

**MASTER SECURITIES LENDING AGREEMENT  
FOR APEX CLEARING CORPORATION FULLY-PAID SECURITIES LENDING PROGRAM**

This Master Securities Lending Agreement (“Agreement”) is entered into by and between Apex Clearing Corporation (“Apex”) and the undersigned party or parties (“Lender”).

THIS AGREEMENT SHOULD NOT BE SIGNED BY LENDER UNTIL AFTER LENDER HAS READ AND FULLY UNDERSTANDS THE SEPARATE DOCUMENT ATTACHED TO THIS AGREEMENT ENTITLED “IMPORTANT DISCLOSURES REGARDING RISKS AND CHARACTERISTICS OF PARTICIPATING IN APEX CLEARING CORPORATION’S FULLY-PAID SECURITIES LENDING PROGRAM,” WHICH DESCRIBES RISKS AND CHARACTERISTICS OF THE PROGRAM.

**1. Applicability.**

From time to time the parties hereto may enter into transactions in which one party (“Lender”) will lend to the other party (“Borrower”) certain Securities (as defined herein) against a deposit of Collateral (as defined herein). Each such transaction shall be referred to herein as a “Loan” and, unless otherwise agreed in writing, shall be governed by this Agreement, including any supplemental terms or conditions contained in an Annex or Schedule hereto and in any other annexes identified herein or therein as applicable hereunder; provided, however, that Securities borrowed by Lender from Apex shall not be subject to this Agreement. Capitalized terms not otherwise defined herein shall have the meanings provided in Section 24.

**2. Loans of Securities.**

- 2.1. Subject to the terms and conditions of this Agreement, Borrower may, from time to time, seek to initiate a transaction in which Lender will lend Securities to Borrower. Such transaction shall be documented by Borrower in accordance with Section 3.2. Such records, together with the Agreement, shall constitute conclusive evidence of the terms agreed between Borrower and Lender with respect to such Loans.
- 2.2. Notwithstanding any other provision in this Agreement regarding when a Loan commences, unless otherwise agreed, a Loan hereunder shall not occur until the Loaned Securities and the Collateral therefor have been transferred in accordance with this Agreement.

**3. Transfer of Loaned Securities.**

- 3.1. Loaned Securities shall be transferred as directed by Borrower.
- 3.2. For each Loan, Borrower shall provide to Lender at the time of transfer a schedule of the Loaned Securities. Such record may consist of data made available to Lender by Borrower or its designee.
- 3.3. Notwithstanding any other provision in this Agreement, the parties hereto agree that

they intend the Loans hereunder to be loans of Securities. If, however, any Loan is deemed to be a loan of money by Borrower to Lender, then Borrower shall have, and Lender shall be deemed to have granted, a security interest in the Loaned Securities and the proceeds thereof.

#### **4. Collateral.**

- 4.1.** Borrower shall, prior to or concurrently with the transfer of the Loaned Securities to Borrower, but in no case later than the Close of Business on the day of such transfer, deposit in a collateral custody account (“Custody Account”) established at a bank, as that term is defined in Section 3(a)(6) of the Exchange Act, or at such other custodian as Borrower may choose (the “Custodian”), Collateral with a market value at least equal to the Margin Percentage of the market value of the Loaned Securities. The Custody Account may be an omnibus account established at the Custodian that holds the Collateral in an aggregate amount with the collateral of other lenders who have loaned Securities to Borrower. Borrower has appointed a third-party trustee (the “Trustee”) pursuant to the Collateral Trust Agreement to act on behalf of and for the benefit of Lender where the Custody Account is an omnibus account, and both Borrower and such Trustee must maintain subledgers showing the amount of Collateral owed to Lender with respect to the Securities that Lender has loaned to Borrower. As described in Annex A hereto, by entering into this Agreement, Lender agrees to appoint the Trustee to act on its behalf and for its benefit with respect to the Collateral. By executing this Agreement, Lender hereby agrees that Borrower will deposit Collateral in a Custody Account in accordance with this Section 4.1 and Annex A hereto, as each may be amended from time to time pursuant to Section 23. Further, Lender agrees that the Trustee may instruct the movement of Collateral as set out in Annex A hereto.
- 4.2.** The Collateral deposited in the Custody Account, as adjusted pursuant to Section 9, shall be security for Borrower’s obligations in respect of Loaned Securities and for any other obligations of Borrower to Lender hereunder. Collateral deposited into the Custody Account must be allowable collateral as identified in Annex B to this Agreement. Pursuant to the Collateral Trust Agreement, Borrower has pledged with, assigned to, and granted the Trustee on behalf of and for the benefit of Lender, a continuing first priority security interest in, and a lien upon, the Collateral for any Loan hereunder, which shall attach upon the transfer of the Loaned Securities to Borrower and which shall cease upon the transfer of the Loaned Securities by Borrower to Lender.
- 4.3.** Except as otherwise provided herein, upon transfer to Lender of the Loaned Securities on the day a Loan is terminated pursuant to Section 6, Borrower shall no longer be obligated to maintain Collateral in the Custody Account for Securities that are no longer Loaned Securities.

- 4.4.** If Borrower has deposited Collateral in the Custody Account for Lender, as provided in Section 4.1, and Lender does not transfer the Loaned Securities to Borrower, Borrower shall have the absolute right to the return of the Collateral; and if Lender transfers Loaned Securities to Borrower and Borrower does not deposit Collateral in the Custody Account for Lender as provided in Section 4.1, Lender shall have the absolute right to the return of the Loaned Securities.
- 4.5.** Borrower may (taking into account all relevant factors, including industry practice, the type of Collateral to be substituted, the applicable method of transfer and applicable regulations and regulatory guidance) substitute Collateral for Collateral securing any Loan or Loans; provided, however, that such substituted Collateral shall (a) consist only of cash, securities or other property that Borrower and Lender agreed would be acceptable Collateral prior to the Loan or Loans as set out in Annex B to this Agreement, and (b) have a market value such that the aggregate market value of such substituted Collateral, together with all other Collateral for such Loan or Loans, shall equal or exceed the agreed upon Margin Percentage of the market value of the Loaned Securities.

**5. Fees for Loan.**

- 5.1.** Borrower and Lender hereby agree to a loan fee (a “Loan Fee”), computed daily on each Loan, as set forth in the attached Schedule of Basis of Compensation for Loan, which is fully incorporated by reference into the Agreement.
- 5.2.** Unless otherwise agreed, any Loan Fee payable hereunder shall be payable within fifteen (15) Business Days following the last Business Day of the calendar month in which such fee was incurred.
- 5.3.** Notwithstanding the foregoing, in the event of a Default hereunder by Borrower, all Loan Fees shall become due and payable by Borrower in accordance with Sections 12 and 13.

**6. Termination of the Loan.**

**6.1.**

- (a)** Unless otherwise agreed, either party may terminate a Loan on a termination date established by notice given to the other party prior to the Close of Business on a Business Day. The termination date established by a termination notice shall be the earlier of (a) the standard settlement date that would apply to a purchase or sale of the Loaned Securities in the principal market of such Loaned Securities (in the case of a notice given by Lender) or the non-cash Collateral securing the Loan in the principal market of such non-cash Collateral (in the case of a notice given by Borrower) entered into at the time of such notice and (b) five (5) Business Days.

