F**lorida Prepaid College Board**

**Trustee Services Contract**

This Trustee Services Contract (the "Contract"), is entered into this \_\_\_ day of \_\_\_\_\_, 2021, by and between the FLORIDA PREPAID COLLEGE BOARD ("the Board"), an agency of the State of Florida, and \_\_\_\_\_\_\_\_\_\_, (the "Trustee"), a bank under the laws of the State of \_\_\_\_\_\_.

**PART I**

 **TRUSTEE SERVICES**

1. **REPRESENTATIONS AND WARRANTIES.** The Trustee covenants and warrants that:
2. It is a bank duly organized, validly existing, and in good standing under the laws of the State of \_\_\_\_\_ and has the power and authority to carry on its business as now being conducted and has the power and authority to execute, deliver, and perform this Contract; and
3. It is duly qualified and in good standing in such other states of the United States, as well as in such foreign countries or political subdivisions thereof, as is necessary to execute, deliver, and perform this Contract; and
4. It has taken all actions necessary to authorize the execution, delivery, and performance of this Contract, and this Contract is a valid and binding obligation of the Trustee enforceable against it in accordance with its terms except as may be limited by federal and state laws affecting the rights of creditors generally and except as may be limited by legal or equitable remedies; and
5. It has made, obtained, and performed all other registrations, filings, approvals, authorizations, consents, licenses, or examinations required by any government or governmental authority, domestic or foreign, or required by any other person, corporation or other entity in order to execute, deliver, and perform this Contract; and
6. To best of the Trustee’s knowledge, neither the execution, delivery, nor performance of this Contract by the Trustee will violate any law, statute, order, rule, or regulation of, or judgment, order or decree by, any federal, state, local, or foreign court or governmental authority, domestic or foreign, to which the Trustee is subject nor will the same constitute a breach of, or default under, provisions of any agreement or contract to which it is party or by which it is bound.
7. It is lawfully organized and constituted under all federal, state and local laws, ordinances and other authorities of its domicile and is otherwise in full compliance with all legal requirements of its domicile.
8. It is possessed in the legal authority and capacity to enter into and perform this Contract.
9. It has been duly authorized to operate and do business in all places where it will be required to conduct business under this Contract; that it has obtained, at no cost to the State of Florida, all necessary licenses and permits required in connection with this Contract; and that it will fully comply with all laws, decrees, labor standards and regulations of its domicile and wherever performance occurs during the performance of this Contract.
10. It has no present interest nor will acquire any interest which would conflict in any manner with the Trustee’s duties and obligations under this Contract.
11. **SCOPE OF SERVICES.** Pursuant to s. 1009.971(5)(c) and (d), Florida Statutes, the Trustee shall provide the Board the following services for the Prepaid Plan and the 529 Savings Plan:
12. Custody services of all cash, securities, and other certificates evidencing investments in US and Non-US Markets, including, but not limited to:
	1. Hold securitiesin a manner that demonstrates the Board’s ownership
	2. Account for securities and cash
	3. Report security balances and details of transactions
	4. Performance and risk analytics
	5. Accurate and timely trade settlement and income collection
	6. Corporate actions processing support, including the processing of the directions from the Board or an Investment Manager with respect to bankruptcy matters involving a vote or other discretionary action
	7. International tax reclamation services
	8. Class action proof of claim filing services and filing
	9. Maintain cash and other property held in the Florida Prepaid College Trust Fund which are transferred to or otherwise delivered to the Trustee for deposit under this Contract.
13. Management of securities lending for the Prepaid Plan’s securities held hereunder in the Board’s portfolio in accordance with the Securities Lending Guidelines, as amended from time to time by the Board. Securities lending management includes, but is not limited to:
	1. Accept cash and non-cash collateral
	2. Reinvest cash collateral utilizing a low risk money market type investment strategy
	3. Provide indemnification specific to operational risk and borrower default (Respondent can propose additional levels of indemnification beyond operational risk and borrower default, including collateral reinvestment risk)
	4. Provide Reporting relating to the securities lending program:
	5. Daily loan information such as security level loans outstanding, shares on loan, days out on loan, term and open trades, borrowers for each block of securities lent, collateralization levels, rebates, fees, and earnings
	6. Cash collateral reinvestment information such as holdings, credit risk, and liquidity risk
	7. Other daily, weekly and monthly reporting requirements as determined by the Board at the security and aggregate levels
14. Savings Program processing, including:
	1. Calculate a daily Net Asset Value (NAV) for each investment option and send a NAV file to the Board’s Record Keeper (typically by 9:00 P.M.)
	2. Receive a trade file from the Board’s Record Keeper for same day trading of the investment options (typically by 12:00 A.M.) based on that day’s activity and NAV
	3. Receive cash settlement for daily purchases via next business day wire into a single clearing account for the Board held with the Respondent
	4. Transfer appropriate purchase amounts from the single clearing account to the investment options/underlying funds
	5. For daily sales, liquidate from the appropriate investment options/underlying funds and transfer to the Board’s disbursement account held with the Board’s third party bank.
15. A continuing process of improvement and ongoing evaluation of trustee and securities lending services, including the provision of recommendations to the Board.
16. Establish and maintain procedures for adequate and timely communication and interaction with the Board, Board staff, Investment Consultant, Investment Managers for the Prepaid Plan and 529 Savings Plan, and the Board’s Records Administrator.
17. Presentation of reports to the Board, as needed, to review trustee services and securities lending performance, and to prepare written monthly, quarterly and fiscal year-end reports in a format as required by the Board. The dates contained in the reports must be based on the trade date. Monthly reports shall be provided not later than 12 days after the last day of the month which is the subject of the report; quarterly reports shall be provided not later than 30 days after the last day of the quarter which is the subject of the report. Monthly and quarterly reports regarding custody holdings will provide investment manager and benchmark returns, utilizing calculation methodologies reasonably reviewed by the Board’s investment consultant and approved by the Board. The Trustee shall make available to the Board’s appointed consultant any information necessary for the conduct of its responsibilities to the Board including final asset and transaction statements within two weeks of month end.
18. Any information and descriptive statements concerning the trustee and securities lending services provided under this Contract as may be periodically required by the Board for inclusion in any prospectus or disclosure booklet for the 529 Savings Plan or other documentation for the Prepaid Plan. The Board may specify the requirements for such information or descriptive statements and the times when such information or statements must be submitted to the Board. Any such information and descriptive statements are subject to the prior written approval of the Board and the Board may require changes to such information or descriptive statements. The Board will work cooperatively with the Trustee to ensure that information and statements included in any prospectus or disclosure statement for the 529 Savings Plan are accurate in all material respects and are not misleading.
19. Prepaid and Savings Program investment compliance monitoring (including securities lending) to the applicable Comprehensive Investment Plans and Investment Guidelines requirements, as amended from time to time. Provide compliance exception reports to the Board daily, and as needed.
20. Support for existing and new GASB reporting requirements on a standard and reasonable customized basis.
21. All services provided under this Contract related to the 529 Savings Plan shall be provided in accordance with the ITN. All provisions of the ITN, the Questions and Answers regarding the ITN, and the Trustee’s Proposal submitted in response to the ITN are incorporated by reference and attached to this Contract as Restated Composite Exhibit “A”. In the event of any conflict, in the opinion of the Board, between any provision of this Contract and the ITN, the Questions and Answers regarding the ITN or the Trustee’s proposal, this Contract shall govern the conduct of the Board and the Trustee. In the event of any conflict, in the opinion of the Board, between the ITN and the Trustee’s Proposal, the ITN shall govern the conduct of the Board and the Trustee. In the event of any conflict, in the opinion of the Board, between the ITN and the Questions and Answers regarding the ITN, the Questions and Answers regarding the ITN shall govern the conduct of the Board and the Trustee. In the event of any conflict, in the opinion of the Board, between the Questions and Answers regarding the ITN and the Trustee’s proposal, the Questions and Answers regarding the ITN shall govern the conduct of the Board and the Trustee.
22. All services provided under this Contract related to the Prepaid Plan shall be provided in accordance with the ITN. All provisions of the ITN, the Questions and Answers regarding the ITN, and the Trustee’s Proposal submitted in response to the ITN are incorporated by reference and attached to this Contract as Restated Composite Exhibit “A”. In the event of any conflict in the opinion of the Board, between any provision of this Contract and the ITN, the Questions and Answers regarding the ITN or the Trustee’s Proposal, this Contract shall govern the conduct of the Board and the Trustee. In the event of any conflict, in the opinion of the Board, between the ITN and the Trustee’s Proposal, the ITN shall govern the conduct of the Board and the Trustee. In the event of any conflict in the opinion of the Board, between the ITN and the Questions and Answers regarding the ITN, the Questions and Answers regarding the ITN shall govern the conduct of the Board and the Trustee. In the event of any conflict, in the opinion of the Board, between Questions and Answers regarding the ITN and the Trustee’s Proposal, the Questions and Answers regarding the ITN shall govern the conduct of the Board and the Trustee.
23. The Board shall identify to the Trustee those separate accounts, securities and other property of the Fund which are attributable to the Prepaid Plan and those which are attributable to the 529 Savings Plan.
24. **APPOINTMENT OF TRUSTEE.** The Board appoints the Trustee as the trustee of the assets of the Prepaid Plan and the 529 Savings Plan (the “Fund”). All property delivered to the Trustee, its agents or its subcustodians shall be held and dealt with as hereinafter provided. The Trustee shall not be responsible for any property of the Fund which is not delivered to the Trustee, its agents or its subcustodians prior to the Trustee assuming its duties to pay for and deliver securities. The Trustee shall not be responsible for the acts or omissions of any prior custodian with regard to the title, validity or genuineness, including good deliverable form, of any property or evidence of title thereto received by it or delivered by it pursuant to this Contract.
25. **DUTIES OF TRUSTEE.**

