

## AGREEMENT FOR PRIME BROKERAGE CLEARANCE SERVICES

This Agreement sets forth the terms and conditions under which

\_\_\_\_\_ [insert name of executing broker], its successors and assigns (the “Executing Broker”) will clear your securities transactions through the facilities of Pershing LLC (“Pershing”) pursuant to the fully disclosed clearing agreement between Executing Broker and Pershing with such broker-dealer as you may designate, from time to time, as your prime broker (“Prime Broker”), provided that Pershing has entered into a Prime Brokerage Agreement with such broker-dealer with respect to your prime brokerage transactions (hereinafter referred to as “Prime Brokerage Transaction(s)”).

### *1. Establishment of Account*

Pershing will clear your Prime Brokerage Transactions in a broker-dealer credit account established in the name of your Prime Broker and designated for your benefit. On the settlement date for each Prime Brokerage Transaction, Pershing will deliver or receive your securities to or from your Prime Broker against payment in full by or to your Prime Broker on your behalf.

### *2. Customer Trades*

You hereby authorize the Executing Broker to inform your Prime Broker on the DTC ID System, or any successor system, of all the details of each Prime Brokerage Transaction you instruct to be cleared by Pershing for your account, including, but not limited to, the contract amount, the security involved, the number of shares or number of units, and whether the transaction was a long or short sale or a purchase (collectively, the “Trade Data”), and you hereby agree to inform your Prime Broker of the Trade Data on trade date by the time designated to you by your Prime Broker. In the event of any discrepancy in the Trade Data reported to your Prime Broker by you and the Trade Data reported to your Prime Broker by the Executing Broker, you shall be responsible for resolving such discrepancy promptly, and you shall be liable to the Executing Broker for any loss, cost, or expense sustained by the Executing Broker or Pershing arising out of such Prime Brokerage Transaction.

### *3. Applicable Law and Regulations*

All Prime Brokerage Transactions shall be subject to all applicable laws and the rules and regulations of all federal, state, and self-regulatory agencies including, but not limited to, the Securities and Exchange Commission (“SEC”), all relevant securities and commodity exchanges, the Municipal Securities Rulemaking Board, the National Association of Securities Dealers, the Board of Governors of the Federal Reserve System, and the constitution, rules, and customs of the exchange or market (and its clearing house, if any) where executed. In addition, all Prime Brokerage Transactions shall be performed in a manner not inconsistent with the SEC No-Action Letter dated January 25, 1994 relating to prime brokerage services, which was issued by the Division of Market Regulation (the “SEC Letter”), as the same may be amended, modified, or supplemented from time to time.

### *4. Short Sales*

When placing any order to sell securities short for your account, you are responsible for designating the order as such, and you hereby authorize the Executing Broker to mark the order as being

“short.” You further agree to provide the Executing Broker with information concerning any securities borrowing arrangements made by you and/or your Prime Broker in connection with any short sales.

#### *5. Customer Qualification*

- (a) You understand that you shall be required to maintain in your account with your Prime Broker such minimum net equity in cash or securities as may be required, from time to time, by your Prime Broker (the “Minimum Net Equity”), which shall in no event be less than the minimum net equity required by the SEC Letter, as such requirement may be amended from time to time (initially: (i) \$100,000 in cash or securities with a ready market, for trades executed on behalf of a customer account managed by an investment advisor registered under Section 203 of the Investment Advisors Act of 1940 [a “Registered Investment Advisor”]; or (ii) \$500,000 in cash or securities with a ready market for trades executed on behalf of an account not managed by a Registered Investment Advisor). You further understand that, in the event your account falls below such Minimum Net Equity, you shall bring your account into compliance in a timely fashion. Each time you enter an order with the Executing Broker, you hereby represent that you shall be in compliance with such Minimum Net Equity or will notify the Executing Broker otherwise.
- (b) In the event that your Prime Broker indicates its intention to disaffirm any trade, you hereby authorize and instruct your Prime Broker to provide to the Executing Broker, upon the request of the Executing Broker, the following information: (i) the account or accounts to which any of your orders or trades relate; (ii) the instructions, if any, provided to your Prime Broker regarding the allocation of any orders or trades to any sub-accounts; and (iii) information available to your Prime Broker with respect to any net equity in the account. In addition, this Agreement will serve as further authorization and instruction to your Prime Broker to furnish to the Executing Broker in the event of a disaffirmance all such further and additional information concerning an account as the Executing Broker shall request, provided that such authorization shall have been confirmed by you in a separate letter addressed and delivered to your Prime Broker and the Executing Broker. This paragraph shall remain in effect so long as this Agreement is in effect, shall survive the termination of this Agreement and shall apply to all orders and trades given by you to the Executing Broker for clearance and settlement through your Prime Broker. You hereby agree to release and discharge your Prime Broker from all responsibility and liability arising out of or incurred in connection with your Prime Broker furnishing any information to the Executing Broker pursuant to this paragraph.

