

ONLINE COMMERCIAL CASH MANAGEMENT SERVICE AGREEMENT & DISCLOSURE

This agreement ("Agreement") is made by and between First Commercial Bank (USA) ("we", "us" and "Bank") and the undersigned customer ("you"). It sets forth the terms of the Bank's online cash management services ("Services"). By applying for any Service, you agree to be bound by these terms. Your use of any Service will be additional evidence of your agreement to these terms.

1. **Services.** We will notify you when the Services you request will become available to you. If you request additional Services in the future, they will be governed by this Agreement, unless we advise you otherwise.
2. **Equipment.** You are responsible for providing and maintaining any equipment that is necessary for the Services, such as telephones, terminals, modems and computers. You agree to use equipment that is compatible with our programs, systems and equipment, which we may change from time to time. We assume no responsibility for the defects or incompatibility of any computers or software that you use in connection with the Services, even if we have previously approved their use. **WE MAKE NO WARRANTY, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR OF MERCHANTABILITY, WITH RESPECT TO THE SERVICES, OR ANY COMPUTER PROGRAMS, EQUIPMENT OR SOFTWARE THAT YOU USE IN CONNECTION WITH THE SERVICES.**
3. **Accounts.** Your application may list certain Bank accounts that you wish to access with the Services. If it includes the accounts of your parent company, subsidiaries or affiliates, you warrant that they have authorized you to access their accounts through the Services in the same manner as your own accounts. You agree to provide us with their written authorization, in form and substance acceptable to us, evidencing that authority, and to notify us immediately in writing of any change to that authorization.

You will need to designate certain accounts for specific purposes in connection with some of the Services. If you fail to do so, or if your designated account closes, we may designate an account or terminate the Service.

4. **Your Administrator.** You must appoint an individual (an "Administrator") with the authority to determine who will be authorized to use the Services on your behalf ("Delegated Users"). Your Administrator will be responsible for: (a) the receipt, proper distribution and maintenance of all Security Codes and User IDs; (b) maintaining the ability of the Delegated Users to access the Services; (c) establishing limits on each Delegated User's authority to access information and conduct transactions; (d) designating another Delegated User to be a successor Administrator who will, when authorized, possess the Administrator's capabilities; (e) adding, removing and making other changes to the transaction rights of Delegated Users; and (f) adding or removing eligible accounts from the Services. You assume sole responsibility for the actions of your Administrator, the authority he or she gives others to act on your behalf, and the actions of the persons designated by the Administrator to use the Services.

You or your Administrator will need to designate which accounts will be utilized for Service payments and transfers. If your Administrator designates an account that requires more than one signature for the withdrawal or transfer of funds, you agree that we may act upon any Service instruction that is accompanied by the password designated by you or your Administrator for that account and the Service in question. **NOTE: This may mean that we will act upon the instruction of only ONE person (e.g., to wire funds), even though the signature card for the account in question requires two or more signatures on checks. As long as an instruction is accompanied by the designated password, the transaction will be deemed authorized by you.**

The initial Administrator shall be that individual who enrolls the company in the Services. The initial Administrator must be an authorized signer or owner on ALL eligible accounts enrolled in the services. We may act on the instructions of the Administrator until we receive written notice to the contrary from the Administrator or another person authorized by you to give such notice. We shall be given a reasonable time to act on such written notice.

If we are uncertain regarding the designation or identity of the Administrator, the ownership or control of an account, or the authority of any Delegated User, we may, at our sole discretion: (1) freeze accounts and/or refuse to make some or all of the Services available until we receive written proof (in form and substance satisfactory to us) of each person's right and authority to act; (2) suspend any person's access to the Services; (3) request instructions from a court of competent jurisdiction at your expense regarding the ownership or control of the account; and/or (4) continue to honor instructions given to us by an individual who appears as the Administrator or a Delegated User according to our records. In no event will we be liable for any delay or refusal to follow instructions that occurs as a result of a dispute or uncertainty over the ownership or control of any account.

An individual's designation as a Delegated User shall continue to be effective until your Administrator removes the individual as a Delegated User from the "Manage User Access" section of the Services and we have had sufficient time to process the revocation.