 4.1 Holding Securities. The Trustee shall hold, or direct its agents or its subcustodians to hold, for the account of the Fund all securities and other noncash property other than securities which are held by the Trustee, its agents or subcustodians in the Federal Reserve book-entry system, in a clearing agency which acts as a securities depository or in another book-entry system for the central handling of securities collectively referred to as herein as, “Securities System”. The Trustee acknowledges that it shall maintain its books and records so as to demonstrate the Board’s ownership of properties and securities however held.

 4.2 Delivery of Securities. The Trustee shall release and deliver, or direct its agents or its subcustodians to release, securities of the Fund held by the Trustee, its agents or its subcustodians or in a Securities System account of the Trustee, its agents or its subcustodians only upon receipt of Proper Instructions, which may be standing instructions, in the following cases:

(a) Upon sale of such securities for the Fund, unless otherwise directed by Proper Instructions: (i) in accordance with the customary or established practices and procedures in the jurisdiction or market where the transactions occur, including, without limitation, delivery to the purchaser thereof or to a dealer therefor (or an agent of such purchaser or dealer) against expectation of receiving later payment; or (ii) in the case of a sale effected through a Securities System, in accordance with the rules governing the operations of the Securities System;

(b) Upon the receipt of payment in connection with any repurchase agreement related to such securities;

(c) To the depository agent in connection with tender or other similar offers for securities;

(d) To the issuer thereof or its agents when such securities are called, redeemed, retired or otherwise become payable; provided that, unless otherwise directed by Proper Instructions, the cash or other consideration is to be delivered to the Trustee, its agents or subcustodians;

(e) To the issuer thereof, or its agent, for transfer into the name of the Trustee or of any nominee of the Trustee or into the name of any of its agents or subcustodians or their nominees or for exchange for a different number of bonds, certificates or other evidence representing the same aggregate face amount or number of units;

(f) To brokers, clearing banks or other clearing agents for examination in accordance with “street delivery” custom;

(g) For exchange or conversion to any plan or merger, consolidation, recapitalization, reorganization or readjustment of the securities of the issuer of such securities, or pursuant to provision for conversion contained in such securities or pursuant to any deposit agreement; provided that, unless otherwise directed by Proper Instructions, the new securities and cash, if any, are to be delivered to the Trustee, its agents or its subcustodians;

(h) In the case of warrants, rights or similar securities, the surrender thereof in

the exercise of such warrants, rights or similar securities or the surrender of interim receipts or temporary securities; provided that, unless otherwise directed by Proper Instructions, the new securities and cash, if any, are to be delivered to the Trustee, its agents or its subcontractors;

(i) For delivery as security in connection with any borrowings by the Board requiring a pledge of assets by the Fund;

(j) In connection with trading in options and futures contracts, including delivery as original margin and variation margin;

(k) In connection with securities lending by the Fund; and

(l) For any other purpose, but only upon receipt of Proper Instructions specifying the securities to be delivered and naming their person or persons to whom delivery of such securities shall be made.

 4.3 Registration of Securities. Securities held by the Trustee, its agents or its subcustodians (other than bearer securities or securities held in a Securities System) shall be registered in the name of the Trustee or in the name of any nominee of the Trustee or in the name of any of its agents or its subcustodians or of their nominees. The Trustee, its agents and its subcustodians shall not be obligated to accept securities on behalf of the Fund under the terms of this Contract unless such securities are in “street name” or other good delivery form.

 4.4 Bank Accounts. The Trustee, its agents or its subcustodians may open and maintain a separate bank account or accounts in the name of the Trustee or otherwise, in such banks or trust companies (including any bank owned by the Trustee) as they may, in their discretion, deem advisable, subject only to draft or order by the Trustee, its agents or its subcustodians acting pursuant to the terms of this Contract, and shall hold in such account or accounts, subject to the provisions hereof, cash received by or from or for the account of the Fund. Such funds shall be deposited by the Trustee, its agents or its subcustodians in their capacity as the Trustee, agent or subcustodian and, except as otherwise provided under this Contract, shall be withdrawable by the Trustee, its agents or its subcustodians only in that capacity.

* 1. Crediting of Income and Advancement of Funds.
1. The Trustee, its agents or subcustodians shall collect all income and other payments with respect to the securities held hereunder to which the Fund shall be entitled and shall credit such income to the Fund’s account as follows:

(i) Instruments held in the Federal Book-entry System shall be credited on “Payment Date” (which term shall mean herein the official date scheduled by an issuer as the day on which it incurs an obligation to tender payment.)

(ii) Securities held at DTC shall be credited at Payment Date.

(iii) With respect to securities settlement, the Trustee shall pay for securities purchased, in accordance with Section 4.6, and to deliver, in accordance with Section 4.2, securities sold, by the Board or an Investment Manager.

The Fund shall receive interest credit on the investment of settlement funds due to Buy-fails pursuant to Section 4.5 (b).

(b ) Uninvested cash balances in each Investment Manager's and other Board accounts will be swept at the close of each business day into the \_\_\_\_\_\_\_\_\_\_, a proprietary family of mutual funds for which the Trustee serves as investment advisor, custodian and transfer agent, or such other account or fund as the Board may from time to time designate in writing, using a mutually agreed upon form. Income from such investments shall be credited to the account which the funds were swept, unless otherwise directed by the Board.

(c) The Trustee is authorized, but shall not be obligated, to advance its own funds to complete transactions in cases where adequate funds may not otherwise be available to the applicable Investment Manager account. The Trustee’s reporting shall reflect when moneys have been advanced by the Trustee. The Board acknowledges that the Trustee shall be entitled to recover on demand such advanced funds, plus the lowest assessed charge by the Trustee for similar advances to other clients applicable from time to time, incurred in connection with such advancement of funds.

 4.6 Payment of Fund Moneys. Upon receipt of Proper Instructions, which may be standing instructions, the Trustee shall pay out, or direct its agents or its subcustodians to pay out, moneys of the Fund in the following cases:

(a) Upon the purchase of securities for the Fund, unless directed by Proper Instructions, in accordance with the customary or established practices and procedures in the jurisdiction or market where the transactions occur, including, without limitation, delivering money to the seller thereof or to a dealer therefor (or an agent for such seller or dealer) against expectation of receiving later delivery of such securities; or (ii) in the case of a purchase effected through a Securities System, in accordance with the rules governing the operation of such Securities System;

 (b) In connection with conversion, exchange or surrender of securities of the Fund as set forth in Section 4.2 hereof;

(c) For the payment of any expense or liability of the Fund; and

(d) For any other purpose, but only upon receipt of Proper Instructions specifying the amount of such payment and naming the person or persons to whom such payment is to be made.

