and the Instrument is negotiated at any branch or agency of CIBC, CIBC may, at its discretion, immediately debit the amount of the Instrument from the account on which it is drawn.

CIBC may debit your account in connection with any Instrument which would otherwise be an improper debit if the result is that a just debt of yours is paid. You will continue to be liable for Instruments drawn on or deposited to your Account which are outstanding and have not been cleared even after your Account has been closed regardless of whether such closure is initiated by CIBC or voluntarily by you.
- 10. Waiver of presentment, etc.** You waive every presentment, notice of dishonour and protest of every Instrument that you have drawn, accepted or endorsed and that is at any time delivered to any branch of CIBC for any purpose. You agree that, in such case, you will be liable to CIBC on every such Instrument as if presentment, notice of dishonour and protest had been duly done or given. If CIBC considers that it is in either its or your interest that any such Instrument should be noted or protested for any reason then, at CIBC's discretion, it may be noted or protested accordingly, at your expense, and you will owe CIBC the amount of such expenses. CIBC will not, however, be liable to you for any failure or omission to note or protest any such Instrument.
- 11. Endorsement.** If you deposit any Instrument to your Account or endorse any Instrument, you will be conclusively considered to have (i) guaranteed the authenticity of all endorsements, and (ii) undertaken that you will supply any necessary endorsements. This means that you will reimburse CIBC for the amount of any Instrument if, due to the nature of any endorsement or its being forged or unauthorized, payment to you was improperly made, or if any necessary endorsements are not supplied to CIBC within a reasonable time. You appoint the Manager or Acting Manager of the Branch that administers your Account as your attorney from time to time to endorse, in your name, all Instruments that are either cashed to your credit or deposited to your account and that you have not endorsed.
- 12. Dormant Accounts.** You may not be provided with eStatements if there are no entries posted to your Account in respect of transactions, interest or service fees or other charges for at least six months. Paper-based statements will not be sent to you if there are no entries posted to your Account in respect of transactions, interest or service fees or other charges since either the date your Account was opened or the date of the last statement sent to you. CIBC is entitled to close your Account if there have been no deposits, withdrawals or Instruments drawn on your Account for any period of six consecutive months and the balance is nil.
- 13. CIBC's right to freeze or close your account.** CIBC may freeze or close your Account without notice if required by law or if at any time CIBC has reasonable grounds to believe that you did or may commit fraud, use your account for any unlawful or improper purpose, cause a loss to CIBC, operate your Account in a manner unsatisfactory to CIBC or contrary to CIBC policies, or violate the terms of any agreement applicable to your Account or any account-related service. CIBC may also close your Account without notice if you are a victim of fraud or identity theft, in order to prevent future losses. Notwithstanding the foregoing, CIBC may close your Account, in its sole and absolute discretion, on thirty (30) days' written notice to you.
- 14. Third party demands.** CIBC will comply with any lawful third party demands that it receives in respect of your Account, and will provide you with notice and a copy of such demands, to the extent permitted by law. You agree that if CIBC complies with a third party demand, it may charge its reasonable costs to do so against your Account.
- 15. Legal representatives.** If your legal representative demonstrates legal authority to act on your behalf (for example, by way of power of attorney), CIBC may accept and act in accordance with instructions from such representative.
- 16. Foreign currency transactions.** CIBC may, in its discretion, permit transactions in a currency different from that of your Account. The foreign currency will be converted to the currency of your Account at the exchange rate determined by CIBC on a date determined by CIBC, which date may be different from the date you performed the transaction. You agree that foreign currency Instruments deposited to your Account and returned to CIBC unpaid for any reason will be converted to the currency of the account based on a foreign currency exchange sell rate determined by CIBC on a date determined by CIBC and the converted amount will be charged back to your Account. CIBC is not responsible for any losses you may incur due to changes in foreign currency exchange rates or the unavailability of funds due to foreign currency restrictions. You agree that any claims CIBC may have against you, and any service or other charges related to your Account, can be deducted from your account in the same currency as the Account.
- 17. Assignment of claim.** If CIBC notifies you, you will transfer and assign to CIBC, in connection with any and all Instruments discounted by or deposited to CIBC, or which you have cashed, all claims you have against the drawees of such Instruments. If any such Instrument is returned to CIBC, CIBC may at its discretion take in your name any proceedings for collection of the amount of such Instrument.