#### *6. Confirmations*

The Executing Broker shall confirm the Trade Data to your Prime Broker and shall issue a confirmation for each Prime Brokerage Transaction by the morning of the next business day after trade date. As used in this Agreement, the term “business day” means any day which is not a Saturday or Sunday on which the New York Stock Exchange, Inc. is open for business. You may direct the Executing Broker to send confirmations to you in care of your Prime Broker; the form of such directive may be obtained from the Executing Broker and appended to this Agreement.

#### *7. Customer’s Settlement Obligation*

In the event your Prime Broker indicates its intention not to settle, or fails to settle, any of your Prime Brokerage Transactions, you shall be responsible and liable to the Executing Broker and Pershing for settling such Prime Brokerage Transaction(s) directly with the Executing Broker and Pershing in a margin account that the Executing Broker will open or has opened in your name on the books of Pershing in accordance with Regulation T of the Board of Governors of the Federal

Reserve System. The Executing Broker shall send you a new confirmation of the replacement transaction(s).

#### *8. Discretionary Account*

- (a) If your account is managed on a discretionary basis by an investment advisor, money manager, or other person (“advisor”), you hereby acknowledge that your Prime Brokerage Transactions may be commingled with those of other accounts of your advisor (“sub-accounts”), according to your advisor’s instructions, for clearance by Pershing in a single bulk trade and for settlement in bulk with your Prime Broker. You further acknowledge that in the event the Prime Broker indicates its intention not to settle or does not settle such bulk trade because of one or more sub-accounts receiving an allocation, the Executing Broker will either cancel and rebill the bulk trade to reflect the reduction of the securities which were originally allocated to the objectionable sub-accounts or, if permissible, execute a corrected allocation of the Prime Brokerage Transaction to sub-accounts in accordance with your advisor’s instructions. To facilitate such allocation, the Executing Broker may open and carry an account in your name on Pershing’s books and you shall be solely responsible and liable to the Executing Broker for settling such transaction directly with Pershing. You acknowledge that your advisor may resubmit the bulk trade and execute a corrected allocation of the Prime Brokerage Transaction.
- (b) If you are executing this Agreement on behalf of a customer whose account is managed by you, you hereby represent and covenant to the Executing Broker that: (i) each time you execute an order on behalf of such customer, such customer is in compliance with the Minimum Net Equity requirement or you shall notify the Executing Broker otherwise; (ii) you shall not enter an order for such customer in the event such customer falls below the Minimum Net Equity requirement; (iii) you will provide the Executing Broker with such information as is necessary to enable the Executing Broker to open and maintain an account for the benefit of such customer by completing the schedule attached hereto; (iv) you have sufficient knowledge of such customer to make the representation set forth in Paragraph 19 of this Agreement; and (v) you have been duly authorized by the customer to execute this Agreement, to bind such customer to arbitration, to enter orders to effect Prime Brokerage Transactions, to execute a directive to the Executing Broker regarding the mailing of confirmations, to disclose such financial information as the Executing Broker or Pershing deems necessary to effect such transactions, and to take such other actions as are contemplated by this Agreement.

#### *9. Fees and Charges*

You understand that the Executing Broker may charge commissions and other fees for clearance or any other service furnished to you and you agree to pay such commissions and fees at the Executing Broker’s then prevailing rates. You further understand that service fees, if any, may be changed from time to time, upon 30 days prior written notice to you.

#### *10. Restrictions on Account*

You understand that the Executing Broker or Pershing in their sole discretion may refuse to accept or execute Prime Brokerage Transactions on your behalf, or restrict or prohibit trading of securities in your account(s) introduced to Pershing, or refuse to clear your securities transactions.

#### *11. Default*

If: (i) you fail to perform your settlement obligations or in the event your Prime Broker indicates its intention not to settle, or fails to settle, any of your Prime Brokerage Transactions, as set forth in paragraph 7 of this Agreement; (ii) any representation made by you shall have been incorrect or

untrue in any material respect when made; (iii) you shall have admitted your inability to, or intention not to, perform any of your obligations hereunder; (iv) you file a petition or other proceeding in bankruptcy, insolvency, or for the appointment of a receiver, or such a petition or proceeding is filed against you; (v) a levy of an attachment is made against your account(s) with the Executing Broker, or Pershing; (vi) you die or become mentally incompetent or you are a corporation that dissolves; or (vii) you shall have otherwise breached the terms of this Agreement (anyone being an “Event of Default”), the Executing Broker and Pershing shall have the right to sell, without prior notice to you, any and all property in which you have an interest held by or for the benefit of Pershing, to buy any property that may have been sold short, to cancel any outstanding transactions, and/or to purchase or sell any other securities or other instruments to offset market risk, and you shall be liable to the Executing Broker for all losses, costs, and expenses caused by such Event of Default, together with interest earned thereon from the date of such Event of Default at the prime rate, until payment in full is received by the Executing Broker.