4.7 Communications Relating to Fund Securities. The Trustee shall transmit promptly to the Board or Investment Managers written information (including, without limitation, pendency of calls and maturities of securities and expirations of rights in connection therewith) received by the Trustee from its agents or its subcustodians or from issuers of the securities being held for the Fund. With respect to tender or exchange offers, the Trustee shall transmit promptly to the Board or Investment Managers written information received by the Trustee from its agents or its subcustodians or from issuers of the securities whose tender or exchange is sought and from the party (or his agents) making the tender or exchange offer. The Trustee shall not be liable for any untimely exercise of any tender, exchange or other right or power in connection with securities or other property, of the Fund at any time held by it unless (i) it or its agents or subcustodians are in actual possession of such securities or property and (ii) it receives Proper Instructionswith regard to the exercise of any such right or power and both (i) and (ii) occur at least three (3) business days prior to the date on which such right or power is to be exercised.

With respect to class action filings, the Trustee shall take all actions necessary to file the required proof of claim on behalf of the Board for securities it holds in its custody while it serves as the Trustee unless instructed to the contrary by the Board in writing prior to filing date and to provide the Board a quarterly report of such current class actions listing securities, the Board's holdings of the involved securities, including relevant filing dates and dates and amounts of any settlements received. When directed, the Trustee shall also submit a proof of claim on behalf of the Board for class action participation based on the Board's holding period of securities prior to the date of this Contract provided that the Trustee has been supplied with (i) documents of record ownership sufficient for the Trustee to file and (ii) timely notice of entitlement.

4.8 Proper Instructions. The term "Proper Instructions" shall mean instructions received by the Trustee from the Board, an Investment Manager, or any person duly authorized by either of them. Such instructions may be communicated: (i) in writing signed by the authorized person or (ii) in a tested communication or in a communication utilizing access codes effected between electro‑mechanical or electronic devices or (iii) by facsimile as provided pursuant to the provisions of Section 33 or (iv) by such other means as may be agreed to in writing by the Trustee and the Board. The Board shall cause its duly authorized officer, or the duly authorized officer of any Investment Manager, to certify to the Trustee in writing the names and specimen signatures of persons authorized to give Proper Instructions. The Trustee shall be entitled to rely upon the identity and authority of such persons until it receives notice from the Board or an Investment Manager to the contrary.

 4.9 Actions Permitted Without Express Authority. The Trustee may without express authority from the Board or the Investment Manager:

(a) make payments to itself for its compensation for its duties under this Contract, provided that all such payments shall be accounted for to the Board;

(b) surrender securities in temporary form for securities in definitive form;

 (c) endorse for collection checks, drafts, and other negotiable instruments; and

(d) in general attend to all nondiscretionary details in connection with the sale, exchange, substitution, purchase, transfer and other dealings with the securities and property of the Fund.

4.10 Evidence of Authority. The Trustee shall be protected in acting upon any instructions, notice, request, consent, certificate, instrument or paper reasonably believed by it to be genuine and to have been properly executed or otherwise given by or on behalf of the Board or an Investment Manager. The Trustee may receive and accept certificates from the Board (form of incumbancy certificate attached hereto as Exhibit “B”) or an Investment Manager as conclusive evidence (i) of the authority of any person to act in accordance with such certificate or (ii) of any determination or of any action by the Board or the Investment Manager as described in such certificate, and such certificate may be considered as in full force and effect until receipt by the Trustee of written notice to the contrary.

4.11 Appointment and Termination of Appointment of Investment Managers. The Board at any time may appoint one or more Investment Managers to manage the investment of all or any portion of the Fund. In such event, the Board shall notify the Trustee in writing, using a mutually agreed upon form, of the appointment of such Investment Managers. The Board similarly shall notify the Trustee of the termination of the appointment of any Investment Manager in writing, using a mutually agreed upon form.

4.12 Securities Lending. The Trustee shall maintain custody of all securities in the Fund in accordance with this Contract, and the Board may authorize the Trustee to lend such securities held hereunder consistent with the Board’s Comprehensive Investment Plan and Investment Guidelines incorporated be reference to this Contract as Exhibit “C” and pursuant to the Securities Lending Authorization Agreement which is incorporated by reference and is attached to this Contract as Exhibit “D”. Pursuant to such Securities Lending Authorization Agreement, the Trustee and in accord with the Comprehensive Investment Plan, shall manage and be responsible for all aspects of the lending of the securities of the Fund held hereunder (including matters pertaining to collateral) in accordance with the Comprehensive Investment Plan. The Board shall promptly notify the Trustee in writing of any changes in the Comprehensive Investment Plan. The Trustee shall lend the securities of the Fund held hereunder in accordance with the Comprehensive Investment Plan and pursuant to the Securities Lending Authorization Agreement and the terms of this Contract. In the event of any conflict, in the opinion of the Board, between the terms of the Securities Lending Authorization Agreement and the provisions of this Contract, the provisions of the Securities Lending Authorization Agreement as mutually agreed by Trustee and Board, shall govern the conduct of the parties only with respect to securities lending services.

4.13 Foreign Exchange.The Board or any Investment Manager may, in its discretion, engage \_\_\_\_\_\_\_\_\_\_\_\_, or its affiliate (“\_\_\_\_\_\_\_”), to execute foreign exchange transactions for an Investment Manager account or other applicable account. The Board accepts that \_\_\_\_\_\_ may act as principal in such transactions or as agent for the counterparty as well as for the Fund. When \_\_\_\_\_\_\_\_ acts as agent, \_\_\_\_\_\_\_ may levy charges for such service as disclosed in writing from time to time. When \_\_\_\_\_ acts as principal, \_\_\_\_\_\_\_ will provide such service at rates established in its discretion having regard to rates available in the foreign exchange market on the global trading day, and may retain any profit derived from such service. If the Trustee determines that the assets of the applicable Investment Manager account or other applicable account are insufficient to provide adequate coverage in connection with any outstanding foreign exchange transactions executed on behalf of the Fund, the Board or the Fund will, upon the Trustee’s request, cause to be transferred to or deliver to the applicable account immediately available funds or other assets acceptable to the Trustee in such amounts as the Trustee deems necessary to provide such coverage.

 4.14 Global Services. In connection with the Trustee’s global custody service, the Board may maintain cash deposits of a global separate account at the Trustee’s \_\_\_\_\_\_\_ Branch. The Board acknowledges and agrees that such cash deposits are payable only in the currency in which an applicable deposit is denominated, that such deposits are payable only on the Board’s demand at the Trustee’s \_\_\_\_\_\_ Branch, that such deposits are not payable at any of the Trustee’s offices in the United States, and that the Trustee does not promise or guarantee in any manner any such payment in the United States.

 The Board further acknowledges and agrees that such deposits are subject to cross-border risk, and therefore the Trustee will have no obligation to make payment of deposits if and to the extent that it is prevented from doing so by reason of applicable law or regulation or any Sovereign Risk event affecting the \_\_\_\_\_\_\_ Branch or the currency in which the applicable deposit is denominated. “Sovereign Risk” for this purpose means nationalization, expropriation, devaluation, revaluation, confiscation, seizure, cancellation, destruction or similar action by any governmental authority, de facto or de jure; or enactment, promulgation, imposition or enforcement by any such governmental authority of currency restrictions, exchange controls, taxes, levies or other charges affecting the property rights of persons who are not residents of the affected jurisdiction; or acts of war, terrorism, insurrection or revolution; or any other act or event beyond the Trustee’s control.

 THE BOARD ACKNOWLEDGES AND AGREES THAT DEPOSIT ACCOUNTS MAINTAINED AT FOREIGN BRANCHES OF UNITED STATES BANKS (INCLUDING, IF APPLICABLE, ACCOUNTS IN WHICH CUSTOMER FUNDS FOR THE PURCHASE OF SECURITIES ARE HELD ON AND AFTER CONTRACTUAL SETTLEMENT DATE), ARE NOT INSURED BY THE U.S. FEDERAL DEPOSIT INSURANCE CORPORATION; MAY NOT BE GUARANTEED BY ANY LOCAL OR FOREIGN GOVERNMENTAL AUTHORITY; ARE UNSECURED; AND IN A LIQUIDATION MAY BE SUBORDINATED IN PRIORITY OF PAYMENT TO DOMESTIC (U.S. - DOMICILED) DEPOSITS. THEREFORE, BENEFICIAL OWNERS OF SUCH FOREIGN BRANCH DEPOSITS MAY BE UNSECURED CREDITORS OF THE \_\_\_\_\_\_\_\_\_\_. Deposit account balances that are owned by United States residents are expected to be maintained in an aggregate amount of at least $100,000 or the equivalent in other currencies.