- (b) Notwithstanding paragraph (a) and unless otherwise agreed, Borrower may terminate a Loan on any Business Day without notice, effective as of such Business Day, by transferring the Loaned Securities to Lender on such Business Day.
- (c) The execution by Borrower of an order to sell the Loaned Securities by Lender shall constitute notice of termination by Lender to Borrower. The termination date established by such a sale of the Loaned Securities shall be the settlement date of such sale of the Loaned Securities.

6.2. Unless otherwise agreed, Borrower shall, on or before the Cutoff Time on the termination date of a Loan, transfer the Loaned Securities to Lender; provided, however, that as provided in Section 4.3, upon such transfer by Borrower, Borrower shall no longer be obligated to maintain Collateral (as adjusted pursuant to Section 9) for such Securities in a Custody Account for Lender.

## **7. Rights in Respect of Loaned Securities.**

Except as set forth in Sections 8.1 and 8.2 and as otherwise agreed by Borrower and Lender, until Loaned Securities are required to be redelivered to Lender upon termination of a Loan hereunder, Borrower shall have all of the incidents of ownership of the Loaned Securities, including the right to transfer the Loaned Securities to others. LENDER HEREBY WAIVES THE RIGHT TO VOTE, OR TO PROVIDE ANY CONSENT OR TO TAKE ANY SIMILAR ACTION WITH RESPECT TO, THE LOANED SECURITIES IN THE EVENT THAT THE RECORD DATE OR DEADLINE FOR SUCH VOTE, CONSENT OR OTHER ACTION FALLS DURING THE TERM OF THE LOAN.

## **8. Distributions.**

- 8.1. Lender shall be entitled to receive all Distributions made on or in respect of the Loaned Securities which are not otherwise received by Lender, to the full extent it would be so entitled if the Loaned Securities had not been lent to Borrower.
- 8.2. Any cash Distributions made on or in respect of the Loaned Securities, which Lender is entitled to receive pursuant to Section 8.1, shall be paid by the transfer of cash to Lender by Borrower, on the date any such Distribution is paid, in an amount equal to such cash Distribution, so long as Lender is not in Default at the time of such payment. Non-cash Distributions that Lender is entitled to receive pursuant to Section 8.1 shall be added to the Loaned Securities on the date of distribution and shall be considered such for all purposes, except that if the Loan has terminated, Borrower shall forthwith transfer the same to Lender. Lender understands and agrees that Borrower is not required to compensate Lender for any different tax treatment for cash payments made by Borrower to Lender in connection with Distributions.
- 8.3. Borrower shall be entitled to receive all Distributions made on or in respect of non-

cash Collateral which are not otherwise received by Borrower, to the full extent it would be so entitled if the Collateral had not been deposited to the Custody Account for Lender.

- 8.4.** Any cash Distributions made on or in respect of such Collateral, which Borrower is entitled to receive pursuant to Section 8.3, shall be paid by the transfer of cash to Borrower, on the date any such Distribution is paid, in an amount equal to such cash Distribution, so long as Borrower is not in Default at the time of such payment. Non-cash Distributions that Borrower is entitled to receive pursuant to Section 8.3 shall be added to the Collateral on the date of distribution and shall be considered such for all purposes, except that if each Loan secured by such Collateral has terminated, the same shall forthwith be transferred to Borrower.

**9. Mark to Market.**

- 9.1.** Borrower shall daily mark to market any Loan hereunder and in the event that at the Close of Trading on any Business Day the market value of the Collateral for any Loan to Borrower shall be less than the Margin Percentage (i.e., at least 100%) of the market value of all the outstanding Loaned Securities subject to such Loan, Borrower shall deposit additional Collateral into the Custody Account no later than the Close of Business on the next Business Day so that the market value of such additional Collateral, when added to the market value of the other Collateral for such Loan, shall equal or exceed the Margin Percentage of the market value of the Loaned Securities. As agreed by the parties or if Borrower determines in its discretion that applicable laws or market custom so require, Borrower will hold additional collateral greater than 100% of the market value of the Loaned Securities.
- 9.2.** Subject to Borrower's obligations under Section 9.1, if at any time the market value of all Collateral for Loans to Borrower shall be greater than the Margin Percentage of the market value of all the outstanding Loaned Securities subject to such Loans (a "Margin Excess"), Lender hereby authorizes Borrower to request a return of such Margin Excess to Borrower from the Collateral deposited in the Custody Account for Lender; provided, that the market value of the Collateral for such Loans, after deduction of such Margin Excess, shall thereupon not be less than the Margin Percentage of the market value of the Loaned Securities.

**10. Representations.**

The parties to this Agreement hereby make the following representations and warranties, which shall continue during the term of any Loan hereunder.

- 10.1.** Each party hereto represents and warrants that (a) it has the power to execute and deliver this Agreement, to enter into the Loans contemplated hereby and to perform its obligations hereunder, (b) it has taken all necessary action to authorize such execution, delivery and performance, and (c) this Agreement constitutes a legal,

valid and binding obligation enforceable against it in accordance with its terms.

- 10.2.** Each party hereto represents and warrants that it has not relied on the other for any tax or accounting advice concerning this Agreement and that it has made its own determination as to the tax and accounting treatment of any Loan and any dividends, remuneration or other funds received hereunder.
- 10.3.** Each party hereto represents and warrants that it is acting for its own account or an account on behalf of which it is authorized to act.
- 10.4.** Lender represents and warrants that it has, or will have at the time of transfer of any Loaned Securities, the right to transfer the Loaned Securities subject to the terms and conditions hereof.
- 10.5.** Lender represents and warrants that (a) it is not an “affiliate” (as defined in Rule 144(a)(1) under the Securities Act of 1933, as amended (“Securities Act”)) of any issuer of securities that may be held in Lender’s account from time to time, (b) it is not an “insider” (as defined in Section 16 of the Exchange Act) of any issuer of securities that may be held in Lender’s account from time to time, and (c) none of the securities deposited into and held in Lender’s account are or will be restricted securities (as defined in Rule 144(a)(3) under the Securities Act).
- 10.6.** Lender represents and warrants that it is authorized and permitted under applicable laws, regulations and rules (including, where Lender is not a United States citizen or entity, the laws, regulations, and rules of Lender’s home jurisdiction) to enter into Loans under this Agreement, and that Lender’s Loans hereunder do not violate any law, regulation, or rule applicable to Lender.
- 10.7.** Lender represents and warrants that it has consulted with legal counsel, as necessary or appropriate, and understands its Loan arrangements with Borrower and the terms of this Agreement, is willing and able to assume the risks in connection with such arrangements, and is of legal age and has legal capacity to contract.
- 10.8.** Lender understands and acknowledges that to the extent Lender’s account was introduced to Borrower by Lender’s introducing broker and is carried by Borrower as clearing broker, Borrower, pursuant to FINRA Rule 4330.04, relies on representations from such introducing broker that it is appropriate for Lender to be enrolled in the Apex Fully-Paid Securities Lending Program.
- 10.9.** Borrower represents and warrants that it has, or will have at the time of transfer of any Collateral, the right to grant a first priority security interest therein subject to the terms and conditions of this Agreement and the Collateral Trust Agreement.
- 10.10.** Borrower represents and warrants that it (or the person to whom it relends the Loaned Securities) is borrowing or will borrow Loaned Securities that are Equity

Securities for the purpose of making delivery of such Loaned Securities in the case of short sales, failure to receive securities required to be delivered, or as otherwise permitted pursuant to Regulation T as in effect from time to time.