5. **Access to Account Data.** You can obtain balance, transaction and other account information through our web site at <http://www.bankfcb.com>. To access your designated accounts or use one of these Services you must have a password and the required hardware and software.

Since we do not process certain information and transactions until after the close of our business day, some transactions may not be reflected in the system until the next banking day. Posted items may be reversed due to insufficient funds, stop payment orders, legal process, and other reasons. Certain balances also may not be subject to immediate withdrawal. We assume no responsibility for any loss arising from incomplete information or for any temporary interruption in our information system. At certain times a Service may not be available due to system maintenance or circumstances beyond our immediate control. If you are unable to access our system for any reason, you can contact your branch of account for loan and deposit information.

6. **Joint and Several Authority to Combine Funds.** If more than one party joins in one or more Services, the contractual obligations shall be the independent obligations of each party, the obligations hereunder being joint and several. Each of you agrees that there is no expectation of privacy between the entities that have joined in the Services.

Each of you represents and warrants to us that any and all transfers and commingling of funds required or permitted by any Services, and all other aspects of the performance hereof by the parties, have been duly authorized by law and by all necessary parties, including, without limitation, the account holder of each account and that each of you have obtained and shall maintain in your regular business records, and make available to us upon demand, adequate documentary evidence of such authorization from the account holder of each account, executed by the duly authorized officer(s) of each such account holder in accordance with that account holder's corporate bylaws and board resolutions. Each representation and warranty contained herein shall be continuing and shall be deemed to be repeated upon your use of the Services and our effecting each transfer and commingling of funds.

7. **Compliance with Applicable Laws.** You agree not to conduct any transactions that would violate the laws of any state or the United States, including the economic sanctions administered by the U.S. Treasury's Office of Foreign Assets Control.

8. **Fees.** There is a one time set up fee of \$15.00 plus a monthly fee of \$9.95. Fees separately disclosed to you in connection with your account or any transaction fees incurred in using the Services may apply. You agree to pay us the fees we establish for each of the Services. We may send a bill to you for the fees (which must be paid within 30 days of the invoice or statement date) or charge them directly to your account(s) with us. If you fail to pay any amount owing to us under this Agreement, it will bear interest at the rate of 12% per year until paid. We may amend our Service pricing from time to time. Certain prices are subject to change without prior notice. Special or additional Services performed at your request will be subject to such additional terms and fees as you and we may agree. If your accounts with us are analyzed, you may be able to use your available earnings credit to offset certain Service charges.

In addition to the Service fees, you agree to pay for all taxes, tariffs and assessments levied or imposed by any government agency in connection with the Services, this Agreement, and/or the software or equipment made available to you (excluding any income tax payable by us). You also are responsible for the costs of any communication lines and any data processing charges payable to third parties. Refer to the Bank's Fee Schedule for additional fee information.

9. **Information Processing and Reporting.** We offer a number of Services that require us to receive, process and report information involving your accounts and transactions. We will not be responsible for determining the accuracy, timeliness or completeness of any information that you or others provide to us. We will not have a duty to interpret the content of any data transmitted to us, except to the limited extent set forth in this Agreement. Unless otherwise agreed in writing, we will not be required (by means of any security procedure or otherwise) to detect errors in the transmission or content of any information we receive from you or third parties.

You acknowledge that it is not possible for the Services to be totally free from operator, programming or equipment error, and that errors in processing and compiling data may occasionally occur (e.g., due to the failure of others to provide accurate information, telecommunication failures, or a breakdown in an electronic data interchange). As such, you agree to review and verify all results and to maintain adequate controls for insuring both the accuracy of data transmissions and the detection of errors. Unless otherwise required by law, our sole responsibility for any reporting errors caused by us will be to reprocess the information for the period in question and to provide corrected reports at our own expense. You agree to maintain adequate backup files of the data you submit for a reasonable period of time in order to facilitate any needed reconstruction of your transactions (e.g., in the event of a telecommunication failure). If we are unable to provide a Service for any reason, we will promptly inform you of the problem and will take reasonable steps to resume processing.