 4.15 Foreign Tax Services. With respect to Investment Manager accounts or other accounts that hold non-U.S. assets, the Board authorizes the Trustee to pay or withhold any income or other taxes required to be withheld on investments or transactions of the Fund and the Trustee shall use reasonable efforts to file for and obtain refunds of any taxes withheld to which the Fund may be entitled under applicable tax treaties, laws and regulations. The Board agrees that in order for the Trustee to make such efforts, the Board shall provide the Trustee with any documentation and information it may reasonably require to perform its duties under this paragraph, and the Trustee may rely upon such documentation and information without further inquiry.

4.16 Foreign Subcustodians. The Trustee shall appoint as its agent one or more foreign custodians to hold the assets of any Investment Manager account or other account established by the Board for investment in non-U.S. assets.

1. **FIDUCIARY DUTIES.** The Trustee acknowledges that it is a fiduciary under this Contract with regard to any asset investment authority as set forth herein. As a fiduciary, the Trustee shall discharge each of its duties and exercise each of its powers with the care, skill, prudence and diligence under the circumstances that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of any enterprise of like character with like aims. The Trustee shall be held to the exercise of reasonable care in carrying out the provisions of this Contract but shall be without liability to the Fund or the Board for any loss resulting from or caused by: (i) events or circumstances beyond its reasonable control including nationalization, expropriation, currency restrictions, act of war or terrorism, riot, revolution, acts of God or other similarevents or acts; (ii) error or omissions by the Board or any Investment Manager in its instructions to the Trustee pursuant to which the Trusteetook actions in good faith and without gross negligence; or (iii) acts or omissions by a Securities System.

1. **COVENANTS.** The Trustee hereby agrees that it will promptly notify the Board (i) if it fails to comply with or will for any reason be unable to comply with any term, condition or provision of this Contract; (ii) of any material change in the Trustee's officers, directors, or employees directly involved with the Board’s portfolio or any other material adverse change in the Trustee's condition, financial or otherwise, or in its business, corporate organization, or any such change which is or might be materially adverse to the Trustee or the Account; and (iii) following the occurrence of any happening or event which would cause any representation or warranty of the Trustee in Paragraph 1 hereof, to be no longer true and correct in any material respects (assuming solely for the purpose of this covenant of notification that all such representations and warranties are deemed to be reiterated and brought down during each successive day during this Contract) provided that nothing in the preceding sentence will detract from or modify any representation or warranty made by the Trustee in Paragraph 1 hereof.
2. **CONSIDERATION.** The compensation to be received by the Trustee shall be:
	1. Determined monthly by multiplying the “Percentage of Securities Lending Revenue to be Received by the Trustee” for the appropriate time period for when the securities lending services were provided, as reflected on Schedule C - Pricing, in Exhibit “D,” by the sum of all revenues received by the Trustee resulting from the lending of securities included in the Board’s portfolio during that month. The calculation shall be performed each month during the term of the Contract resulting from the ITN. The Trustee shall absorb all fees and charges relating to securities lending, or any other costs, with the exception of rebates. All revenues from lending of securities that belong to the Board which are received by the Trustee each month, less the percentage of such revenues to which the Trustee shall be entitled as a fee (the “Percentage of Securities Lending Revenues to be Received by the Trustee” on the pricing schedule on Pricing Schedule C in Exhibit “D”), shall be paid by the Trustee to the Board, in the manner directed by the Board, not later than fifteen days following the end of the month in which such revenues were earned.
	2. The Trustee shall not be allowed any other fee for the services rendered to the Board under this Contract.
3. **ASSIGNMENT.** Except by operation of law in connection with a merger, acquisition or similar event affecting the Trustee, this Contract is not assignable except with the prior written approval of the Board. In the event of any assignment approved by the Board, the Trustee does not remain secondarily liable for performance of the contract. The Board may assign the Contract with prior written notice to Trustee of its intent to do so.
4. **TERM.**

* 1. The term of this Contract shall be for an initial period of five (5) years beginning \_\_\_\_\_\_, 2021, and continuing through \_\_\_\_\_\_\_, 2026. The Board reserves the right, in its sole discretion, to renew this Contract for five (5) additional one (1) year periods under the terms and conditions set forth in this Contract, or under such other terms and conditions as the parties may mutually agree upon. Renewal shall be contingent upon, among other things, availability of funds, continued need, and satisfactory performance by the Trustee.
	2. No provision for the automatic renewal or extension of this Contract is effective. Any renewal or extension shall be in writing and executed by both parties to this Contract.
	3. This Contract will be subject to termination pursuant to Paragraph 24.
1. **INSURANCE.** The Trustee has in effect and will maintain;
2. Insurance coverage sufficient in amount to meet the bonding requirements of Section 412 of ERISA. The Trustee will maintain such insurance coverage as required by said section (as the same may from time to time be supplemented or amended), notwithstanding the fact that the terms and provisions of ERISA may not be applicable to this Contract.
3. Minimum blanket bond coverage of not less than $75,000,000.00.

1. Fiduciary liability insurance in an amount not less than $25,000,000.00 which provides coverage with respect to any loss resulting from a breach of its fiduciary duties and including coverage in the event of recourse against it by, or on behalf of the Board.

Upon request of the Board, the Trustee shall provide to the Board evidence that the premium therefor has been paid.

1. **INDEPENDENT CONTRACTOR.**
	1. The Board and the Trustee represent that they are acting in their individual capacities and not as agents, employees, partners, or associates of one another.
	2. The Trustee will establish and assume direct responsibility for acting as the trustee and for the management of securities lending for the Board’s program assets. Accordingly, the Trustee shall designate a Contract Manager whose primary responsibility is to work with the Board staff in making certain that all Contract terms are strictly observed. At any time during the term of the Contract, the Board reserves the right to reject the Trustee’s choice of Contract Manager and may terminate the Contract if a Contract Manager acceptable to the Board cannot be made available by the Trustee.
2. **PERSONNEL.**  The Board may require the replacement of any personnel of the Trustee believed to be unable to carry out the responsibilities of the Contract at any time. The Trustee warrants that personnel assigned to perform tasks under the Contract will not be replaced or reassigned except as is reasonably necessary.
3. **AVAILABILITY OF FUNDS.**  Performance by the Board under this Contract will be subject to and contingent upon the availability of monies lawfully appropriated to the Board and applicable for the purposes of this Contract.
4. **MODIFICATION OF CONTRACT.** The Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Board and the Trustee. This Contract may be modified or amended upon mutual written agreement, which will not be unreasonably withheld, of the Board and the Trustee as a result of revised forms of consideration arising from the Legislature or Board authorized action affecting the Trustee’s ability to realize its contractually anticipated consideration. Modifications are only valid when reduced to writing and executed by both parties.
5. **SUBCONTRACTORS.** The Trustee may enter into written subcontracts for performance of functions under this Contract. All subcontractors will be subject to the prior written approval of the Board. The Board may disapprove any subcontractor if such disapproval would be in the best interests of the Board. The Board will have the right to inspect and acquire any of the subcontract documents executed between the Trustee and the subcontractor. No subcontract which the Trustee enters into with respect to performance under the Contract will in any way relieve the Trustee of any responsibility for performance of duties stipulated in the Contract. The Board may communicate directly with the subcontractor’s Project Manager regarding the performance of tasks required in this ITN.
6. **PUBLIC ACCESS TO RECORDS and CONFIDENTIALITY.** Section 1009.981(6), Florida Statutes, provides that all information that identifies the benefactors or qualified beneficiaries of any participation agreement and s. 1009.98(6), Florida Statutes, provides that all information that identifies the purchasers or beneficiaries of any advance payment contract, is not subject to the provisions of s. 119.07(1), Florida Statutes, the Public Records Law. All other documents, papers, letters, or other materials relating to this Contract that are made or received by the Trustee in conjunction with the Contract, and which are required by law to be maintained, will be available for public access and for audit purposes for a period of three (3) years after the expiration of the Contract. Said records will also be maintained per Chapter 119 and other applicable Florida Statutes.

The Trustee, in the course of its duties hereunder, will receive and handle investment, financial, accounting, statistical and other information (including information concerning a recipient of services under this Contract) pertaining to the Fund. The Trustee shall consider all such information furnished by the Board or otherwise obtained by the Trustee through its provisions of services hereunder as confidential and shall not disclose such confidential information to third parties except (1) as is required by applicable law, regulation or valid court order, (2) as is required by any regulatory authority to which the Trustee is subject, (3) as authorized by the Board in writing, or (4) as is required of the Trustee in the normal course of its providing services under this Contract

The Trustee agrees not to use or disclose any information concerning a recipient of services under this Contract in violation of state and federal law or regulations.