## **11. Covenants.**

Each party agrees to be liable as principal with respect to its obligations hereunder.

## **12. Events of Default.**

All Loans hereunder may, at the option of the non-defaulting party (which option shall be deemed to have been exercised immediately upon the occurrence of an Act of Insolvency), be terminated immediately upon the occurrence of any one or more of the below-listed events (individually, a “Default”) and, where applicable, the expiration of the cure period set forth in this Section 12. **Upon the occurrence of a Default by Borrower other than an Act of Insolvency, Lender shall notify the Trustee that it is exercising its option to terminate all Loans under this Agreement by submitting a “Notice of Default” (with a copy to Borrower) in accordance with Section 13.1:**

- 12.1.** if any Loaned Securities shall not be transferred to Lender upon termination of the Loan as required by Section 6;
- 12.2.** if Borrower shall fail to deposit Collateral into the Custody Account as required by Section 9;
- 12.3.** if Borrower (a) shall fail to transfer to Lender amounts in respect of Distributions required to be transferred by Section 8, (b) shall have been notified of such failure by Lender prior to the Close of Business on any day, and (c) shall not have cured such failure by the Cutoff Time on the next day after such Close of Business on which a transfer of cash may be effected;
- 12.4.** if an Act of Insolvency occurs with respect to either party;
- 12.5.** if any representation made by either party in respect of this Agreement or any Loan or Loans hereunder shall be incorrect or untrue in any material respect during the term of any Loan hereunder;
- 12.6.** if either party notifies the other of its inability to or its intention not to perform its obligations hereunder or otherwise disaffirms, rejects or repudiates any of its obligations hereunder; or
- 12.7.** if either party (a) shall fail to perform any material obligation under this Agreement not specifically set forth in clauses 12.1 through 12.6, including but not limited to, with respect to Borrower, the payment of fees as required by Section 5, and the payment of transfer taxes as required by Section 14, (b) shall have been notified of such failure by the other party prior to the Close of Business on any day, and (c)

shall not have cured such failure by the Cutoff Time on the next day after such Close of Business on which a transfer of cash may be effected.

**Notwithstanding anything herein to the contrary, if there is an event of Default by Borrower other than an Act of Insolvency, Borrower will have the right to cure such breach, and Lender shall not be entitled to any Collateral unless and until such breach remains uncured three (3) Business Days after Lender's submission of a Notice of Default to the Trustee (with a copy to Borrower), in accordance with Section 13.1. In the event that Borrower cures such breach within the aforementioned three (3) Business Day cure period, or if Lender otherwise no longer seeks to exercise the Default rights afforded herein, Lender must submit to the Trustee a "Notice of Revocation" substantially in the form of the Notice of Revocation that is attached as Exhibit C to the Collateral Trust Agreement. If Lender does not timely submit a Notice of Revocation, and as a result, the Trustee remits the Collateral to Lender, Borrower's obligation to return a like amount of the Loaned Securities shall terminate.**

If Borrower is the non-defaulting party, Borrower shall (except upon the occurrence of an Act of Insolvency by Lender) give notice as promptly as practicable to Lender of the exercise of its option to terminate all Loans hereunder pursuant to this Section 12.

### **13. Remedies.**

**13.1. In the event that Lender decides to exercise its Default rights under this Section 13.1, Lender shall submit to the Trustee at [Collateralmgmt@wilmingtontrust.com](mailto:Collateralmgmt@wilmingtontrust.com) (with a copy to Borrower at [treasury@apexclearing.com](mailto:treasury@apexclearing.com)) a Notice of Default in accordance with the terms of the Collateral Trust Agreement (a copy of which is attached to this Agreement). The Notice of Default must be substantially in the form of the Notice of Default that is attached as Exhibit B to the Collateral Trust Agreement. Notwithstanding the foregoing, upon an Act of Insolvency by Borrower, a Notice of Default will be deemed to have been submitted by Lender to the Trustee pursuant to the terms of the Collateral Trust Agreement.**

Upon the occurrence of a Default by Borrower under Section 12 entitling Lender to terminate all Loans hereunder, Lender shall have the right, in addition to any other remedies provided herein (which right may be exercised by Lender after the expiration of the three (3) Business Day cure period following Lender's submission of a Notice of Default to the Trustee, provided that no such cure period will apply upon an Act of Insolvency by Borrower) to (a) purchase a like amount of Loaned Securities ("Replacement Securities") in the principal market for such Loaned Securities in a commercially reasonable manner, (b) instruct the Trustee to remit Collateral and any proceeds thereof in the amount that is allocated to Lender, in accordance with the Collateral Trust Agreement, and (c) apply and set off the Collateral and any proceeds thereof against the payment of the purchase price for such Replacement Securities and any amounts due to Lender under Sections 5, 8, 14 and 15. Upon the occurrence of an Act of Insolvency by Borrower, such right



may be exercised following the termination of any applicable stay. In the event that Lender shall exercise such rights, Borrower's obligation to return a like amount of the Loaned Securities shall terminate. Lender may similarly apply the Collateral and any proceeds thereof to any other obligation of Borrower under this Agreement, including Borrower's obligations with respect to Distributions paid to Borrower (and not forwarded to Lender) in respect of Loaned Securities. In the event that (i) the purchase price of Replacement Securities (plus all other amounts, if any, due to Lender hereunder) exceeds (ii) the amount of the Collateral, Borrower shall be liable to Lender for the amount of such excess together with interest thereon at a rate equal to (A) in the case of purchases of Foreign Securities, SOFR, (B) in the case of purchases of any other Securities (or other amounts, if any, due to Lender hereunder), SOFR or (C) such other rate as may be specified herein, in each case as such rate fluctuates from day to day, from the date of such purchase until the date of payment of such excess. As security for Borrower's obligation to pay such excess, Lender shall have, and Borrower hereby grants, a security interest in any property of Borrower then held by or for Lender and a right of setoff with respect to such property and any other amount payable by Lender to Borrower. The purchase price of Replacement Securities purchased under this Section 13.1 shall include, and the proceeds of any sale of Collateral shall be determined after deduction of, broker's fees and commissions and all other reasonable costs, fees and expenses related to such purchase or sale (as the case may be). In the event Lender exercises its rights under this Section 13.1, Lender may elect in its sole discretion, in lieu of purchasing all or a portion of the Replacement Securities, to be deemed to have made such purchase of Replacement Securities for an amount equal to the price therefor on the date of such exercise obtained from a generally recognized source or the last bid quotation from such a source at the most recent Close of Trading. Subject to Section 17, upon the satisfaction of all obligations hereunder, any remaining Collateral (or remaining cash proceeds thereof) shall be returned to Borrower by Lender or the Trustee, as applicable.