10. **Reliance on Third Parties.** Our ability to provide certain Services is dependent upon our ability to obtain or provide access to third party networks. In the event any third party network is unavailable or we determine, in our discretion, that we cannot continue providing any third party network access, we may discontinue the related Service or may provide the Service through an alternate third party network. In such situations, we will have no liability for the unavailability of access. We will not be responsible for any services you receive from third party vendors.
11. **Security Procedures.** We may provide you with a number or code ("Password" or "Security Code") to access our Services. You agree to: (a) take reasonable steps to safeguard the confidentiality and security of the Password/Security Code and any other proprietary property or information we provide to you in connection with the Services; (b) limit access to your Password/Security Code to persons who have a need to know such information; (c) closely and regularly monitor the activities of employees who access the Services; and (d) notify us immediately if you have any reason to believe the security or confidentiality required by this provision has been or may be breached. Our security procedures are not designed for the detection of errors (e.g., duplicate payments or errors in your fund transfer instructions). We will not be

obligated to detect errors by you or others, even if we take certain actions from time to time to do so.

We will assign a Password/Security Code to you after your application for Services is approved. You agree to change your Password/Security Code the first time you access our Services and whenever anyone who has had access to your Code is no longer employed or authorized by you to use the Services. We may require you to change your Password/Security Code at any time. We may deny access to the Services without prior notice if we are unable to confirm (to our satisfaction) any person's authority to access the Services or if we believe such action is necessary for security reasons.

Each time you perform a funds transfer with the Service, you warrant that the Password/Security Code procedures are commercially reasonable for the transaction, based on the circumstances involved (e.g., the size, type, and frequency of your transfers, as well as your internal controls). We may process any funds transfer request we receive through the Service if it includes your Password/Security Code. Funds transfer requests submitted with the Password/Security Code will be deemed effective as if made by you, and you will be obligated to pay us the amount of such orders, even if they are subsequently determined to be unauthorized.

12. **Book Transfers and Wire Payments.** If you are approved for these Services, you may transfer funds by book transfer and make payments to others by wire transfer. If you link more than one checking account to the Service, you must specify which account you wish us to use to make payments.

- a. Charging Your Account. When you transmit a payment request ("Order"), you authorize us to charge your account for the payment. If your account does not have enough available funds to cover a payment, we may reject the transaction. We may charge a fee for each payment request presented against insufficient available funds, whether or not we honor the request.

You assume the sole responsibility for providing us with accurate payment information in the form and format that we require. We are not responsible for confirming such information, or for monitoring or refusing to process duplicate Orders. If you give us an Order that is incorrect in any way, you agree that we may charge your account for the payment whether or not the error could have been detected by us. We are not obligated to detect errors in your transfer or payment instructions.

- b. Funds Transfer Instructions. Your Orders must comply with the requirements set forth in the Rules and any applicable security procedures. You acknowledge that Orders may not be initiated that violate the laws of the United States, including the economic sanctions administered by the U.S. Treasury's Office of Foreign Assets Control. Our cutoff hours for Orders are 12:00 p.m. (PT) for wire transfers.

You must accurately describe transaction beneficiaries, intermediary financial institutions, and the beneficiary's financial institution in wire transfer Orders. If you describe any beneficiary or institution inconsistently by name and number, we and other institutions may process the Order solely on the basis of the number, even if the number identifies a person or entity different from the named beneficiary or institution. We may transfer funds through an intermediary bank or funds transfer system which is different from that shown in your instructions.

An Order is deemed to be received by us when we have acknowledged it by e-mail. Unless you promptly notify us of a problem with a transfer or confirmation, you will be

deemed to have approved the accuracy and completeness of the information contained in the confirmation.

If your Order involves a foreign transfer, we may execute the Order in the currency of the country of the payee's financial institution at either our buying rate of exchange for U.S. dollar transfers or the exchange rate of the payee institution. If for any reason the transfer is returned, you agree to accept the refund in U.S. dollars in the amount of the foreign money credit, based on the current buying rate on the day of the refund, less any charges and expenses incurred by us. Foreign transfers may be subject to delays, charges imposed by other financial institutions, and changes in foreign currency exchange rates.

You will not allow others to initiate Orders on your behalf without our prior written consent. You will be solely responsible for the acts and omissions of your agents. You agree to indemnify, defend and hold us harmless from any actions, claims, proceedings, damages, losses and costs which you or we incur as a result of their actions or omissions.