If the Trustee has access to confidential information in order to fulfill Trustee’s obligations under this Contract,theTrustee agrees to abide by all of its applicable information technology security procedures and policies, including those procedures and policies relating to storage on media. Except to the extent such use is made in accordance with the applicable Trustee’s policies and procedures pertaining to the use of portable media, the Trustee (including its employees, sub-contractors, agents) shall not store, or allow to be stored, any confidential information on any portable storage media (*e.g*., laptops, thumb drives, hard drives, *etc*.) or peripheral device with the capacity to hold information.  The Trustee’s failure to strictly comply with this provision shall constitute a breach of contract.

The Trustee has established and shall maintain policies and procedures (control standards) to address data security breaches in accordance with the standard of care applicable to a prudent, professional provider of custodial services. To the extent required by such policies and procedures or applicable law, the Trustee shall notify the Board in writing of any disclosure of unsecured confidential information pertaining to the Fund or the Board by the Trustee, its employees, agents or representatives which is not in compliance with the terms of the Contract (of which the business team servicing the Fund’s account becomes aware). In addition, to the extent required by its policies and procedures or applicable law, the Trustee also shall report to Board any Security Incidents of which it becomes aware, including those incidents reported to the Trustee by its sub-contractors or agents.   For purposes of this Contract, “Security Incident” means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of Board information in the Trustee’s possession; however, random attempts at access shall not be considered a security incident. In the event a report is provided by the Trustee to the Board, in accordance with the above, the Trustee’s report shall identify, to the extent known by the Trustee and or investigative sources:  (i) the nature of the unauthorized use or disclosure, (ii) the confidential information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what theTrustee has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action the Trustee has taken or shall take to prevent future similar unauthorized use or disclosure.

1. **INDEMNIFICATION.**

1. The Trustee will act as an independent contractor and not as an employee of the Board in the performance of the tasks and duties which are the subject of this Contract. The Trustee shall be liable, and agrees to be liable for, and will indemnify, defend, and hold the Board harmless from all claims, suits, judgments, or damages (including litigation costs and reason able attorney's fees) arising from the Trustee's fraud, negligence or willfull misconduct; or any subcontractor’s fraud, negligence or willfull misconduct, of the tasks and duties which are the subject of this Contract, including, but not limited to:

1. Obtaining consent of any nature whatsoever;

2. Protecting the Board against claims for the unauthorized use of name or likeness of any person, libel, slander, defamation, disparagement, piracy, plagiarism, unfair competition, idea misappropriation, infringement of copyright title, patent, slogan or other property rights and any invasion of the right of privacy.

“Misconduct” shall mean violation of Florida law, Board rules, or directives, state or federal securities laws and regulations implementing same or the Board’s Comprehensive Investment Plan.

3. Actions arising under Chapter 119, F.S.

1. The Trustee will notify the Board in writing immediately of any claim or suit against the Trustee arising from or related to the Trustee's tasks and duties which are the subject of this Contract. The Trustee shall not settle, compromise, mediate, agree to dismiss, or voluntarily agree to the entry of any judgment, temporary injunction or permanent injunction, in any claim or suit against the Trustee arising from or related to the Trustee's tasks and duties which are the subject of this Contract without the prior written authorization of the Board. Nothing in this Contract authorizes the Trustee to waive the Board's immunity from suit under the Eleventh Amendment to the United States Constitution.
2. **Interpretation, Venue and Dispute Resolution.**

1. The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of Florida.
2. The sole and exclusive manner of resolution of all claims, disputes or controversies related to or arising under or from this Agreement shall be pursuant to Rules 19B-14.001- 003, Florida Administrative Code, as amended from time to time.
3. Any and all litigation arising under this Agreement shall be instituted in accordance with subparagraph B. in Leon County, Florida. All appeals shall be to the First District Court of Appeals of the State of Florida.
4. Any dispute concerning performance of the Contract shall be decided by the Board's designated contract manager, who shall reduce the decision to writing and serve a copy on the Trustee. The decision shall be final and conclusive unless within twenty one (21) days from the date of receipt, the Trustee files with the Board a petition for administrative hearing. The Board’s decision on the petition shall be final, subject to the Trustee’s right to review pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies as noted in B above is an absolute condition precedent to the Trustee's ability to pursue any other form of dispute resolution.
5. **WAIVER.** Failure of either party to this Contract to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Contract will not be construed as a waiver of the violation or breach, or of any future violation or breach.
6. **GENERAL CONDITIONS.**
7. The Board may cancel this Contract if the Trustee refuses to allow public access to any documents, papers, letters, or other materials subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Trustee in conjunction with the Contract.
8. The Board will operate the Prepaid Plan and the 529 Savings Plan in compliance with the requirements of s. 529 of the Internal Revenue Code and the federal securities laws.
9. Notwithstanding "prior approval" requirements which may be reserved to the Board under this Contract and Part IV, Chapter 1009, Florida Statutes, or any successor statute, such requirement does not relieve or mitigate the Trustee’s ultimate responsibility for ensuring and guaranteeing the quality and timeliness of work and services to be provided under this Contract. The Trustee is solely responsible for performing the services specified herein to the satisfaction of the Board.
10. The Board reserves the right, in its own best interests, to unilaterally modify, reject, cancel or stop any and all plans, schedules or work in progress.
11. The Trustee shall not initiate any communication with any member of the Board, on any matter related to this Contract or related to the duties of the Board under Part IV, Chapter 1009, F.S., or any successor statute, or which in any way relate to the Trustee’s activities. Except at publicly noticed meetings of the Board or any of its committees, all communication by the Trustee directed to the Board, or any member of the Board, shall only be sent to the Executive Director of the Board who will forward same to the Board or to the appropriate member. If the Trustee receives any communication from any member of the Board, the Trustee shall notify the Executive Director of the Board immediately, and shall take no further action on any matter related to this Contract or any other matter related to the duties of the Board under Part IV, Chapter 1009, F.S., or any successor statute, until advised by the Executive Director.
12. Throughout the term of the Agreement, the Trustee shall comply with all applicable federal, state and local laws, regulations, rules or ordinances, as amended from time to time, including, but not limited to, s. 529 of the Internal Revenue Code, any federal regulations relating to qualified state tuition programs, applicable Florida laws, including without limitation Part IV, Chapter 1009, Florida Statutes, all administrative rules adopted by the Board, and the securities laws of the United States and the State of Florida. Iif during the course of the Agreement these laws, regulations, rules or ordinances are amended, the Trustee shall revise its services as necessary to preserve such compliance at no additional cost to the Board.
13. The Board reserves the right to inspect the Trustee’s facilities at any reasonable time with prior written notice.
14. All references in the Contract to ss. 1009.97, 1009.971, 1009.972, 1009.98, or 1009.983, Florida Statutes, includes all successor statutes thereto.
15. **OWNERSHIP OF MATERIALS.** The Board owns all materials developed and produced for the Board as deliverables under this Contract.
16. **APPROVAL OF FIRM’S WORK.** All work produced for distribution by the Trustee under this Contract must be approved in advance in writing by the Board.
17. **AUDIT OF CONTRACT BOOKS, RECORDS AND PROCEDURES.** Subject to the Trustee’s obligations of confidentiality with respect to all of its clients, the Board may audit all of the Trustee’s and subcontractor procedures, and financial and accounting records pertaining to the assets of the Fund held by the Trustee for perfomrance of this Contract using Board employees, its designees or other state agencies as provided by state or federal law.

Subject to the Trustee’s obligations of confidentiality with respect to all of the Trustee’s clients, Representatives of Board, the State of Florida, and of the Federal government and their duly authorized representatives shall have access, for purposes of examination to any books, documents, papers, and records, including electronic storage media, of the Trustee as they may relate only to the Trustee’s services for this Contract.

The Trustee shall maintain books, records, and documents in accordance with generally accepted accounting procedures and practices which reflect all expenditures of funds from the assets of the Fund held by the Trustee under this Contract.

The Trustee shall provide to the Board, or make available to the Board through its electronic client communications system, its SSAE16 report at such times as the report is made available to all of the Trustee’s clients, and the Trustee shall provide any additional auditing or financial reports which may replace or supplant the SSAE16 report; further, the Trustee shall provide such other auditing or financial reports which custodial service organizations may be required by applicable law or regulation to make available to or provide to customers.