Commercial Banking and Corporate Banking Business Account Operating Terms and Agreement

18. **If there is no CIBC branch.** If, in connection with your banking business, it is necessary to do something at a place where there is no CIBC branch, CIBC may use the services of any bank or other financial institution or agency (the "correspondent bank") to do so. In such case, CIBC will not be liable for any act or omission of the correspondent bank in the performance of the services required of it or for the loss, damage, destruction or delayed delivery of any Instrument, security, certificate or other document of any kind while in transit to or from, or while in the possession of, the correspondent bank.
19. **Payment of indebtedness, etc.** Unless other arrangements have been made with CIBC (in writing or otherwise), you will pay CIBC immediately the amount of any indebtedness (including, among other things, any overdraft) or liability that you owe to CIBC. You will immediately reimburse CIBC for any expenses that CIBC pays or incurs (including, among other things, all reasonable legal fees and disbursements) in connection with or arising out of (i) the operation of your Account or the collection of such indebtedness or liability, and (ii) claims or demands made by third parties and that are related to your Account.
- CIBC may immediately debit any of your Accounts for any amount which, by the terms of this Agreement, you owe CIBC. Except as otherwise agreed in writing, you will pay any applicable fees or charges as declared by CIBC from time to time plus interest monthly on the amounts that you owe CIBC, calculated on the daily balance of the amount owing (before and after demand, default and judgment) at CIBC's Standard Overdraft Rate, as declared by CIBC from time to time with interest on overdue interest at the same rate.
20. **Set-off debts against Accounts.** CIBC may apply a credit (positive) balance in any of your Accounts against any debt or liability you may owe to CIBC or any affiliate of CIBC no matter how long it has been owed. CIBC may do so in any manner it considers necessary without first giving you notice. This right operates despite any demands that may have been made by a third party. You acknowledge that in the event that CIBC or its affiliate receives notice of your bankruptcy, insolvency or similar arrangement, either CIBC or its affiliate, as applicable, can immediately exercise this right of set-off without prior notice to you. This right is in addition to any rights which CIBC may have at law in respect to set-off or consolidation of accounts.
21. **Storing information.** CIBC may record and store all information (including, without limitation, all Items) relating to your Account in such form and by such means as CIBC sees fit. You acknowledge that CIBC is not required to retain or return original Items (other than to retain and return to you the Items normally returned to you in accordance with CIBC's general practice in connection with accounts such as yours) or to provide you with copies of any Account statements, Items or other documents. CIBC may, in its discretion and subject to availability, provide you with copies of Account statements, Items or other documents at your request.
- If you request copies of any Items or other documents and the originals have been transferred to some other storage medium and destroyed, you will accept copies made from that storage medium. You acknowledge that CIBC is not required to produce copies of any Items or other documents if neither the originals nor any copies exist at the time your request is processed.
- You will pay CIBC its applicable charges for any searches you request. CIBC may, however, require you to pay part of such search fees in advance.
22. **Digital or Electronic Representations.** You acknowledge that digital or electronic representations of cheques and other Instruments, or the relevant information from the cheque or Instrument, may be made or captured and used by financial institutions involved in the exchange and clearing of payments in Canada and elsewhere, in which case the original paper item may be destroyed and not returned to you. CIBC is entitled to act upon such a representation or information for all purposes as if it were the original paper item. You acknowledge that CIBC and other financial institutions may reject any cheque or other Instrument that does not comply in all respects with all applicable by-laws, regulations, rules and standards of CIBC and the CPA.
23. **Data processing.** CIBC may use the services of any electronic data processing service bureau or organization in connection with keeping your Account. In such a case, CIBC will not be liable to you by reason of any act, delay or omission of such service bureau or organization in the performance of the services required of it.
24. **Credit information.** If you ask CIBC to obtain credit information on another person, firm or corporation, it will be only in connection with a person, firm or corporation with whom you have or propose to have financial dealings and from whom you have consent to obtain such credit information. You will keep such information confidential. You will not disclose it to any other person, firm or corporation. Neither CIBC nor the responding entity, or any of their respective employees, will be liable in connection with such credit information or the accuracy or completeness of the information. You will indemnify and save harmless CIBC and the responding entity, and their respective employees, from any liability incurred in connection with such credit report. If a financial institution or other person, firm or corporation requests credit information about you, you consent to CIBC providing such information from time to time. If, instead, you do not consent but wish CIBC to ascertain your specific authority for each enquiry, you can make special arrangements with CIBC by calling the Business Contact Centre at the telephone number provided you.
25. **Signing Authority.** (If you are a corporation or unincorporated association, this section applies.) You will provide CIBC, in the form required by CIBC, with a certified copy of your general banking resolution appointing authorized signing officers or authorized signatories and a list of all persons authorized to act in accordance with such resolution, as well as specimens of their signatures. CIBC may rely on everything that is done and on all documents signed on your behalf in accordance with such resolution. All such documents will be valid and binding upon you whether or not your corporate seal (if you are a corporation and there is a corporate seal) has been placed on any such document. Each office and branch of CIBC may act in accordance with such resolution and documents until due written notice to the contrary has been given to and received by a responsible person of such office or the manager or acting manager of such branch, as the case may be.