- c. Customer Authorizations and Record Retention. You agree to maintain a copy of each authorization for a period of two years following its termination, and to provide us with a copy upon request.
- d. Book Transfers. Transfers between your deposit accounts with us are subject to the terms of your deposit agreement (e.g., limitations on transfers). Transfers are not permitted from one line of credit account to another line of credit account. You may not be able to transfer funds between First Commercial Bank (USA) accounts established in different regions of the country using this Service. A transfer between your accounts will be available for withdrawal no later than the business day after the transaction is posted.
- e. Transaction Limits and Safeguards. You agree not to exceed the transaction limits we establish from time to time for your account. You agree that you will not allow anyone to initiate Orders without proper supervision and adequate safeguards, and that you will review pending Orders prior to their submission to ensure that they are complete, accurate and properly authorized.
- f. Cancellation and Amendment of Orders. You may not cancel or amend an Order after we receive it. If we attempt to reverse an Order at your request, we assume no liability for any interest or losses that result if the reversal is not effected. You agree to indemnify, defend, hold harmless and reimburse us for all expenses, losses, claims, actions, proceedings and damages we incur in effecting or attempting to effect any reversal. You are solely responsible for providing notice to receivers that a reversal is being transmitted and the reason for the reversal no later than the settlement date of the reversing entry.
- g. Refusal of Orders. We may refuse any Order with or without cause or prior notice. You must maintain sufficient collected and available funds in your account to cover the amount of your Orders, as well as returned or reversed debit Orders, adjustment Orders, and other amounts owed to us for these Services. We may refuse an Order if there are not sufficient collected and available funds in your account on the date we initiate the transaction or on the settlement date. We will notify you of such refusal electronically, in writing, by telephone, or otherwise no later than two business days after the date the Order was to be effected. We are not required to pay you interest on a rejected Order for the period from refusal of the Order to your receipt of the notice of refusal.
- h. Notice of Returned Orders. We will notify you electronically, in writing, by telephone, or otherwise within one business day of any Order which is rejected or returned for any

reason. We will not be obligated to credit your account with any interest, unless the return is caused by our failure to properly execute the Order.

- i. Notices and Statements. Information on transfers to or from your accounts will be reflected on your periodic statements and will be available to you on-line. We do not provide you with any other notice of the receipt, transmittal or debiting of Orders.
 - j. Unauthorized Order. We may process any Order (including an amendment or cancellation Order) we believe is transmitted or authorized by you if we act in compliance with the security procedure agreed upon by you and us. Such Orders will be deemed effective as if made by you, and you will be obligated to pay us in the amount of such Orders, even though they are not transmitted or authorized by you.
 - k. Telephone Confirmation. We may elect to verify the authenticity or content of any Order by placing a call to any authorized signer on your account or any other person designated by you for that purpose. If we are unable to verify an Order to our satisfaction, we may reject the Order.
13. **Electronic Mail/Internet.** One way of contacting us is by electronic mail ("e-mail"). The Service has provided an option for you to send us e-mail via "Mail". This e-mail option is accessible after you sign on with your password to the Service. **Do not use this feature to send us confidential information about your account.** Also, communications sent over the public Internet or via "Contact Information/Inquiry Form" on our web site is not necessarily secure.

If you send us e-mail, we may not receive or review it immediately. We will have a reasonable time to act upon any e-mail request or notice, and reserve the right to reject any request received by e-mail. The e-mail "Mail" Service may not be used to make transfers between Bank accounts. You acknowledge that we cannot ensure that e-mail will not be intercepted or affected by the actions or omissions of others, such as third party networks or persons with access to the Internet. Our service providers and we assume no responsibility for viruses created by third parties, or for any third party's unauthorized access to, or use of, your computer system.

Your use of the Internet will be entirely at your own risk. We make no representation, warranty or endorsement with respect to: (a) information placed on the Internet by third parties; (b) the security or continued availability of the Internet or of any Internet web site, including without limitation our web site; or (c) the services, products or information made available over the Internet by others whose sites may be accessed, directly or indirectly, as a result of our Services.