- 13.2.** Upon the occurrence of a Default by Lender under Section 12 entitling Borrower to terminate all Loans hereunder, Borrower shall have the right, in addition to any other remedies provided herein (which, upon the occurrence of an Act of Insolvency by Lender, may be exercised following the termination of any applicable stay), to (a) terminate such Loans, (b) return the Loaned Securities to Lender, and (c) instruct the Trustee to direct the Custodian to remit the Collateral for such Loans to Borrower. Notwithstanding the foregoing, if there are any amounts due to Borrower by Lender under this Agreement, prior to returning any Loaned Securities to Lender, Borrower shall be entitled to sell a like amount of the Loaned Securities in the principal market for such Loaned Securities in a commercially reasonable manner, and apply and set off the Loaned Securities and any proceeds thereof against such amounts due to Borrower by Lender. In the event that (i) the sales price received from such Loaned Securities is less than (ii) the amounts, if any, due to

Borrower hereunder, Lender shall be liable to Borrower for the amount of any such deficiency, together with interest on such amounts at a rate equal to (A) SOFR or (B) such other rate as may be specified herein, in each case as such rate fluctuates from day to day, from the date of such sale until the date of payment of such deficiency. As security for Lender's obligation to pay such deficiency, Borrower shall have, and Lender hereby grants, a security interest in any property of Lender then held by or for Borrower and a right of setoff with respect to such property and any other amount payable by Borrower to Lender. The proceeds of any sale of Loaned Securities shall be determined after deduction of broker's fees and commissions and all other reasonable costs, fees and expenses related to such sale (as the case may be). In the event Borrower exercises its rights under this Section 13.2, Borrower may elect in its sole discretion, in lieu of selling a like amount of the Loaned Securities, to be deemed to have made such sale of Loaned Securities for an amount equal to the price therefor on the date of such exercise obtained from a generally recognized source or the last bid quotation from such a source at the most recent Close of Trading. Subject to Section 17, upon the satisfaction of all obligations hereunder, any remaining Loaned Securities (or remaining cash proceeds thereof) shall be returned to Lender.

- 13.3.** Unless otherwise agreed, the parties acknowledge and agree that (a) the Loaned Securities and any Collateral consisting of Securities are of a type traded in a recognized market, (b) in the absence of a generally recognized source for prices or bid or offer quotations for any security, the non-defaulting party may establish the source therefor in its sole discretion, and (c) all prices and bid and offer quotations shall be increased to include accrued interest to the extent not already included therein (except to the extent contrary to market practice with respect to the relevant Securities).
- 13.4.** In addition to its rights hereunder, the non-defaulting party shall have any rights otherwise available to it under any other agreement or applicable law.

#### **14. Transfer Taxes.**

All transfer taxes with respect to the transfer of the Loaned Securities by Lender to Borrower and by Borrower to Lender upon termination of the Loan and with respect to the transfer of Collateral by Borrower to Lender and on Lender's behalf to Borrower upon termination of the Loan or pursuant to Section 4.5 or Section 9 shall be paid by Borrower.

#### **15. Contractual Currency.**

- 15.1.** Borrower and Lender agree that (a) any payment in respect of a Distribution under Section 8 shall be made in U.S. Dollars, (b) any return of cash shall be made in U.S. Dollars, and (c) any other payment of cash in connection with a Loan under this Agreement shall be in U.S. Dollars (the currency established under clause (a), (b) or (c) hereinafter referred to as the "Contractual Currency"). Notwithstanding the

foregoing, the payee of any such payment may, at its option, accept tender thereof in any other currency; provided, however, that, to the extent permitted by applicable law, the obligation of the payor to make such payment will be discharged only to the extent of the amount of Contractual Currency that such payee may, consistent with normal banking procedures, purchase with such other currency (after deduction of any premium and costs of exchange) on the banking day next succeeding its receipt of such currency.

- 15.2.** If for any reason the amount in the Contractual Currency received under Section 15.1, including amounts received after conversion of any recovery under any judgment or order expressed in a currency other than the Contractual Currency, falls short of the amount in the Contractual Currency due in respect of this Agreement, the party required to make the payment will (unless a Default has occurred and such party is the non-defaulting party) as a separate and independent obligation and to the extent permitted by applicable law, immediately pay such additional amount in the Contractual Currency as may be necessary to compensate for the shortfall.
- 15.3.** If for any reason the amount in the Contractual Currency received under Section 15.1 exceeds the amount in the Contractual Currency due in respect of this Agreement, then the party receiving the payment will (unless a Default has occurred and such party is the non-defaulting party) refund promptly the amount of such excess.

## **16. ERISA.**

Lender shall, if any of the Securities transferred to the Borrower hereunder for any Loan have been or shall be obtained, directly or indirectly, from or using the assets of any Plan, so notify Borrower in writing upon the execution of this Agreement or upon initiation of such Loan under Section 2.1. If Lender so notifies Borrower, then Borrower and Lender shall conduct the Loan in accordance with the terms and conditions of Department of Labor Prohibited Transaction Exemption 2006-16 (71 Fed. Reg. 63786, Oct 31, 2006), or any successor thereto (unless Borrower and Lender have agreed prior to entering into a Loan that such Loan will be conducted in reliance on another exemption, or without relying on any exemption, from the prohibited transaction provisions of Section 406 of the Employee Retirement Income Security Act of 1974, as amended, and Section 4975 of the Internal Revenue Code of 1986, as amended). Without limiting the foregoing and notwithstanding any other provision of this Agreement, if the Loan will be conducted in accordance with Prohibited Transaction Exemption 2006-16, then:

- 16.1.** Borrower represents and warrants to Lender that it is either (a) a bank subject to federal or state supervision, (b) a broker-dealer registered under the Exchange Act or (c) exempt from registration under Section 15(a)(1) of the Exchange Act as a dealer in Government Securities.
- 16.2.** Borrower represents and warrants that, during the term of any Loan hereunder, neither Borrower nor any affiliate of Borrower has any discretionary authority or control with respect to the investment of the assets of the Plan involved in the Loan

or renders investment advice (within the meaning of 29 C.F.R. Section 2510.3-21(c)) with respect to the assets of the Plan involved in the Loan. Lender agrees that, prior to or at the commencement of any Loan hereunder, it will communicate to Borrower information regarding the Plan sufficient to identify to Borrower any person or persons that have discretionary authority or control with respect to the investment of the assets of the Plan involved in the Loan or that render investment advice (as defined in the preceding sentence) with respect to the assets of the Plan involved in the Loan. In the event Lender fails to communicate and keep current during the term of any Loan such information, Lender rather than Borrower shall be deemed to have made the representation and warranty in the first sentence of this Section 16.2.

**16.3.** Borrower shall mark to market daily each Loan hereunder pursuant to Section 9.1 as is required if Lender is a Customer.

**16.4.** Borrower and Lender agree that:

- (a) the term “Collateral” shall mean cash, securities issued or guaranteed by the United States government or its agencies or instrumentalities;
- (b) prior to the making of any Loans hereunder, Borrower shall provide to Lender, by making them available on Borrower’s website (<https://apexfintechsolutions.com/legal/disclosures/>), (i) the most recent available audited statement of Borrower’s financial condition and (ii) the most recent available unaudited statement of Borrower’s financial condition (if more recent than the most recent audited statement), and each Loan made hereunder shall be deemed a representation by Borrower that there has been no material adverse change in Borrower’s financial condition subsequent to the date of the latest financial statements or information furnished in accordance herewith;
- (c) the Loan may be terminated by Lender at any time, whereupon Borrower shall deliver the Loaned Securities to Lender within the lesser of (i) the customary delivery period for such Loaned Securities, (ii) five (5) Business Days, and (iii) the time negotiated for such delivery between Borrower and Lender; provided, however, that Borrower and Lender may agree to a longer period only if permitted by Prohibited Transaction Exemption 2006-16; and
- (d) the Collateral held for Lender shall be security only for obligations of Borrower to the Plan with respect to Loans, and shall not be security for any obligation of Borrower to any agent or affiliate of the Plan.