Commercial Banking and Corporate Banking Business Account Operating Terms and Agreement

26. **Borrowing Powers.** (If you are a corporation, this section applies, and you are referred to in this section as the "Corporation.") You certify that either the directors of the Corporation may, without authorization of the shareholders, or all necessary corporate action has been taken to authorize the directors of the Corporation to: (a) borrow money or otherwise obtain credit upon the credit of the Corporation; (b) issue, reissue, sell or pledge debt obligations of the Corporation (c) give a guarantee on behalf of the Corporation to secure performance of an obligation of any person; (d) mortgage, hypothecate, pledge, assign, transfer or otherwise create a security interest in all or any property of the Corporation, currently owned or subsequently acquired, to secure any obligation of the Corporation; and (e) delegate any of the powers of the directors in regard to the foregoing to one or more directors, a committee of directors or one or more officers of the Corporation.

You undertake to notify CIBC of any changes respecting the powers of the Corporation or its directors or officers to do any of the things listed in this section 26. You further undertake to notify CIBC of any changes respecting (i) the authority of any director, officer or employee to sign on the Corporation's behalf or (ii) any resolutions of the directors or shareholders of, or any unanimous shareholder agreement relating to, the Corporation of which CIBC holds copies.

Each office or branch of CIBC with which any dealings are had by the Corporation may rely upon this section 26 and upon any and all documents referred to herein until notice to the contrary or of any change is given in writing to a responsible person of such office or the manager or acting manager of such branch, as the case may be.

Service fees, interest and disclosure. You agree that CIBC may periodically debit any of your Accounts with the service fees that CIBC establishes from time to time in connection with the operation of your Account. You acknowledge having received a copy of CIBC's current business account service fees disclosure brochure and having read and understood it, and you agree to be bound by the terms contained in such brochure. You also acknowledge receiving copies of CIBC's privacy disclosure notice and service commitment brochure and having read and understood them. CIBC's standard fees, as established by CIBC from time to time, will apply, unless you and CIBC agree otherwise in a contract. You acknowledge that, from time to time, CIBC may change the interest rates, how interest is calculated, and the service fees which apply to the Account. If interest is paid on your Account, CIBC will advise you of interest rate or other interest changes by posting the new rates and any interest changes in its branches. Where banking law requires, information about new or increased service fees will be provided to you in writing at least 30 days before the increased or new fee is effective.