You agree that: (a) your use of the Internet will be at your own risk; (b) Internet services are provided to you on an "as is" basis, without warranties of any kind; (c) we, our affiliates, Internet service providers, and licensors will not be liable for any errors, defects in, or the un-timeliness or lack of authenticity of, any information provided over the Internet; (d) you will comply with all laws applicable to your Internet activities; (e) you will not transmit any information which is defamatory, abusive, or which may give rise to civil liability; (f) we may monitor your e-mail and Internet communications with our employees; and (g) our Internet Service will be subject to the additional qualifications and operating rules, if any, set forth on our web site.

14. **Cutoff Hours.** Our business days are Monday through Friday, excluding federal holidays. Our cutoff hour for Wire Transfer Order is 12:00 p.m. (PT) and for Book Transfers Order is 7:00 p.m. (PT). Instructions received after the cutoff hour or on a non-business day may be deemed received as of the next business day. Services may occasionally be unavailable due to needed maintenance or system/network interruptions. A delay may also occur if the Beneficiary or Intermediary bank is not accepting payment orders (e.g. due to a local holiday).

15. **Limitation of Liability.** Except as otherwise stated in this Agreement, we will be liable to you only for damages arising directly from our intentional misconduct or gross negligence in the performance of the Services. We will not be responsible for any loss, delay, cost or liability which arises, directly or indirectly, in whole or in part, from: (a) your actions or omissions, or those of third parties which are not within our immediate and reasonable control; (b) your negligence or breach of any agreement with us; (c) any ambiguity, inaccuracy or omission in any instruction or information provided to us; (d) any error, failure or delay in the transmission or delivery of data, records or items due to a breakdown in any computer or communications facility; (e) accidents, strikes, power outages, labor disputes, civil unrest, fire, flood, water damage (e.g., from fire suppression systems), or acts of God; (f) causes beyond our reasonable control; (g) the application of any government or fund-transfer system rule, guideline, policy or regulation; (h) the lack of available funds in your Account to complete a transaction; (i) our inability to confirm to our satisfaction the authority of any person to act on your behalf; or (j) your failure to follow any applicable software manufacturer's recommendations or our Service instructions. There may be other exceptions to our liability, as stated in your deposit or other Service agreements with us.

We will not be responsible under any circumstances for special, indirect, or consequential damages, which you incur as a result of our actions or omissions, even if we are aware of the possibility for such damages. Our liability and your remedy for actual costs and losses resulting from our failure to transmit funds in the correct amount or to the correct beneficiary listed in your payment instructions shall not exceed the direct money damages that you incur as a result of the failure (e.g., the amount of a wire transfer that is sent to the wrong party, or the amount by which a transfer exceeds the amount you authorized).

Any claim, action or proceeding by you to enforce the terms of this agreement or to recover for any Service-related loss must be commenced within one year from the date that the event giving rise to the claim, action or proceeding first occurs. You agree to cooperate with us in any loss recovery efforts we undertake to reduce any loss or liability that arises in connection with your Services.

You acknowledge that our Service fees have been established in contemplation of: (a) these limitations on our liability; (b) your agreement to review statements, confirmations, and notices promptly and to notify us immediately of any discrepancies or problems; and (c) your agreement to assist us in any loss recovery effort.

16. **Indemnification.** You agree to indemnify, defend and hold us, our parent company, affiliates and subsidiaries, and our respective directors, officers, employees and agents, harmless from and against any claim, damage, loss, liability and cost (including, without limitation, attorney's fees) of any kind which results directly or indirectly, in whole or in part, from: (a) our actions or omissions, if they are in accordance with your instructions or the terms of this Agreement; or (b) the actions or omissions of you, your agents or employees. This provision shall survive the termination of this Agreement.
17. **Jury Trial Waiver.** If permitted by law, BY ENTERING INTO THIS AGREEMENT, YOU AND WE WAIVE ANY RIGHT TO TRIAL BY JURY for disputes arising out of or relating to this Agreement or the Services.
18. **Notices.** You agree to notify us immediately if you discover: (a) any error or discrepancy between your records and the information we provide to you about your accounts or transactions (e.g., in a statement, confirmation, or electronic report); (b) unauthorized transactions involving any account; (c) a breach in the confidentiality of the Security Codes or user guide; or (d) other problems related to the Services. You must send us a written notice of any discrepancy or other problem, including a statement of the relevant facts, within a reasonable time (within 14 calendar days from the date you first discover the problem or receive information reflecting the problem, whichever occurs first). If you fail to notify us within 14 days, you agree that, in addition to any other

limitations on our liability: (a) in the case of an erroneous fund transfer, you will be liable for all losses up to the amount thereof (as well as any loss of interest), which result from your failure to give us such notice or which might have been prevented by your giving us such notice; and (b) in the case of an unauthorized fund transfer, we will not be liable for any loss of interest which results from your failure to give us such notice or which might have been prevented by your giving us such notice.

