



## DISCRETIONARY INVESTMENT MANAGEMENT AGREEMENT

This Discretionary Investment Management Agreement (the “**Agreement**”) is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between Metropolitan Capital Strategies LLC (the “**Manager**”) and \_\_\_\_\_ (the “**Client**”).

In consideration of the mutual covenants and promises herein contained, the parties intending to be legally bound, agree, represent and warrant as follows:

1. The Manager is authorized and directed to provide investment management services for the Client with respect to the management of the assets placed under the Manager’s discretionary investment control by the Client (which assets, together with all additions, substitutions, and alterations are referred to in this Agreement as the “**Assets**”).
2. The Manager has full discretionary authority with respect to the Assets and is authorized to use the Assets to purchase and sell all types of securities that are (i) consistent with the investment strategy relating to the type or types of investment management services specified by the Client on Part I of Appendix A, and (ii) within the general scope of the Client’s investment objectives and guidelines as set forth in this agreement. Client must fill out this agreement in its entirety. Client is responsible to update manager in a timely manner if there are any changes to investment objectives, suitability or financial status.
3. The Client will pay the Manager the annual management fee based upon the amount of Assets managed by the Manager in accordance with Part II of Appendix A. This fee will be calculated and paid in advance on a calendar quarterly basis in accordance with Part II of Appendix A. The Client will pay certain pro rated fees with respect to Assets managed less than a full calendar quarter and will be entitled to certain refunds as set forth in Part II of Appendix A.
4. The Client acknowledges that the services provided by the Manager under this Agreement are limited to the management of the Assets and do not include financial planning, formulation of the Client’s investment objectives or any other related or unrelated consulting services. Manager does not vote proxies on behalf of Client. It is the Client’s responsibility to vote any/all proxies.
5. The Manager may invest the Assets maintained in each Client account as it deems appropriate to the same extent as the Client might do as owner thereof; provided, that the Manager is not authorized to unilaterally effect any withdrawal of monies, securities or other Assets in any Client account regardless of the period of retention. The Manager may change the composition of investments in any Client account regardless of the resulting rate of portfolio turnover, when, in the Manager’s sole discretion, it determines that such changes are consistent with the Client’s investment objectives.
6. The Client may specify a broker-dealer registered with the Securities and Exchange Commission to execute trades on behalf of the Client, take custody of the Assets, provide the Client with a quarterly report regarding the Assets and the transactions in the Client’s account or accounts, deduct the Manager’s management fee directly from the Client’s liquid account balance and remit it to the Manager, and perform administrative and other services on behalf of the Client. In the event the Client directs the Manager to use a particular broker-dealer, the Manager may not have the ability to negotiate commissions or obtain volume discounts that may otherwise be obtained. In the event the client requests a recommendation of a broker-dealer from the Manager, the Manager will act as a fiduciary in advising the most appropriate broker-dealer for that specific Client, at that point in time, based on the individual Clients’ needs and objectives. Accordingly, although commission rates are one criterion to be considered in the selection of a broker-dealer by the Manager, the Manager is directed and authorized to use its best judgment in the selection of a broker-dealer so as to secure the best overall services available.