#### *12. Legally Binding*

You hereby agree that this Agreement and all the terms hereof shall be binding upon you and your estate, heirs, executors, administrators, personal representatives, successors, and assigns. You agree that all Prime Brokerage Transactions shall be for your account(s) in accordance with your oral or written instructions. You hereby waive any and all defenses that any such instruction was not in writing as may be required by the Statute of Frauds or any other similar law, rule, or regulation.

#### *13. Clearance Accounts*

You agree that Pershing and its employees are third party beneficiaries of this Agreement, and that the terms and conditions hereof, including, but not limited to, the Arbitration and Telephone Conversations provisions, shall be applicable to all matters between or among any of you, Pershing and its employees, and the Executing Broker and its employees.

#### *14. Margin Account, Security Interest, Consent to Loan, or Pledge Securities*

- (a) You hereby agree to deposit and maintain such margin in your margin account as Pershing may in its sole discretion require, and you agree to pay immediately on demand any debit balance therein. Upon your failure to pay, or at any time Pershing deems necessary for its protection, without prior demand, call or notice, Pershing shall be entitled to exercise all rights and remedies provided herein. Unless you advise us to the contrary, you represent that you are not an affiliate (as defined in Rule 144(a) (1) under the Securities Act of 1933) of the issuer of any security held in your account.
- (b) As security for the payment of your obligations to Pershing, Pershing shall have a continuing security interest in all property in which you have an interest held by or for the benefit of Pershing and may, without prior notice to you, use, apply, or transfer any such property. In the event of a breach or default under this Agreement, Pershing shall have all rights and remedies available to a secured creditor in addition to the rights and remedies provided herein.
- (c) Within the limits of applicable law and regulations, you hereby authorize Pershing to lend either to itself or to others any securities held by or for the benefit of Pershing in your account, together with all attendant rights of ownership, and to use all such property as collateral for its general loans. Any such property, together with all attendant rights of ownership, may be pledged, repledged, hypothecated, or rehypothecated either separately or in common with other such property for any amounts due to Pershing thereon or for a greater sum, and Pershing shall have no obligation to retain a like amount of similar property in its possession and control.

- (d) You understand that interest will be charged on any debit balances in your account. Any debit balance which is not paid at the close of an interest period will be added to the opening balance for the next interest period.

*15. Amendment; Entire Agreement*

You agree that the Executing Broker may modify the terms of this Agreement at any time upon prior written notice. If such modifications are unacceptable to you, you must notify the Executing Broker in writing within 30 days of the Executing Broker's transmittal of such notice. Your account may then be terminated by the Executing Broker, after which you agree to remain liable to the Executing Broker for all existing liabilities or obligations. Otherwise, this Agreement may not be waived or modified absent a written instrument signed by an authorized representative of the Executing Broker. Except as set forth above, this Agreement represents the entire agreement and understanding between you and the Executing Broker concerning the subject matter hereof.

*16. Telephone Conversations*

For the protection of both you and the Executing Broker, and as a tool to correct misunderstandings, you hereby authorize the Executing Broker in its discretion and without prior notice to you, to monitor and/or record any or all telephone conversations between you, the Executing Broker, and any of the Executing Broker's employees or agents.

You acknowledge that the Executing Broker may determine not to make or keep such recordings and such determination shall not in any way affect any party's rights.

*17. Assignability*

This Agreement and the rights and obligations arising out of the Prime Brokerage Transactions cleared pursuant hereto may not be assigned without the prior written consent of the other party, other than by the Executing Broker as part of a general transfer of the Executing Broker's business.

*18. Severability*

If any provision of this Agreement is or becomes inconsistent with any applicable present or future law, rule, or regulation, that provision shall be deemed modified or, if necessary, rescinded in order to comply with the relevant law, rule, or regulation. All other provisions of this Agreement shall continue to remain in full force and effect.

*19. Capacity to Contract; Customer Affiliation*

You represent that you are of legal age and that, unless you have notified the Executing Broker to the contrary, neither you nor any member of your immediate family is an employee of any exchange or member thereof, an employee of the National Association of Securities Dealers, Inc. or a member thereof, an employee of any corporation, firm, or individual engaged in the business of dealing, as broker or principal, in securities, options or futures, or an employee of any bank, trust company, or insurance company.

*20. Extraordinary Events*

The Executing Broker or Pershing shall not be liable for losses caused directly or indirectly by government restrictions, exchange or market rulings, suspension of trading, war, strikes, or other conditions beyond its control.