Unless otherwise agreed, notices required by this Agreement must be in writing. Notices to you may be mailed or delivered to you at the statement, e-mail or mailing address shown for you in our deposit or Service records. Notices to us must be sent to: **First Commercial Bank (USA), 200 East Main Street, Alhambra, CA 91801.**

19. **Your Records.** This Agreement and the Services are not intended to relieve you of any obligation imposed by law or contract regarding the maintenance of records or from employing adequate audit, accounting and review practices as are customarily followed by similar businesses. You agree to retain and provide to us, upon request, all information necessary to remake or reconstruct any deposit, transmission, file or entry until ten business days following receipt by us of the deposit, file, entry, transmission, or other order affecting an account.
20. **Termination.** You or we may suspend or terminate this Agreement as to some or all of the Services, with or without cause, by giving 30 days prior notice to the other party. We may suspend or terminate your Services or this Agreement immediately and without prior notice if: (a) you breach any agreement with us; (b) the confidentiality of your Security Code is compromised; (c) we have reason to believe that an unauthorized transaction has taken or may take place involving any of your accounts or any of the Services; (d) you become insolvent or the subject of a bankruptcy, receivership, or dissolution proceeding; or (e) we are uncertain as to any person's authority to give us instructions regarding your accounts or the Services. The termination of this Agreement will not affect the rights or obligations of the parties that arise prior to termination.
21. **Inactivity.** If you do not use Services for a period of 180 consecutive days, whether or not a fee is paid and whether or not there are any scheduled payments or transfers pending, your User ID may be terminated. In order to reinstate the Services, you will be required to re-enroll.
22. **Miscellaneous Terms.**
 - a. Amendments. We may amend (add to, delete or change) the terms of this Agreement and the Service fees by providing you with prior written or electronic notice. We may amend our security procedures without prior notice if immediate changes are required for security reasons or the changes do not have a material affect on your use of the Services.
 - b. Entire Agreement. This Agreement supplements (and supersedes where inconsistent) the terms of your deposit agreement with us. Together, they constitute the entire agreement between you and us with respect to the Services.
 - c. Financial Review. You agree to provide us with a financial statement or information on your financial condition upon our request.
 - d. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the state where we maintain your account, without reference to that state's conflict of law provisions.
 - e. Monitoring of Communications. You agree on behalf of yourself, your employees and agents that we may monitor and record your telephone and electronic communications in

connection with the Services at any time, without further notice to you or any party to the communication.

- f. No Assignment. We may assign our rights and delegate our duties under this agreement to a company affiliated with us or to a third party. You may not assign any right or delegate any obligation under this Agreement without our prior written consent.
- g. No Third Party Beneficiaries. This Agreement is made for the exclusive benefit of you and us. No third party has any rights under this Agreement.
- h. No Third Party Use. Unless you have our prior written consent, you may not use the Services to process transactions for third parties or permit others to initiate Service transactions on your behalf.
- i. Security Interest. You grant us a security interest in your Bank accounts to secure the repayment of any overdraft or other obligation that you incur under this Agreement.
- j. Validity. If any provision of this Agreement is found to be void or invalid, the remainder of this Agreement will remain in full force and effect.
- k. Waivers/Overdrafts. Any waiver by us must be in writing to be effective. Our waiver of any right will not be deemed a waiver of other rights or of the same right at another time. Our practice of allowing overdrafts will not obligate us to continue the practice at a later date. We may discontinue permitting overdrafts at any time and without prior notice.
- l. Effective Date. This Agreement shall become effective as of _____, 20__

By signing below, the named company has read this Online Commercial Cash Management Service Agreement and agrees to be bound by its terms.

Customer Name: _____

| Signature | Print Name | Title | Date |
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FIRST COMMERCIAL BANK (USA)

By: _____

Title: _____