27. **Facsimile Signature of Cheques (if you requested Facsimile Signature of Cheques, this section applies).** You hereby authorize and direct CIBC to pay all instruments purporting to be cheques, drafts, orders for the payment of money and other Instruments issued by you and purporting to bear facsimile signatures of any of the persons who from time to time are authorized to sign such Instruments for and on your behalf. You further agree that:

- a) all such Instruments may be dealt with by CIBC to all intents and purposes and shall bind you as fully and effectually as if signed in the handwriting of and duly issued by such persons for and on behalf of you; and
- b) you will provide CIBC with specimens of such facsimile signatures which may be acted upon by each branch of CIBC with which any dealings are had by you until notice to the contrary or of any change therein has been given to the manager or acting manager of such branch.

28. **Foreign Currency Account (if you requested a Foreign Currency Account, this section applies)**

- a) Available credit balances from time to time in the Account shall be withdrawable only by way of your demand draft or cable transfer payable at the principal city of the country of the currency involved and the payment thereof shall be subject to the applicable laws in force from time to time at such place, including, without limitation, orders, rules, regulations and directives of departments of government or boards, authorities or agencies thereof. In order to process your payment CIBC may be required by law or by correspondent or beneficiary banks or other financial institutions, associations or agencies ("Settlement Parties") involved in the transferring, remitting or settling of your payment to provide such Settlement Parties with your payment information (which may include, but is not limited to, your name, address and account number). You consent to such disclosure and acknowledge that such information will be subject to both domestic and foreign laws, rules regulations applicable to such Settlement Parties.
- b) You will indemnify and save CIBC harmless from and against all loss, claims, actions, prosecutions or proceedings in any way relating the Account;
- c) CIBC may close the Account, at any time after fifteen days written notice mailed to you at the Branch, by mailing to you at the Branch a demand draft in favour of you and payable at the place mentioned in paragraph (a) above for the balance then at credit of the Account;
- d) CIBC may make and debit to the Account a reasonable charge for keeping and operating the same and also for each cash withdrawal which CIBC may see fit to permit notwithstanding paragraph (a) above and CIBC will advise you on request as to the rate of all charges.

29. **Settlement Rules, Applicable Laws and Disclosure Consent**

- a) **General:** You agree that any transaction or service involving the transferring, receiving or remitting of any funds, including without limitation, implementing any Service under Part IV of this Agreement and CIBC's ability to complete such transaction will be subject to the Settlement Rules and Applicable Laws.

Commercial Banking and Corporate Banking Business Account Operating Terms and Agreement

b) **Consent to Disclosure and Acknowledgements:** On behalf of the Transaction Parties, you; (i) consent to the disclosure of Information by CIBC and Settlement Participants to Recipients in order to satisfy the Compliance Obligations; (ii) agree to supply CIBC, upon request, with Information which CIBC deems reasonably necessary, or which has been requested by Recipients, in connection with the Compliance Obligations; and (iii) acknowledge that CIBC and the Settlement Participants may take any other steps they consider necessary to satisfy the Compliance Obligations. You confirm that you have the authority to make the foregoing consents, agreements and acknowledgements on behalf of the Transaction Parties.

Settlement Participants: When any act or thing is necessary or required to be done in the course of or in connection with any transaction or Service under Part IV (if applicable), CIBC may use the services of any Settlement Participants to do such act or thing as your agent and on your behalf. CIBC shall have complete discretion in its selection of Settlement Participants. In each such case, CIBC shall not be liable by reason of any act or omission of such Settlement Participants in the performance of the services required of it or by reason of the loss, destruction or delayed delivery of any Instrument, security, certificate or document of any kind while in transit to or from such Settlement Participants or while in its possession. You shall be responsible to pay all fees, duties, taxes, imposts and charges of any nature that are collectible in connection with your payment instructions (including, without limitation, all fees and charges of any nature of Settlement Participants) unless such fees and charges are paid by the your payee or Beneficiary.

c) **Survival:** This Section 30 shall survive the termination of this Agreement or any Service under Part IV.

30. **Indemnity** you shall indemnify and save CIBC harmless from and against all damages, losses, costs, fees, expenses, liability, claims, suits and demands that CIBC may incur or be under by reason of performing its obligations under this Part I. The obligations of the Customer under this Section 31 shall survive the termination of this Agreement.