In the event the Trustee enters into a written subcontract pursuant to Section 15 above for performance of functions under this Contract, the Trustee shall include the aforementioned audit and record keeping requirements in all such approved subcontracts, provided, however, that, notwithstanding anything contained in this Contract to the contrary, the foreign subcustodians and other service providers engaged by the Trustee to provide services to the Trustee for all of its clients shall not be considered to be “subcontractors” under this Contract, provided, further, however, that the Trustee shall be responsible for the prudent selection of such foreign subcustodians and other service providers and for periodically monitoring such selection to determine that it continues to be prudent within the relavent jurisdiction.

The Trustee shall maintain books and records relating to this Contract and its custodial services provided hereunder, and Trustee shall retain all Trustee books and records including, financial records, supporting documents, statistical records, and any other documents (including those created or maintained on electronic storage media) pertinent to this Contract for a period of five (5) years after termination of this Contract, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings through litigation or otherwise, provided, however, that the Board has notified the Trustee of such audit and need for retaining such books and records; upon such notification, the Trustee’s books and records pertaining to the Contract shall be retained for such reasonable additional period as the Board and the Trustee shall agree upon in good faith. Subject to its obligations of confidentiality with respect to all of its clients, the Trustee will cooperate reasonably with Board to facilitate the duplication and transfer of such records or documents upon request of Board.

Upon completion or termination of the Contract and at the request of Board, the Trustee, subject to its obligations of confidentiality with respect to all of its clients, will cooperate with the Board to facilitate the duplication and transfer of such records or documents during the required retention period.

1. **TERMINATION.** The Board may terminate this Contract, or any part of this Contract, without penalty or cost to the Board, at its convenience and such termination will be effective at such reasonable time as is determined by the Board. The Board may also immediately terminate this Contract, without penalty or cost to the Board, by written notice to the Trustee for cause for breach of any provision of the Contract by the Trustee or for the Trustee’s failure to perform to the Board’s satisfaction in any material requirement of the Contract, or for any defaults in performance of the Contract. Alternatively, this Contract may be terminated upon mutual agreement of the Board and the Trustee , no earlier than 12 months from the date of its approval by a convened Board meeting, which mutual agreement will not be unreasonably withheld by the Board.
2. **IMPRUDENT INVESTING**. If moneys in the Florida Prepaid College Trust Fund, for which the Trustee has accepted investment responsibility pursuant to a writing between the Board and the Trustee, fail to offset the Board’s liabilities to qualified beneficiaries of the Prepaid Plan or designated beneficiaries of the 529 Savings Plan as a result of imprudent investing by the Trustee, the Trustee agrees to be liable for the Board’s liability. Investments made by the Trustee in accordance with the accepted Securities Lending Guidelines attached herein as Schedule B of Exhibit D, current and subsequent directions issued by the Board, and the Comprehensive Investment Plan adopted by the Board, will not be considered imprudent.
3. **INSOLVENCY OF THE TRUSTEE.**

1. If the Trustee files for protection or reorganization or a petition for involuntary bankruptcy is filed against the Trustee, under the United State Bankruptcy Code, the Board may determine that it will require certain periodic financial reports and certain operational reports from the Trustee. The Trustee shall supply said reports as requested by the Board.
2. Notwithstanding Paragraph 9, in the event the Trustee files for protection or reorganization or a petition for involuntary bankruptcy is filed against the Trustee, under the United States Bankruptcy Code, during the term of this Contract, the term of the Contract shall automatically convert to a single one-year contract terminating on the next June 30, after the bankruptcy petition is filed. In such event, the Board shall have the option to renew the Contract or any portion of the Contract under the terms and conditions set forth in this Contract or such conditions as may be negotiated between the parties for a number of one-year contract extensions which shall be equal to the number five minus the number of years remaining under the term of the Contract pursuant to Paragraph 9, prior to the filing of the bankruptcy petition. Each such one-year contract renewal shall be contingent upon, among other things, availability of funds, continued need, and satisfactory performance by the Trustee.
3. **STATE HOLIDAYS.** The staff of the Trustee assigned to this Contract shall observe only official state holidays or holidays which the New York Stock Exchange is closed.
4. **SECURITY CODES.** If the Trustee has issued to the Board, or to any Investment Manager, security codes or passwords in order that the Trustee may verify that certain transmissions of information, including Proper Instructions, have been originated by the Board or the Investment Manager, as the case may be, the Trustee shall be without liability to the Fund and the Board for any action taken or omitted by it in reliance upon receipt by the Trustee of transmissions of information with the proper security code or password, including instructions purporting to be Proper Instructions, which the Trustee reasonably believes to be from the Board or an Investment Manager.
5. **ACTION ON TERMINATION.** If a successor trustee shall be appointed by the Board, the Trustee shall, within a reasonable time after termination of this Contract, deliver to such successor trustee securities, funds and other property then held by it hereunder duly endorsed and shall transfer to any account of the successor trustee all of the Fund's securities held in a Securities System. The Trustee shall reasonably cooperate in procedures to be developed to ensure an orderly transfer of assets and records.

If no such successor trustee shall be appointed, the Trustee shall, in like manner, upon receipt of Proper Instructions from the Board, deliver at or transfer to the office of the Board, its agents or its subcustodians or as otherwise agreed, such securities, funds and other property held by the Trustee under this Contract in accordance with such Proper Instructions.

In the event that no written order designating a successor trustee and no Proper Instructions as aforesaid shall have been delivered to the Trustee on or before the date when such termination shall become effective, the Trustee shall have the right to apply to a court of competent jurisdiction for the appointment of a successor trustee meeting the requirement of having an aggregate capital surplus, and undivided profits, as shown by its last published report of not less than $100,000,000, and shall deliver all securities, funds and other property held by the Trustee under this Contract to such bank or trust company so appointed, and such bank or trust company shall be the successor of the Trustee under this Contract.

In the event that securities, funds and other property of the Fund remain in the possession of the Trustee, its agents or its subcustodians under this Contract after the date of termination hereof owing to failure of the Board to appoint a successor custodian or to give the Proper Instructions referred to above, the Trustee shall be entitled to fair compensation for its services during such period as the Trustee retains possession of such securities, funds and other property and the provisions of this Contract relating to the duties and obligations of the Trustee shall remain in full force and effect.

1. **Public Entity Crime.** Pursuant to subsection 287.133(2)(a), F.S., a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Trustee, supplier, subcontractor or consultant under a contract with any public entity and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, F.S., for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.
2. Patents, Copyrights, and Royalties. The State of Florida shall have complete ownership of all material, reports, and data both finished and unfinished, which are prepared by the Trustee as a deliverable pursuant to this Contract, and all such material, reports and data shall be made available to the State of Florida at any time, provided that any intellectual property rights associated with the preparation of such deliverables, including but not limited to, any enhancements to the Trustee’s systems that develop or evolve as result of such preparation, as well as the format and presentation of such deliverables, shall remain the property of the Trustee. All such material, reports and data shall be delivered to the State of Florida upon expiration or termination of this Contract, provided that the Trustee may retain copies of such material, reports and data for its records as is required of it in order to comply with applicable law or regulation or internal policy. The State of Florida, in its sole discretion, shall have the exclusive right to use such material, reports and data without restriction and without compensation to the Trustee other than that specifically provided in this Contract.
3. **Collusion.** The Trustee represents that the Trustee’s Proposal (as defined in Exhibit A hereto) was not made in connection with any competing respondent submitting a separate response to the ITN and is in all respects fair and without collusion or fraud. It is further represented by the Trustee that, with respect to the ITN, the Trustee did not directly or indirectly induce any party to submit a false or sham proposal or to refrain from proposing. In addition, the Trustee represents that it did not participate in the ITN development process, had no knowledge of the specific contents of the ITN prior to its issuance, and that no employee of the State Board of Administration participated directly or indirectly in the Trustee’s proposal preparation.
4. **NOTICES.** All notices, requests, instructions, other advice, or documents required hereunder will be in writing and delivered personally or mailed by first‑class mail, postage prepaid, as follows:

If to the Board: Kevin Thompson

 Executive Director

Florida Prepaid College Board

1801 Hermitage Blvd., Suite 210

Tallahassee, Florida 32308

 Telephone: 850.488.8514

 Facsimile: 850.488.3555

With a copy to: \_\_\_\_\_\_\_\_\_\_\_\_\_

If to the Trustee: \_\_\_\_\_\_\_\_\_\_\_\_\_

With a copy to: \_\_\_\_\_\_\_\_\_\_\_\_\_

1. **BOARD AUTHORITY.** The Board has taken all necessary action to duly authorize the execution, delivery and performance of this Agreement.
2. **SEVERABILITY.** If any provisions of this Agreement are held invalid or unenforceable, such invalidity or unenforceability will not affect any other provisions, and this Agreement will be construed and enforced as if such provisions had not been included.
3. **TITLES**. All titles, headings or captions respecting the sections or paragraphs of this Agreement are for convenience of reference only, and will not be construed as a part or limitation of those provisions to which they refer.