## **17. Single Agreement.**

Borrower and Lender acknowledge that, and have entered into this Agreement in reliance on the

fact that, all Loans hereunder constitute a single business and contractual relationship and have been entered into in consideration of each other. Accordingly, Borrower and Lender hereby agree that payments, deliveries and other transfers made by either of them in respect of any Loan shall be deemed to have been made in consideration of payments, deliveries and other transfers in respect of any other Loan hereunder, and the obligations to make any such payments, deliveries and other transfers may be applied against each other and netted. In addition, Borrower and Lender acknowledge that, and have entered into this Agreement in reliance on the fact that, all Loans hereunder have been entered into in consideration of each other. Accordingly, Borrower and Lender hereby agree that (a) each shall perform all of its obligations in respect of each Loan hereunder, and that a default in the performance of any such obligation by Borrower or by Lender (the “Defaulting Party”) in any Loan hereunder shall constitute a default by the Defaulting Party under all such Loans hereunder, and (b) the non-defaulting party shall be entitled to set off claims and apply property held by it in respect of any Loan hereunder against obligations owing to it in respect of any other Loan with the Defaulting Party.

## **18. APPLICABLE LAW.**

THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT GIVING EFFECT TO THE CONFLICT OF LAW PRINCIPLES THEREOF.

## **19. Waiver.**

The failure of a party to this Agreement to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. All waivers in respect of a Default must be in writing.

## **20. Survival of Remedies.**

All remedies hereunder and all obligations with respect to any Loan shall survive the termination of the relevant Loan, return of Loaned Securities or release of Collateral and termination of this Agreement.

## **21. Notices and Other Communications.**

Any and all notices, statements, demands or other communications hereunder may be given by Apex Clearing Corporation to the undersigned Lender by telephone, mail, facsimile, e-mail, electronic message, telegraph, messenger or otherwise at the phone and facsimile numbers provided by the undersigned Lender and maintained by Apex Clearing Corporation in its books and records for Lender. Any and all notices, statements, demands or other communications hereunder may be given by the undersigned Lender to Apex Clearing Corporation in writing to Apex Clearing Corporation, 350 N. St Paul, Suite 1300, Dallas, TX 75201, Attention: Legal. **Lender shall submit a copy of any Notice of Default that is submitted to the Trustee pursuant to Section 13.1 to [treasury@apexclearing.com](mailto:treasury@apexclearing.com).** Any notice, statement, demand or other communication hereunder will be deemed effective on the day and at the time on which it is received or, if not received, on the day and at the time on which its delivery was in good faith attempted; provided, however, that any notice by a party to the other party by telephone shall be deemed effective only if (a) such notice is followed by written confirmation thereof and (b) at least

one of the other means of providing notice that are specifically listed above has previously been attempted in good faith by the notifying party.

## **22. MANDATORY ARBITRATION.**

**22.1.** THIS AGREEMENT CONTAINS A PREDISPUTE ARBITRATION CLAUSE. BY SIGNING AN ARBITRATION AGREEMENT THE PARTIES AGREE AS FOLLOWS:

- (a) ALL PARTIES TO THIS AGREEMENT ARE GIVING UP THE RIGHT TO SUE EACH OTHER IN COURT, INCLUDING THE RIGHT TO A TRIAL BY JURY, EXCEPT AS PROVIDED BY THE RULES OF THE ARBITRATION FORUM IN WHICH A CLAIM IS FILED.
- (b) ARBITRATION AWARDS ARE GENERALLY FINAL AND BINDING; A PARTY'S ABILITY TO HAVE A COURT REVERSE OR MODIFY AN ARBITRATION AWARD IS VERY LIMITED.
- (c) THE ABILITY OF THE PARTIES TO OBTAIN DOCUMENTS, WITNESS STATEMENTS AND OTHER DISCOVERY IS GENERALLY MORE LIMITED IN ARBITRATION THAN IN COURT PROCEEDINGS.
- (d) THE ARBITRATORS DO NOT HAVE TO EXPLAIN THE REASON(S) FOR THEIR AWARD UNLESS, IN AN ELIGIBLE CASE, A JOINT REQUEST FOR AN EXPLAINED DECISION HAS BEEN SUBMITTED BY ALL PARTIES TO THE PANEL AT LEAST TWENTY (20) DAYS PRIOR TO THE FIRST SCHEDULED HEARING DATE.
- (e) THE PANEL OF ARBITRATORS MAY INCLUDE A MINORITY OF ARBITRATORS WHO WERE OR ARE AFFILIATED WITH THE SECURITIES INDUSTRY.
- (f) THE RULES OF SOME ARBITRATION FORUMS MAY IMPOSE TIME LIMITS FOR BRINGING A CLAIM IN ARBITRATION. IN SOME CASES, A CLAIM THAT IS INELIGIBLE FOR ARBITRATION MAY BE BROUGHT IN COURT.
- (g) THE RULES OF THE ARBITRATION FORUM IN WHICH THE CLAIM IS FILED, AND ANY AMENDMENTS THERETO, SHALL BE INCORPORATED INTO THIS AGREEMENT.

**22.2.** NO PERSON SHALL BRING A PUTATIVE OR CERTIFIED CLASS ACTION TO ARBITRATION, NOR SEEK TO ENFORCE ANY PRE-DISPUTE ARBITRATION AGREEMENT AGAINST ANY PERSON WHO HAS

INITIATED IN COURT A PUTATIVE CLASS ACTION; OR WHO IS A MEMBER OF A PUTATIVE CLASS WHO HAS NOT OPTED OUT OF THE CLASS WITH RESPECT TO ANY CLAIMS ENCOMPASSED BY THE PUTATIVE CLASS ACTION UNTIL: (a) THE CLASS CERTIFICATION IS DENIED; OR (b) THE CLASS IS DECERTIFIED; OR (c) THE CUSTOMER IS EXCLUDED FROM THE CLASS BY THE COURT. SUCH FORBEARANCE TO ENFORCE AN AGREEMENT TO ARBITRATE SHALL NOT CONSTITUTE A WAIVER OF ANY RIGHTS UNDER THIS AGREEMENT EXCEPT TO THE EXTENT STATED HEREIN.

- 22.3.** THE PARTIES HEREBY AGREE THAT ANY DISPUTE, CONTROVERSY OR CLAIM BETWEEN THE PARTIES ARISING OUT OF THIS AGREEMENT OR ANY LOAN HEREUNDER SHALL BE SUBJECT TO THE MANDATORY ARBITRATION PROVISION CONTAINED IN ANY CUSTOMER ACCOUNT OR SIMILAR AGREEMENT ENTERED INTO BETWEEN SUCH PARTIES.