31. **Limitation of CIBC's Liability.** Except where the liability of CIBC is excluded or otherwise limited elsewhere in this Part I, CIBC will be liable to you only for direct damages resulting from gross negligence, fraud or willful misconduct of CIBC arising directly from the performance of CIBC of its obligations under this Part I and CIBC will not be liable to you for any other direct damages. In addition, CIBC will not under any circumstances be liable to you for any other damages, including, without limitation, indirect, incidental, special, punitive or consequential losses or damages, loss of profits, loss of revenue, loss of business opportunities, or any other foreseeable or unforeseeable loss resulting directly or indirectly out of this Part I, even if CIBC was advised of the possibility of damages or was negligent. These limitations apply to any act or omission of CIBC, its affiliates, agents or suppliers, whether or not the act or omission would otherwise give rise to a cause of action in contract, tort, statute or any other doctrine of law. Gross negligence in this Section 32 means conduct (whether through action or inaction, or through words or silence) which is (i) a marked and flagrant departure from the conduct ordinarily expected of a reasonable and prudent person in the position of CIBC, or (ii) so wanton and reckless as to constitute an utter disregard for harmful, foreseeable and avoidable consequences. This Section shall survive any termination of this Part I or this Agreement.

32. **Notices.** Except as expressly provided elsewhere in this Agreement, any notice or other communication (each, a "Notice") that may be given under this Agreement shall be provided in writing or electronically to the receiving party, as follows:

- a) if to CIBC, then at the mailing address or Fax number of your CIBC representative, or, if such address and Fax number are unknown, at the mailing address or Fax number of the CIBC branch at which your account is maintained; and
- b) if to you, then at the e-mail or mailing address or Fax number, and to the attention of the position, which you last gave notice of to CIBC in accordance within this Section 33, or online through Online Banking or CMO.
- c) Notices to you shall be delivered, or sent by Fax, regular or registered mail, or posted online and shall be deemed received:
 - i) on the date of delivery, if delivered by hand;
 - ii) when the sender receives an appropriate confirmation of receipt or answer-back, if sent by Fax;
 - iii) on the fifth postal delivery day following the date of mailing, if sent by regular or prepaid registered mail at a time when normal postal service is in effect; and.
 - iv) when sent, if sent by e-mail, or when posted or made available online.

33. **Quebec Residents Only:** It is our express wish that this Agreement and all related documents be drafted in English. *Nous demandons expressément que la présente l'Entente et tous les documents s'y rattachant soient rédigés en anglais.*

34. **Definitions.**

"Act" means the Canadian Payments Association Act, as it may be amended, supplemented or replaced from time to time;

"Applicable Laws" means laws, regulations, orders and directives of Authorities that apply to CIBC or the Settlement Participants including, without limitation, such laws, regulations, orders or directives concerning or relating to bribery, corruption, money-laundering and anti-terrorist financing.

"Authorities" means foreign and domestic governments, judicial, administrative, public or regulatory bodies, securities exchanges, courts, central banks and law enforcement bodies with jurisdiction over CIBC or the Settlement Participants.

"Beneficiary" means the person that the Customer has designated as the recipient of funds being transferred or remitted by CIBC under this Agreement.

"CMO" means CIBC Cash Management Online™

"Compliance Obligations" means the obligations of CIBC and the Settlement Participants to comply with Applicable Laws,

Commercial Banking and Corporate Banking Business Account Operating Terms and Agreement

Settlement Rules, Policies and Demands, as applicable to them.

"CPA" means the Canadian Payments Association established under the Act.

"CPA Rules" means the regulations, By-laws, Rules and Standards made pursuant to the Act, as they may be amended, supplemented or replaced from time to time.

"Demands" means demands, requests, inquiries, audits, requisitions, requirements and solicitations made by Authorities.

"Information" means any current and/or historical information relating to Transaction Parties including, but not limited to, the following information: names, addresses, dates of birth, jurisdictions, account numbers, types of accounts, financial activities and other dealings with CIBC, use of any CIBC products or services, duration as CIBC customers, types of businesses, transactions, business relationships, purposes of transferred funds and sources of wealth.