 FLORIDA PREPAID COLLEGE BOARD

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Kevin Thompson, Executive Director,

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness

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

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Corporate Seal)

Attested to by:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness

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

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attested to by: (Corporate Seal)

**EXHIBIT A**

COMPOSITE EXHIBIT

**Invitation to Negotiates # 20-05**

**Written Questions and Answers on the ITN**

**Trustee’s Proposal**

To the Trustee Services Contract (the “Contract”) between the FLORIDA PREPAID COLLEGE BOARD ("the Board") and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_., (the "Trustee"), a bank organized under the laws of the State of \_\_\_\_\_\_\_\_\_\_\_, dated the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_, 2021.

 Exhibit “A” of this Contract includes the Invitation to Negotiate for the Trustee and Securities Lending Services for the Stanley G. Tate Florida Prepaid College Program and the Florida College 529 Savings Plan, ITN #20-05, dated XX/XX/2020, the Written Questions and Answers regarding ITN #20-05 (the “ITN”), and the Proposal submitted by \_\_\_\_\_\_\_\_\_\_\_, (the “Trustee’s Proposal"), a copy of each is attached and incorporated by reference into this Contract.

 EXHIBIT B

To the Trustee Services Contract (the “Contract”) between the FLORIDA PREPAID COLLEGE BOARD ("the Board") and \_\_\_\_\_\_\_\_\_\_\_\_\_, (the Trustee""), a bank organized under the laws of the State of \_\_\_\_\_\_, dated the \_\_\_\_ day of \_\_\_\_\_\_\_\_, 2021.

INCUMBENCY CERTIFICATE

The FLORIDA PREPAID COLLEGE BOARD (the “Board”) hereby certifies that the persons whose names appear below are authorized to act on behalf of the Board, including the authorization to give Proper Instructions with respect to the Trustee Services Contract between the Board and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (the “Trustee”) dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ . The Board further certifies that the true signature of each such person is set forth below opposite his name, and that Trustee may rely upon this certificate until such time as it receives another certificate bearing a later date.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NAME SIGNATURE

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NAME SIGNATURE

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NAME SIGNATURE

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NAME SIGNATURE

*The undersigned is authorized to act on behalf of the Board and warrants that they are authorized by the Board to identify or delegate to these persons the responsibilities described above.*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name Kevin Thompson Date

Title Executive Director

**EXHIBIT C**

COMPREHENSIVE INVESTMENT PLAN

To the Trustee Services Contract (the “Contract”) between the FLORIDA PREPAID COLLEGE BOARD ("the Board") and \_\_\_\_\_\_\_\_\_\_\_\_\_\_, (the "Trustee"), a bank organized under the laws of the State of \_\_\_\_\_, dated the \_\_\_\_ day of \_\_\_\_\_\_\_, 2021.

Exhibit “C” of this Contract is the Board’s Comprehensive Investment Plan and Investment Guidelines for the Florida College Savings Program (“529 Savings Plan”), and the Board’s Comprehensive Investment Plan and Investment Guidelines for the Stanley G. Tate Florida Prepaid College Program (“Prepaid Plan”) a copy of which is attached and incorporated by reference and may be updated from time to time, upon notification to the Trustee by the Board.

**EXHIBIT D**

SECURITIES LENDING AUTHORIZATION AGREEMENT

To the Trustee Services Contract (the “Contract”) between the FLORIDA PREPAID COLLEGE BOARD ("the Board") and \_\_\_\_\_\_\_\_\_\_\_\_\_\_, (the "Trustee"), a bank organized under the laws of the State of \_\_\_\_\_\_\_, dated the \_\_\_\_ day of \_\_\_\_\_\_\_\_, 2021.

Exhibit “D” of this Contract is the Securities Lending Authorization Agency Agreement, dated \_\_, 2021, between the Board and the Trustee, a copy of which is attached to this Contract.

EXHIBIT D

**SECURITIES LENDING AUTHORIZATION AGREEMENT**

 This Agreement is between FLORIDA PREPAID COLLEGE BOARD (herein referred to as “Lender”) and \_\_\_\_\_\_\_\_\_\_, as securities lending agent (herein referred to as “Agent”) and governs the lending of U.S. and non-U.S. securities (“Securities”) by Agent as agent for Lender from one or more of Lender’s accounts in the custody of Agent (collectively the “Account”). This Agreement includes as attachments Schedule A, the List of Borrowers attached thereto, Schedule B, the Collateral Guidelines attached thereto (including the de minimis rules listed therein), Schedule C, the Fee Schedule, Schedule D, Borrowing Agreement, all of which, together with any substitutions therefor, are incorporated herein. Certain capitalized terms used herein are defined in Section 12 below.

1. **Authorization.**  Lender hereby appoints Agent to lend Securities of the Account in accordance with the terms of this Agreement and authorizes Agent to lend its Securities to one or more Borrowers selected by Agent (other than Agent or any parent, subsidiary or affiliate of Agent) who are listed or described on Schedule A attached hereto.

2. **Agent’s Responsibility as to Loans.** Before entering into any Loan with a Borrower, Agent shall be responsible for the following:

 2.1 Agent shall enter into a Borrowing Agreement with the Borrower, the terms of which may vary depending upon the country of domicile of the Borrower, the jurisdictions in which the Borrower does business, any separate negotiation between Agent and Borrower and other factors, but shall comply in all material respects with the requirements of this Agreement concerning the Borrowing Agreement. The form of Borrower Agreement in effect as of the date of this Agreement is attached hereto as Schedule D. Copies of sample forms of Borrowing Agreements offered to borrowers from time to time are available upon request.

 2.2 Upon receipt of notice from a Borrower of its desire to borrow Securities upon stated terms, Agent shall determine the account or accounts from which to loan Securities by using Agent’s impartial sequential systems that match Loan requests with the accounts of Agent’s various Participating Lenders holding eligible Securities.

 2.3 Agent shall obtain from the potential Borrower the most recent audited statement of its financial condition and the most recent unaudited statement of its financial condition, if more recent than the audited statement, and shall make a reasoned determination that the potential Borrower is creditworthy.

 2.4 Agent shall require the Borrower to furnish, with respect to each Loan, or agree in the Borrowing Agreement that each Loan shall constitute, a representation that there has been no material adverse change in its financial condition since the date of the most recent financial statement furnished pursuant to the preceding paragraph.

3. **Collateral.**  In the lending of Borrowed Securities, protection is afforded by the Collateral received from a Borrower pursuant to the terms of the Borrowing Agreement. All Collateral so received, and all investments of cash Collateral, shall be held either in the physical custody of Agent or for the account of Agent by an agent or subcustodian of Agent or a central bank, depository or clearing corporation acting as a depository.

 3.1 All Collateral received from Borrowers in connection with Loans hereunder shall be held and administered by Agent for the sole benefit of Lender in a segregated account in the custody of Agent (the “Collateral Account”). The guidelines governing all eligible types of Collateral, and all eligible investments of cash Collateral, shall be as set forth in Schedule B as in effect from time to time. Lender shall have authorized Agent, in Agent’s discretion, to invest any cash Collateral for any Loans in any of the types of eligible investments described in Schedule B.

 3.2 The risk of any loss of Collateral or investment of cash Collateral (including a loss of income or principal, or loss of market value thereof) shall be allocated as follows:

 (i) any loss resulting from the insufficiency of income from the investment of cash Collateral to pay Rebate Fees or other expenses properly paid from such income shall be allocated to Agent in the same percentage as Agent’s fee under Schedule C, with the balance of such losses allocated to Lender;

 (ii) any loss arising from (1) any loss of principal value of a specific investment of cash Collateral, (2) any shortfall arising from the necessary liquidation of an investment of Collateral for a Term Loan, or (3) any amount not recoverable with respect to an obligation or instrument (including, but without being limited to, certificate of deposit, banker’s acceptance, assured payment or other bank obligation, local authority bond or bill, or private issues bond) received from a Borrower as Collateral due to simultaneously existing defaults by the issuer thereof and the Borrower furnishing such Collateral (herein referred to as a “Collateral Account Loss”) shall be borne by the Lender;

 (iii) any loss resulting from an insufficiency of Collateral or its proceeds to pay for the cost of purchasing Equivalent Securities or otherwise to make the Lender whole in the event of a default by a Borrower other than a Collateral Account Loss that is not recoverable from the Borrower or within the scope of Agent’s obligations under Section 16 shall be borne solely by the Lender; and

 (iv) notwithstanding the foregoing, Agent shall be liable for losses resulting fromits negligence or intentional misconduct in performing the duties allocated to it under this Agreement with respect to Collateral.