**23. Miscellaneous.**

Except as specified in Section 1 or as otherwise agreed by the parties, this Agreement supersedes any other agreement between the parties hereto concerning loans of Securities between Borrower and Lender. This Agreement shall not be assigned by Lender without the prior written consent of Borrower and any attempted assignment without such consent shall be null and void. Except where prohibited by applicable law or regulation, Borrower may assign its rights and obligations under this Agreement to another party upon prior written notice to Lender, provided that such action does not adversely affect the first priority perfected security interest in the Collateral granted by Borrower to the Trustee for the benefit of Lender pursuant to the Collateral Trust Agreement. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of Borrower and Lender and their respective heirs, representatives, successors and assigns. This Agreement may be terminated by either party upon notice to the other, subject only to fulfillment of any obligations then outstanding. Borrower may modify this Agreement upon not less than thirty (30) days' prior written notice to Lender; provided, that any such modification shall not adversely affect the security interest in the Collateral granted by Borrower to the Trustee for the benefit of Lender. Lender's continued participation in the Apex Fully-Paid Securities Lending Program shall constitute Lender's consent to be bound by all then in effect amendments to the Agreement. The parties hereto acknowledge and agree that, in connection with this Agreement and each Loan hereunder, time is of the essence. Each provision and agreement herein shall be treated as separate and independent from any other provision herein and shall be enforceable notwithstanding the unenforceability of any such other provision or agreement.

**24. Definitions.**

For the purposes hereof:

- 24.1.** "Act of Insolvency" shall mean, with respect to any party, (a) the commencement by such party as debtor of any case or proceeding under any bankruptcy, insolvency, reorganization, liquidation, moratorium, dissolution, delinquency or similar law, or such party's seeking the appointment or election of a receiver, conservator, trustee,

custodian or similar official for such party or any substantial part of its property, or the convening of any meeting of creditors for purposes of commencing any such case or proceeding or seeking such an appointment or election, (b) the commencement of any such case or proceeding against such party, or another seeking such an appointment or election, or the filing against a party of an application for a protective decree under the provisions of SIPA, under Chapter 7 or Chapter 11 of the Bankruptcy Code, or under the Orderly Liquidation Authority under Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which (i) is consented to or not timely contested by such party, (ii) results in the entry of an order for relief, such an appointment or election, the issuance of such a protective decree or the entry of an order having a similar effect, or (iii) is not dismissed within fifteen (15) days, (c) the making by such party of a general assignment for the benefit of creditors, or (d) the admission in writing by such party of such party's inability to pay such party's debts as they become due.

- 24.2.** "Bankruptcy Code" shall have the meaning assigned in Section 25.1.
- 24.3.** "Borrower" shall have the meaning assigned in Section 1.
- 24.4.** "Broker-Dealer" shall mean any person that is a broker (including a municipal securities broker), dealer, municipal securities dealer, government securities broker or government securities dealer as defined in the Exchange Act, regardless of whether the activities of such person are conducted in the United States or otherwise require such person to register with the U.S. Securities and Exchange Commission or other regulatory body.
- 24.5.** "Business Day" shall mean, with respect to any Loan hereunder, a day on which regular trading occurs in the principal market for the Loaned Securities subject to such Loan, provided, however, that for purposes of determining the market value of any Securities hereunder, such term shall mean a day on which regular trading occurs in the principal market for the Securities whose value is being determined. Notwithstanding the foregoing, (a) for purposes of Section 9, "Business Day" shall mean any day on which regular trading occurs in the principal market for any Loaned Securities or for any Collateral consisting of Securities under any outstanding Loan hereunder and "next Business Day" shall mean the next day on which a transfer of Collateral may be effected in accordance with this Agreement, and (b) in no event shall a Saturday or Sunday be considered a Business Day.
- 24.6.** "Clearing Organization" shall mean (a) The Depository Trust Company, or, if agreed to by Borrower and Lender, such other "securities intermediary" (within the meaning of the UCC) at which Borrower (or Borrower's agent) and Lender (or Lender's agent) maintain accounts, or (b) a Federal Reserve Bank, to the extent that it maintains a book-entry system.



- 24.7.** “Close of Business” shall mean 4:00 p.m. (New York City time) on a Business Day.
- 24.8.** “Close of Trading” shall mean, with respect to any Security, the end of the primary trading session established by the principal market for such Security on a Business Day, unless otherwise agreed by the parties.
- 24.9.** “Collateral” shall mean, whether now owned or hereafter acquired and to the extent permitted by applicable law, (a) any property which Borrower and Lender agree prior to the Loan shall be acceptable collateral and which is deposited in a Custody Account for Lender pursuant to Sections 4 or 9, (b) any property substituted therefor pursuant to Section 4.5, (c) all accounts in which such property is deposited and all securities and the like in which any cash collateral is invested or reinvested, and (d) any proceeds of any of the foregoing; provided, however, that if Lender is a Customer, “Collateral” shall (subject to Section 16.4(a), if applicable) be limited to cash, U.S. Treasury bills and notes, and any other property permitted to serve as collateral securing a loan of customers’ fully-paid or excess margin securities pursuant to paragraph (b)(3) of Rule 15c3-3 under the Exchange Act, including Interpretation /05 to paragraph (b)(3) of Rule 15c3-3 under the Exchange Act, as set out in the FINRA Guide to Rule Interpretations and as may be amended from time to time, and such other guidance as the U.S. Securities and Exchange Commission or its staff may provide from time to time; or any comparable regulation of the Secretary of the Treasury under Section 15C of the Exchange Act (to the extent that Borrower is subject to such Rule or comparable regulation) pursuant to exemptive, interpretive or no-action relief or otherwise. If any new or different Security shall be exchanged for any Collateral by recapitalization, merger, consolidation or other corporate action, such new or different Security shall, effective upon such exchange, be deemed to become Collateral in substitution for the former Collateral for which such exchange is made. For purposes of return of Collateral to Borrower or purchase or sale of Securities pursuant to Section 13, such term shall include Securities of the same issuer, class and quantity as the Collateral initially deposited by Borrower to the Custody Account for Lender, as adjusted pursuant to the preceding sentence.
- 24.10.** “Collateral Trust Agreement” shall have the meaning assigned in Annex A.
- 24.11.** “Contractual Currency” shall have the meaning assigned in Section 15.1.
- 24.12.** “Customer” shall mean any person that is a customer of Borrower pursuant to paragraph (a)(1) of Rule 15c3-3 under the Exchange Act or any comparable regulation of the Secretary of the Treasury under Section 15C of the Exchange Act (to the extent that Borrower is subject to such Rule or comparable regulation).
- 24.13.** “Custodian” shall have the meaning assigned in Section 4.1.