7. The Client has delivered a copy of the Discretionary Investment Manager Agreement to the Manager and agrees promptly to provide the Manager with a copy of all written financial and other information provided to the broker-dealer. The Manager is hereby authorized to rely on the client information provided in Appendix B and all written financial and other information provided in writing by the Client to the Manager. The Client represents that the information in Appendix B of this Agreement is true and complete, and agrees to inform the Manager in writing of any material change in the Client's circumstances that might affect the manner in which the Assets should be invested or the services provided by the Manager under this Agreement.
8. The Client acknowledges that the Manager provides the type of services described in the Agreement for other clients and may purchase or sell the same securities for multiple clients at approximately the same time. The Manager is authorized to "batch" or "bunch" orders and to provide *pro rata* allocations of securities and transaction costs among clients.
9. In addition to the Manager's management fee set forth in Section 3 and Appendix A, the Client will incur charges from parties other than the Manager with respect to the Assets, *e.g.*, from the broker-dealer providing the services described in Section 6 of this Agreement, and from the managers of exchange traded funds or other funds to which the Manager directs the Assets, as well as possible additional small trading charges that may be incurred from stepping out block trading.
10. The Manager will provide the client a copy of the company's Privacy Notice both initially and annually thereafter in response to Regulation S-P. The Client will maintain confidentiality of all information, recommendations and advice furnished by the Manager. The Manager will maintain confidentiality of all information regarding the Assets, except where disclosure of such information by the Manager is required by law.
11. This Agreement is personal to the parties hereto, and no assignment of this Agreement may be made by the Manager or the Client without the consent of the other party to this Agreement.
12. The Manager does not guarantee the success of any investment recommendation or decision made by the Manager, the Manager's investment strategies, or the success of the Manager's management of the Client's account. The Client acknowledges that the investment recommendations and decisions made by the Manager are subject to market, currency, economic, political and business risks. In addition, the Client acknowledges that past performance of investment strategies utilized by the Manager is not indicative of future results.
13. Neither the Manager nor its officers, managers, or employees, acting in good faith, will be liable for (i) any investment recommendation or decision, error in judgment in managing an account, or other act or omission in connection with the services provided to the Client under this Agreement, or (ii) any act or omission of any financial adviser of the Client, any broker-dealer, or any custodian of the Client's funds; provided, however, that the federal and state securities laws impose certain liabilities and nothing herein will be deemed to constitute a waiver or limitation of the rights that the Client may have under such laws. The Client agrees to indemnify and hold harmless the Manager and its officers, managers, and employees for all liabilities, damages, losses and costs (including, without limitation, attorneys' fees and costs) incurred by the Manager or its officers, managers, and employees arising from or in connection with the services provided under this Agreement to the maximum extent permissible under applicable law.
14. The Client acknowledges that the Client has received and had an opportunity to review the Manager's Form ADV Part II (including Schedule F thereto) that discloses the Manager's services and fees. This document was provided not less than 48 hours prior to signing of the contract or client may terminate agreement within 5 days with no penalties.
15. Notices and other communications contemplated by this Agreement will be deemed given if transmitted in writing by first class, registered or certified mail to the Manager at 10655 Lomond Drive, Suite 105, Manassas Virginia 20109 or to the Client at the address set forth in Appendix B, or to such other address as may be given in writing by one party to the other.

- 16. The Client acknowledges that the Client has all requisite legal authority to execute this Agreement and that there are no encumbrances on the Assets. The Client agrees to immediately notify the Manager in writing in the event that either of these representations should change.
- 17. There are no agreements or understandings between the Client and the Manager other than those set forth or referred to in this Agreement. This Agreement may be amended, supplemented or modified only in writing signed by both the Client and the Manager. No provisions of this Agreement will be deemed waived unless the waiver is in writing and signed by the authorized representative of the party against whom enforcement of the waiver is sought. The waiver by either party of a breach of any provision of this Agreement by the other party will not operate or be construed as a waiver of any subsequent breach of that provision or any other provision of this Agreement.
- 18. This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without giving effect to any conflict of laws provisions. The parties agree that the exclusive jurisdiction for all actions or claims that may arise under, in relation to, or as a result of this Agreement will be the state courts located in Prince William County, Virginia or the U.S. District Court for the Eastern District of Virginia, Alexandria Division, and the parties expressly waive any objection to personal jurisdiction, improper venue or inconvenient forum. Notwithstanding the foregoing, nothing in this Section 18 will be deemed to constitute a waiver or limitation of any rights that the Client may have under any federal or state securities laws.
- 19. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity will not affect the validity of the remainder of the terms or provisions within this Agreement.

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Agreement effective as of the date set forth on the first page.