"Instruments" includes cheques and other bills of exchange, promissory notes, drafts, money orders, bill payment remittances, bankers' acceptances, coupons, orders for payment of money, clearing items and other instruments, whether negotiable or non-negotiable.

"Items" means the Instruments, withdrawal forms, debit memos (whether relating to preauthorized debits or otherwise) and other vouchers that relate to entries on your Account statement or that relate to your Account and that are normally provided in accordance with CIBC's general practice.

"Person" means an individual, corporation, partnership, limited partnership, limited liability company, unlimited liability company, trust, joint stock company, unincorporated association, joint venture, Authority, or other entity of whatever nature.

"Policies" means the internal policies, procedures, rules and standards of CIBC or the Settlement Participants including, without limitation, such policies, procedures, rules and standards concerning or relating to enhanced customer due diligence requirements.

"Recipients" means Authorities and Settlement Participants.

"Related Person" means a Person with whom the Customer or Beneficiary has business or other dealings or a relationship relevant to the Customer's or Beneficiary's relationship with CIBC, and any representative, agent or nominee of any such Person, including, without limitation, a guarantor, an obligor, a director or an officer of a corporation, a partner of a partnership, a shareholder, a beneficial owner, a trustee, beneficiary or settlor of a trust, an account holder, an affiliate, a subsidiary, or a payee.

"Settlement Participant" means any person receiving or handling funds for CIBC or the Beneficiary including but not limited to other financial institutions, CPA and SWIFT and their respective agents and service providers.

"Settlement Rules" means rules, procedures, standards or bylaws used by Settlement Participants.

"SWIFT" means the Society for Worldwide Interbank Financial Telecommunications.

"Transaction Parties" means the Customer, any Related Persons of the Customer, the Beneficiary and any Related Persons of the Beneficiary.

PART II—Commercial Bank Machine Service (if you have applied for and been approved for either Full Function Service or Deposit Only Service (in this Part II, each the "Service"), this Part II applies to you).

Your ability to access Account deposits through the Service or otherwise is subject to CIBC's policies and procedures respecting hold periods on cheques and Bank Machine deposits (including cash deposits), as amended from time to time, and to the access to deposited funds limit which CIBC has set for your Account. CIBC may change the access to deposited funds limit at any time and without notice to you.

In exchange for CIBC permitting you to use the Service you agree that:

1. The Service.

- a) **Use of Service.** Your use of the Service will show that you have received and read this Part II. You will use the Service strictly in accordance with CIBC's instructions in effect from time to time. You acknowledge that CIBC's instructions in effect from time to time, at the time and from time to time as you make use of the Service, may identify specific limitations of the Service in respect of the Instant Banking Transaction being performed, and you agree to be bound by all such instructions and that CIBC will not be liable for use of the Service that is not strictly in accordance with CIBC instructions. CIBC may impose daily limits on withdrawals, transfer and other transactions, and may change these limits at any time with or without notice to you; except that CIBC shall notify you of any changes from time to time made in your daily ABM withdrawal limit and/or daily debit card limit, if any, which apply to each Access Card that CIBC allows you to use in connection with the Service. Each Instant Banking Transaction will be debited or credited, as applicable, to your Bank Account designated at the time of such transaction and processed in accordance with CIBC's normal practice. ABM/Debit Terminal transactions will be effective as follows:
- i) transactions (except as set out in ii) and iii) following) done before 6 p.m. on a Banking Day will be effective as of the same Banking Day; if done after 6 p.m. or on a non-Banking Day, they will be effective the next Banking Day;
 - ii) deposits to Rapidtrans accounts made before 6 p.m. local time or 6 p.m. Eastern Time (whichever comes first) on a Banking Day will be credited as of the same day; if made after 6 p.m. local time or 6 p.m. Eastern Time (whichever comes first) or on a non-Banking Day, they will be credited as of the next Banking Day; and
 - iii) (applicable only if you have Full Function Service) bill payments by ABM/Debit Terminal and transfers to a third party's Bank Account by ABM/Debit Terminal (when allowed), may not be processed for two or more Banking Days.