- 24.14.** “Custody Account” shall have the meaning assigned in Section 4.1.
- 24.15.** “Cutoff Time” shall mean a time on a Business Day by which a transfer of cash, securities or other property must be made by Borrower or Lender to the other, as shall be determined in accordance with market practice.
- 24.16.** “Default” shall have the meaning assigned in Section 12.
- 24.17.** “Defaulting Party” shall have the meaning assigned in Section 17.
- 24.18.** “Distribution” shall mean, with respect to any Security at any time, any distribution made on or in respect of such Security, including, but not limited to: (a) cash and all other property, (b) stock dividends, (c) Securities received as a result of split ups of such Security and distributions in respect thereof, (d) interest payments, (e) all rights to purchase additional Securities, and (f) any cash or other consideration paid or provided by the issuer of such Security in exchange for any vote, consent or the taking of any similar action in respect of such Security (regardless of whether the record date for such vote, consent or other action falls during the term of the Loan).
- 24.19.** “Equity Security” shall mean any security (as defined in the Exchange Act) other than a “nonequity security,” as defined in Regulation T.
- 24.20.** “Exchange Act” shall mean the Securities Exchange Act of 1934, as amended.
- 24.21.** “FDIA” shall have the meaning assigned in Section 25.4.
- 24.22.** “FDICIA” shall have the meaning assigned in Section 25.5.
- 24.23.** “Foreign Securities” shall mean, unless otherwise agreed, Securities that are principally cleared and settled outside the United States.
- 24.24.** “Government Securities” shall mean government securities as defined in Section 3(a)(42)(A)-(C) of the Exchange Act.
- 24.25.** “Lender” shall have the meaning assigned in Section 1.
- 24.26.** “Loan” shall have the meaning assigned in Section 1.
- 24.27.** “Loan Fee” shall have the meaning assigned in Section 5.1.
- 24.28.** “Loaned Security” or “Loaned Securities” shall mean any Security transferred in a Loan hereunder until such Security (or an identical Security) is transferred back to Lender hereunder, except that, if any new or different Security shall be exchanged for any Loaned Security by recapitalization, merger, consolidation or other corporate action, such new or different Security shall, effective upon such exchange, be deemed to become a Loaned Security in substitution for the former

Loaned Security for which such exchange is made. For purposes of return of Loaned Securities by Borrower or purchase or sale of Securities pursuant to Section 13, such term shall include Securities of the same issuer, class and quantity as the Loaned Securities, as adjusted pursuant to the preceding sentence.

**24.29.** “Margin Excess” shall have the meaning assigned in Section 9.2.

**24.30.** “Margin Percentage” shall mean, with respect to any Loan as of any date, at least 100%, unless Borrower in its discretion determines that applicable laws or market custom require greater than 100%.

**24.31.** “Plan” shall mean: (a) any “employee benefit plan” as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974 which is subject to Part 4 of Subtitle B of Title I of such Act; (b) any “plan” as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986; or (c) any entity the assets of which are deemed to be assets of any such “employee benefit plan” or “plan” by reason of the Department of Labor’s plan asset regulation, 29 C.F.R. Section 2510.3-101.

**24.32.** “Regulation T” shall mean Regulation T of the Board of Governors of the Federal Reserve System, as in effect from time to time.

**24.33.** “Securities” shall mean securities or, if agreed by the parties in writing, other assets.

**24.34.** “SOFR” shall mean the Secured Overnight Financing Rate administered by the Federal Reserve Bank of New York (or a successor administrator) and provided on the Federal Reserve Bank of New York’s website.

**24.35.** “SIPA” shall mean the Securities Investor Protection Act of 1970, as amended.

**24.36.** “Trustee” shall have the meaning assigned in Section 4.1.

**24.37.** “UCC” shall mean the New York Uniform Commercial Code.

## **25. Intent.**

**25.1.** The parties recognize that each Loan hereunder is a “securities contract” and a “contractual right,” as such terms are defined in Section 741 and used in Sections 362(b)(6), 546(e) and 555 of Title 11 of the United States Code (the “Bankruptcy Code”), as amended (except insofar as the type of assets subject to the Loan would render such definition inapplicable).

**25.2.** It is understood that each and every transfer of funds, securities and other property under this Agreement and each Loan hereunder is a “settlement payment,” a “margin payment,” or a “transfer,” as such terms are used in Sections 362(b)(6) and 546(e) of the Bankruptcy Code.

- 25.3.** It is understood that the rights given to Borrower and Lender hereunder upon a Default by the other constitute the right to cause the liquidation of a securities contract and the right to set off mutual debts and claims in connection with a securities contract, as such terms are used in Sections 555 and 362(b)(6) of the Bankruptcy Code.
- 25.4.** The parties agree and acknowledge that if a party hereto is an “insured depository institution,” as such term is defined in the Federal Deposit Insurance Act, as amended (“FDIA”), then each Loan hereunder is a “securities contract” and “qualified financial contract,” as such terms are defined in the FDIA and any rules, orders or policy statements thereunder (except insofar as the type of assets subject to the Loan would render such definitions inapplicable).
- 25.5.** It is understood that this Agreement constitutes a “netting contract” as defined in and subject to Title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 (“FDICIA”) and each payment obligation under any Loan hereunder shall constitute a “covered contractual payment entitlement” or “covered contractual payment obligation,” respectively, as defined in and subject to FDICIA (except insofar as one or both of the parties is not a “financial institution” as that term is defined in FDICIA).
- 25.6.** Except to the extent required by applicable law or regulation or as otherwise agreed, Borrower and Lender agree that Loans hereunder shall in no event be “exchange contracts” for purposes of the rules of any securities exchange and that Loans hereunder shall not be governed by the buy-in or similar rules of any such exchange, registered national securities association or other self-regulatory organization.
- 25.7.** Borrower and Lender agree that they intend the Loans hereunder to meet the requirements of Section 1058(b) of the Internal Revenue Code of 1986, the United States Treasury regulations or other guidance issued thereunder, and any official interpretations thereof.

**26. DISCLOSURE RELATING TO CERTAIN FEDERAL PROTECTIONS.**

- 26.1.** WITHOUT WAIVING ANY RIGHTS GIVEN TO LENDER HEREUNDER, IT IS UNDERSTOOD AND AGREED THAT THE PROVISIONS OF SIPA MAY NOT PROTECT LENDER WITH RESPECT TO LOANED SECURITIES HEREUNDER AND THAT, THEREFORE, THE COLLATERAL HELD IN THE CUSTODY ACCOUNT FOR LENDER’S BENEFIT MAY CONSTITUTE THE ONLY SOURCE OF SATISFACTION OF BORROWER’S OBLIGATIONS IN THE EVENT BORROWER FAILS TO RETURN THE LOANED SECURITIES. TO THE EXTENT NON-CASH COLLATERAL IS USED, SIPA ALSO MAY NOT PROTECT NON-CASH COLLATERAL HELD IN THE CUSTODY ACCOUNT FOR LENDER’S BENEFIT.

**26.2.** LENDER ACKNOWLEDGES THAT, IN CONNECTION WITH LOANS OF GOVERNMENT SECURITIES AND AS OTHERWISE PERMITTED BY APPLICABLE LAW, SOME SECURITIES HELD BY BORROWER AS COLLATERAL UNDER THIS AGREEMENT MAY NOT BE GUARANTEED BY THE UNITED STATES.