METROPOLITAN CAPITAL STRATEGIES LLC

By:

\_\_\_\_\_  
Metropolitan Capital Strategies, LLC

\_\_\_\_\_  
Client Signature

\_\_\_\_\_  
Client Signature

**APPENDIX A – SERVICES AND FEES**

**PART I – INVESTMENT MANAGEMENT SERVICES**

<b>Option #1:</b>	
MCS FACT Funds® - Tactical Growth	\$ _____
Account Minimum: \$250,000	Amount of Investment
<b><i>NOTE: Retirement assets (ie. 401k, IRA, SEP) are ineligible due to ERISA rules</i></b>	
Investment in exchange traded funds, covered and uncovered put and call options, and equity securities, as well as securities that are similar to any of these types of securities, and cash and cash equivalents as a defensive strategy	
<b>Option #2:</b>	
MCS FACT Funds® - Tactical Moderate	\$ _____
Account Minimum: \$100,000	Amount of Investment
Investment in exchange traded funds, equity securities, as well as securities that are similar to any of these types of securities, and cash and cash equivalents as a defensive strategy.	

**PART II – FEES**

The Manager’s annual fee is based upon the aggregate amount of the Client’s Assets allocated to one or more of the investment management services, as follows:

<u>Assets under Management</u>	<u>Annual Fee</u>
Less than \$500,000 of Assets.....	2.2% of Assets (.550% quarterly)
At least \$500,000 but less than \$3 million.....	2.0% of Assets (.500% quarterly)
At least \$3 million but less than \$10 million.....	1.9% of Assets (.475% quarterly)
More than \$10 million.....	1.8% of Assets (.450% quarterly)

The annual fees set forth are calculated on a calendar quarterly basis and paid in advance of the calendar quarter. The fees are based upon the market value of the Assets in the Client’s account or accounts on the last business day of the previous calendar quarter and are due on the following business day.

The Client’s related accounts will be combined so as to generate a lower aggregate management fee, as applicable. Related accounts may include the separate accounts of spouses, children, and parents, trusts of which any of these persons are the beneficiaries, as well as individual retirement accounts and other retirement plans.

**Client Related Accounts managed by MCS:**

\_\_\_\_\_

\_\_\_\_\_

The initial fee is pro rated based upon the date the account is opened and the number of days remaining in the calendar quarterly billing period against the total number of days in the calendar quarterly billing period. A full refund will be provided should the relationship be terminated within five business days of the date the account is initially opened.

Additional Assets placed under control of the Manager during any calendar quarterly billing period will be charged a pro rated fee based upon the number of days remaining in the calendar quarterly billing period against the total number of days in the billing period. For purposes of calculating this fee, the applicable percentage to be multiplied by the amount of the additional Assets will be determined based upon the market value of the Assets (including the additional Assets) on the date the additional Assets are placed under control of the Manager.

In the event that a Client terminates the Agreement prior to the end of a calendar quarterly billing period, a pro rated refund of the fee will be made based upon the date the account is closed. There will be no reduction in management fees for any partial withdrawal from the account during a quarter.

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**APPENDIX B**

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**CLIENT INFORMATION  
INVESTMENT OBJECTIVES & SUITABILITY**

Client Name: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

Type of Account:  Non-Taxable (Retirement)  Taxable

If the Client is an entity, name of individual authorized to execute the Discretionary Investment Management Agreement on behalf of the Client: \_\_\_\_\_

Client Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Estimated Total Net Worth (including real estate (net of mortgages), furnishings and personal items (e.g., art, jewelry, automobiles)): \$ \_\_\_\_\_

Estimated Liquid Net Worth: \$ \_\_\_\_\_

Estimated Annual Salary (before taxes): \$ \_\_\_\_\_

Risk Tolerance (check one):  Most Aggressive  Aggressive

Do Investment Objectives allow for speculations?  Yes  No

Investment Objectives:  Growth  Income  Liquidity  Tax Deferral  
(Rank from 1 through 4 in order or priority, with 1 being highest)

Year you started investing:  Stocks  Bonds  Commodities  Options

Directed Brokerage: \_\_\_\_\_

Special restrictions, if any \_\_\_\_\_

**Client Signatures:**

\_\_\_\_\_

\_\_\_\_\_ I (we) certify that information provided on this form is complete and correct to my (our) current financial situation. I (we) further agree to promptly notify MCS of any changes in my (our) financial situation.

\_\_\_\_\_

\_\_\_\_\_ I (we) have received a copy of the Form ADV Part II and Schedule F not less than 48 hours prior to signing the agreement or I (we) may terminate the agreement with no penalties.