*21. Headings*

The headings of the provisions hereof are for descriptive purposes only and shall not modify or qualify any of the rights or obligations set forth in such provisions.

## 22. *Governing Law*

This Agreement shall be governed by the laws of New York without giving effect to the conflicts of law principles thereof.

## 23. *Designation of Advisor/Agent*

If your account is managed by an advisor, as such term is defined in paragraph 8(a), or by an agent, and you are executing this Agreement, you hereby authorize

\_\_\_\_\_ [insert name of advisor/agent] to engage in Prime Brokerage Transactions on your behalf, and you hereby represent and covenant that such advisor has been duly authorized by you to take such actions as are contemplated by this Agreement.

## 24. *Arbitration Disclosures*

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

- **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.**
- **ARBITRATION AWARDS ARE GENERALLY FINAL AND BINDING; A PARTY'S ABILITY TO HAVE A COURT REVERSE OR MODIFY AN ARBITRATION AWARD IS VERY LIMITED.**
- **THE ABILITY OF THE PARTIES TO OBTAIN DOCUMENTS, WITNESS STATEMENTS AND OTHER DISCOVERY IS GENERALLY MORE LIMITED IN ARBITRATION THAN IN COURT PROCEEDINGS.**
- **THE ARBITRATORS DO NOT HAVE TO EXPLAIN THE REASON(S) FOR THEIR AWARD.**
- **THE PANEL OF ARBITRATORS WILL TYPICALLY INCLUDE A MINORITY OF ARBITRATORS WHO WERE OR ARE AFFILIATED WITH THE SECURITIES INDUSTRY.**
- **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.**
- **THE RULES OF THE ARBITRATION FORUM IN WHICH THE CLAIM IS FILED, AND ANY AMENDMENTS THERETO, SHALL BE INCORPORATED INTO THIS AGREEMENT.**

## 25. *Arbitration Agreement*

**ANY CONTROVERSY BETWEEN YOU AND US SHALL BE SUBMITTED TO ARBITRATION BEFORE THE NEW YORK STOCK EXCHANGE, INC., ANY OTHER NATIONAL SECURITIES EXCHANGE ON WHICH A TRANSACTION GIVING RISE TO THE CLAIM TOOK PLACE (AND ONLY BEFORE SUCH EXCHANGE), OR THE NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

**NO PERSON SHALL BRING A PUTATIVE OR CERTIFIED CLASS ACTION TO ARBITRATION, NOR SEEK TO ENFORCE ANY PREDISPUTE 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; (I) THE CLASS CERTIFICATION IS DENIED; (II) THE CLASS IS DECERTIFIED; OR (III) 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.**

**THE LAWS OF THE STATE OF NEW YORK GOVERN.**

By signing this Agreement you acknowledge that:

1. The securities in your margin account(s) and any securities for which you have not fully paid, together with all attendant ownership rights, may be loaned to Pershing or loaned out to others and;
2. You have received a copy of this Agreement.

I AGREE THAT THIS AGREEMENT CONTAINS A PREDISPUTE ARBITRATION CLAUSE, WHICH IS LOCATED AT SECTION 24-25 ON PAGE 6-7 IN THIS AGREEMENT.

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Tax Identification Number

\_\_\_\_\_  
Accepted by: Executing Broker

\_\_\_\_\_  
Date

SCHEDULE  
LIST OF MANAGED ACCOUNTS COVERED BY AGREEMENT FOR PRIME BROKERAGE  
CLEARANCE SERVICES

Customer Name	Address	Tax ID Number
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APPENDIX

INSTRUCTIONS TO EXECUTING BROKER REGARDING THE MAILING OF  
CONFIRMATIONS

The undersigned customer has entered into an Agreement For Prime Brokerage Clearance Services (the "Agreement") with Executing Broker ("EB") which provides, among other things, that EB shall issue a confirmation for each transaction it executes on behalf of the undersigned, unless the undersigned directs EB, in writing, to send confirmations to the undersigned in care of the undersigned's prime broker.

The undersigned hereby requests that EB, to send confirmations to the undersigned in care of the undersigned's prime broker. This instrument shall not be deemed to be either incorporated in or made a part of the Agreement.

The undersigned acknowledges that if its account is managed on a discretionary basis by an investment advisor or money manager, each confirmation may cover a single bulk trade representing transactions that have been commingled with those of other accounts of the undersigned's advisor.

By accepting these instructions, EB hereby acknowledges that this instrument is not a condition for entering into the Agreement or the prime brokerage arrangement. EB further agrees that it shall not charge differential fees based on whether an instruction such as this is provided nor shall EB otherwise create incentives for the undersigned to execute this instrument.

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Account Number

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Social Security Number or  
Tax Identification Number

\_\_\_\_\_  
Signature