**27. OTHER IMPORTANT DISCLOSURES.**

**27.1.** BY SIGNING BELOW, LENDER AGREES AND ACKNOWLEDGES THAT HE, SHE, OR IT HAS READ AND FULLY UNDERSTANDS THE SEPARATE DOCUMENT ATTACHED TO THIS AGREEMENT ENTITLED “IMPORTANT DISCLOSURES REGARDING RISKS AND CHARACTERISTICS OF PARTICIPATING IN APEX CLEARING CORPORATION’S FULLY-PAID SECURITIES LENDING PROGRAM,” WHICH DESCRIBES MANY OTHER RISKS AND CHARACTERISTICS OF THE PROGRAM, INCLUDING, BUT NOT LIMITED TO POTENTIAL LACK OF SIPC PROTECTION, LOSS OF VOTING RIGHTS, APEX’S ABILITY TO USE THE LOANED SECURITIES FOR ADDITIONAL LOANS AND APEX’S ABILITY TO EARN A SPREAD AND/OR OTHER PROFIT, LACK OF GUARANTEE OF RECEIVING BEST RATES, RISKS ASSOCIATED WITH EACH TYPE OF COLLATERAL, THAT THE SECURITIES MAY BE “HARD-TO-BORROW” BECAUSE OF SHORT-SELLING OR MAY BE USED TO SATISFY DELIVERY REQUIREMENTS RESULTING FROM SHORT SALES, POTENTIAL ADVERSE TAX CONSEQUENCES, INCLUDING PAYMENTS DEEMED CASH-IN-LIEU OF DIVIDEND PAID ON SECURITIES WHILE ON LOAN, APEX’S RIGHT TO LIQUIDATE THE TRANSACTION BECAUSE OF A CONDITION OF THE KIND SPECIFIED IN FINRA RULE 4314(b), THE FACTORS THAT DETERMINE THE AMOUNT OF COMPENSATION RECEIVED BY APEX OR PAID TO LENDER IN CONNECTION WITH THE USE OF THE SECURITIES BORROWED FROM LENDER, AND THE ALLOCATION OF ANY INTEREST ON CASH COLLATERAL, AMONG OTHER THINGS.

**27.2.** THIS AGREEMENT CONTAINS A PRE-DISPUTE ARBITRATION CLAUSE IN SECTION 22 AND BY EXECUTING THIS AGREEMENT LENDER ACKNOWLEDGES RECEIPT THEREOF.

*[SIGNATURE PAGE TO FOLLOW]*

**Executed and Agreed By:**

**APEX CLEARING CORPORATION**

By providing this Agreement to eligible Apex customers who are applying to participate in Apex's Fully-Paid Securities Lending Program, Apex agrees to the terms and conditions specified herein.

**LENDER:** \_\_\_\_\_

Signature: \_\_\_\_\_

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

Title \_\_\_\_\_

Date: \_\_\_\_\_

### **Schedule of Basis of Compensation for Loan**

Lender will receive a Loan Fee, which is calculated as a percentage (the “Percentage Rate”) of the net proceeds earned and received by Apex for relending Lender’s Loaned Securities (the “Loan Proceeds”). The Percentage Rate may be modified from time to time without the additional written consent of the Lender; however, a modification will never result in the Percentage Rate falling below [insert rate] (the “Minimum Percentage Rate”) without the written consent of the Lender. Lender’s introducing broker (“Introducing Broker”) will disclose the current Percentage Rate to Lender.

The Loan Fee will accrue daily. Unless otherwise agreed, any Loan Fee payable under this Agreement will be payable to Lender within fifteen (15) Business Days following the last Business Day of the calendar month in which such fee was incurred.

After deduction of the Loan Fee, the remainder of the Loan Proceeds (the “Net Proceeds”) will be kept and split between Apex and Introducing Broker as compensation. Apex and Introducing Broker may agree to modify their split of the Net Proceeds from time to time. Any modifications to the split of the Net Proceeds between Apex and Introducing Broker will not cause the Loan Fee to fall below the Minimum Percentage Rate set out above without the written consent of the Lender. For more information on the split of Net Proceeds between Apex and Introducing Broker, Lender should contact its Introducing Broker.

Apex may determine, in its sole discretion and considering the interest rate environment, whether the Loan Fee paid to Lender and the Net Proceeds paid to Introducing Broker will also include any interest paid on the Collateral for a Loan, if any.

## ANNEX A

Lender hereby authorizes Borrower to establish a Custody Account at a Custodian for the benefit of all lenders participating in the Apex Fully-Paid Securities Lending Program in accordance with Section 4.1 of this Agreement. Lender further authorizes Borrower to maintain Collateral in the Custody Account to secure Loans in accordance with the terms of this Agreement.

Lender understands that the Fully Paid Lending Trust Agreement dated as of April 9, 2021 that is attached to the Agreement (as may be amended from time to time, the “Collateral Trust Agreement”) describes the obligations and rights of Borrower, the Trustee and Custodian with respect to the maintenance of Collateral in the Custody Account and rights of Lender with respect to such Collateral, among other things. Lender further understands that pursuant to the Collateral Trust Agreement, the Trustee will act for the benefit of Lender and other similarly-situated lenders, under certain circumstances and subject to certain conditions. Lender acknowledges receipt of the copy of the Collateral Trust Agreement attached to the Agreement and understands that it contains legal terms directly applicable to whether, and to what extent, Lender will be protected upon the occurrence of an event of Default by Borrower, as set out in this Agreement. Lender acknowledges that the Collateral Trust Agreement contains rights, obligations and limitations directly relevant to Lender, including instances in which Lender’s recourse may be determined by the vote of the “Majority Lenders” (as defined in the Collateral Trust Agreement).

Lender understands that, among other things, Lender authorizes the Trustee under the Collateral Trust Agreement to instruct Borrower to pay additional Collateral into the Custody Account to maintain sufficient Collateral to secure a Loan, and to instruct the Custodian to pay Margin Excess held in the Custody Account to Borrower in accordance with Section 9 of this Agreement. Upon the occurrence of an event of Default on the part of Borrower as set out in Section 12 of this Agreement, Lender has the right to instruct the Trustee to return Collateral to Lender as and to the extent set forth in, and subject to the conditions and limitations contained in, Section 13.1 of the Agreement and the Collateral Trust Agreement. Such conditions and limitations include (but are not limited to) Lender’s responsibility, upon the occurrence of an event of Default on the part of Borrower other than an Act of Insolvency, to notify the Trustee that it is exercising its option to terminate all Loans under the Agreement by submitting a “Notice of Default” (with a copy to Borrower) substantially in the form attached as Exhibit B to the Collateral Trust Agreement.

Lender further understands that, notwithstanding anything herein to the contrary, if there is an event of Default on the part of Borrower other than an Act of Insolvency, Borrower will have the right to cure such breach, and Lender shall not be entitled to any Collateral unless and until such breach remains uncured three (3) Business Days after Lender’s submission of a Notice of Default to the Trustee (with a copy to Borrower). In the event that Borrower cures such breach within the aforementioned three (3) Business Day cure period, or if Lender otherwise no longer seeks to exercise the Default rights afforded in the Agreement, Lender must submit to the Trustee a “Notice of Revocation” substantially in the form attached as Exhibit C to the Collateral Trust Agreement. If Lender does not timely submit a Notice of Revocation, and as a result, the Trustee remits the Collateral to Lender, Borrower’s obligation to return a like amount of the Loaned Securities shall terminate.

Lender hereby consents to the terms of, agrees to be bound by, and hereby adopts as fully as though it had manually executed the same, the Collateral Trust Agreement, such that from and after the



date of the Agreement, Lender shall be and become a party thereto for all purposes. Lender may access the Collateral Trust Agreement at any time by reviewing the copy attached to the Agreement or by viewing it on Borrower's website.

**Custodian Bank: JP Morgan Chase Bank, N.A.**

**Trustee: Wilmington Trust, National Association**

## **ANNEX B**

Cash

United States Government-Backed Securities