 3.3 Lender shall pay to Agent, upon Agent’s written demand therefor, such amounts as are determined by Agent to be necessary from time to time to satisfy the Lender’s obligations under this Agreement with respect to Collateral Account Losses and insufficiencies of cash Collateral income. Lender hereby grants to Agent a lien upon and security interest in any property of or due the Lender at any time in the possession of Agent to secure the payment of such obligations.

4. **Collateral Margin.**

4.1The Borrowing Agreement shall provide that at the time a Loan is made there shall be a transfer of Borrowed Securities against a transfer (occurring prior thereto or, in the case of Securities transferred through a depository, central bank or clearing organization, before the close of the same business day in accordance with the rules, customs and practices of that depository, bank or organization) of Collateral having a Market Value equal to such percentage (not less than 100%) of the Market Value of the Borrowed Securities as Agent and the Borrower shall agree; provided that such percentage shall not be less than the minimum percentage (not less than 100% of the initial Market Value of the Borrowed Securities) specified in Schedule B.

 4.2 Each business day the Agent and the Borrower shall determine the Market Value of the Collateral and the Borrowed Securities. If on any business day the Market Value of all the Collateral shall be less than the Required Value (as hereinafter defined), Agent shall demand from the Borrower, subject to a de minimis rule of change in value appropriate to the type of Borrowed Securities, additional Collateral so that the Market Value of the additional Collateral, when added to the Market Value of the Collateral previously delivered to Agent, shall equal the Required Value.

* 1. If on any business day the Market Value of all the Collateral shall be greater than the Required Value, Agent shall, upon request from the Borrower, subject to a de minimis rule of change in value appropriate to the type of Borrowed Securities, redeliver to Borrower such amount of Collateral selected by Borrower so that the Market Value of all Collateral equals the Required Value.

5. **Termination of Loans; Remedies upon Default.**

5.1Agent shall retain the right pursuant to the terms of the Borrowing Agreement to terminate a Loan at any time, whereupon the Borrower shall deliver Equivalent Securities to Agent within (a) the customary delivery period for such Securities, (b) five business days or (c) the time negotiated for such delivery by Agent and the Borrower, whichever period is least, and Agent shall concurrently therewith deliver collateral identical to the Collateral to the Borrower. In addition, a Borrower may terminate a Loan at any time upon notice to Agent and by delivery to Agent of Equivalent Securities. Lender or its agent shall have the right to direct Agent to terminate a Loan of Lender’s Securities at any time in whole or in part.

 5.2 If upon termination of a Loan a Borrower shall fail to deliver Equivalent Securities, Agent shall exercise the remedies available to it under the relevant Borrowing Agreement and applicable law, customs and practices for the benefit of the Participating Lender or Lenders thereby affected. Agent shall have the right to, and in the event of a Filing with respect to a Borrower shall, purchase Equivalent Securities, apply the Collateral to the payment of the purchase price of the Securities purchased, any other obligations of the Borrower under the Borrowing Agreement and all reasonable related expenses, and either pay to the Borrower any amounts then remaining, or demand from the Borrower any amounts then due and owing, all in accordance with the requirements of applicable law and the provisions of the relevant Borrowing Agreement, together with interest on such amounts and at such rates as are permitted by the Borrowing Agreement and applicable law. All recoveries for the benefit of Lender under this paragraph shall be credited to Lender’s account when received. Lender hereby authorizes Agent, as Lender’s agent and Nominee, to exercise on behalf of Lender all remedies (including rights of set off) otherwise available to Lender under all applicable U.S. and non U.S. laws in order to secure the return of Equivalent Securities (or their value) to Lender.

6. **Distributions; Voting, etc.**

6.1 Lender acknowledges that during the term of any Loan the Borrower shall hold all incidents of ownership with respect to the Borrowed Securities, including but without limitation the rights to vote the Borrowed Securities and to transfer or loan the Borrowed Securities to others.

 6.2 The Borrower shall, in accordance with the terms of the Borrowing Agreement, be required to pay to Agent the equivalent (herein called “Substitute Payments”) of all distributions made by the issuer of the Borrowed Securities during the term of a Loan to which the Lender would have been entitled had the Securities not been loaned, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and stock dividends and the rights to purchase additional Securities. Agent shall credit to the Lender’s Account the net amount of all Substitute Payments of cash on the payable dates thereof, subject to paragraph 9.3 of this Agreement. All other Substitute Payments shall be credited to the Lender’s Account when received from the Borrower, except that shares issued in stock splits shall be deemed part of the Loan of the pre-split shares. All Substitute Payments shall be subject to any requirements of applicable taxing authorities concerning withholding of tax on such payments. Agent shall pay to a Borrower the distributions Agent receives on Securities delivered by the Borrower as Collateral.

 6.3 The rates of tax withholding or credit used to determine the amount of any Substitute Payment of cash by a Borrower with respect to Borrowed Securities shall be determined and agreed to by Agent at the time a Loan is made and shall not thereafter be subject to retroactive adjustment for any reason. Agent shall have no liability for errors made in determining such amounts, if Agent acted in good faith and without negligence based on all the most current relevant information in the possession of Agent at that time.

7. **Revenues.**

7.1 Lender’s Net Revenue during any period shall consist of (a) in the case of cash Collateral, the aggregate income derived from the investments of cash Collateral during the period, net of (i) any applicable payment or withholding of tax, (ii) aggregate Rebate Fees paid or accrued to the Borrowers pursuant to the Borrowing Agreements and (iii) expenses, adjustments and charges as disclosed in the applicable Collateral Schedules, and (b) in all other cases, the aggregate loan Premiums or Loan Fees paid by the Borrowers pursuant to the Borrowing Agreements; reduced by any applicable payment or withholding of tax.

 7.2 Lender’s Net Revenue shall be credited by Agent monthly to the Account, provided that Agent may simultaneously deduct from the Account, as compensation for Agent’s services under the securities lending program, a fee equal to such amounts as shall be agreed upon in writing from time to time by the parties and set forth in Schedule C attached hereto.

8. **Reports.**  Within approximately two weeks after the end of each month, Agent shall furnish to Lender a statement of account for the month listing the Borrowed Securities, the Borrowers to whom they have been lent, the Net Revenue received therefrom and the fees of the Agent.

9. **Concerning the Agent.**

 9.1 Agent shall administer the securities lending program in conformity with the applicable laws governing each Loan and all rules, regulations and exemptions from time to time promulgated and issued under the authority of those laws. Nothing in this Agreement shall be construed to require Agent to take any action which in Agent’s reasonable belief could cause Agent or Lender to violate any applicable law. In the event of a change in the securities lending program required in order to comply with a change in applicable laws, rules, regulations or exemptions, Agent shall notify Lender in writing thereof and such change shall be deemed to be a part of this Agreement.

 9.2 Agent shall not be responsible for delays or failures in performance caused by circumstances reasonably beyond Agent’s control, including but not limited to fires, storms, earthquakes and other similar occurrences, power outages, work stoppages, closure or malfunctioning of central banks, securities exchanges, or depositories, defaults by subcustodians chosen by Agent in the exercise of reasonable care,political disturbances, acts of terrorism and breakdowns in governmental functions of all types.

 9.3 Agent may at its discretion, but shall not be required to make loans or advances to Lender in order to provide temporary liquidity to the Lender as a result of a Collateral Account Loss or otherwise. All such advances shall bear interest at the Federal Funds Rate until repaid. Agent may also advance funds to Lender for the payment of Rebate Fees or other amounts due to a Borrower, or for the payment of Substitute Payments, Net Revenues or any other amounts due from the Borrower to Lender hereunder. Any advance to Lender of amounts due from a Borrower shall be conditional upon receipt by Agent of final payment from the Borrower and may be reversed to the extent final payment is not received, subject to the provisions of Section 16. Any interest received by Agent under this paragraph shall be in addition to Agent’s other compensation under this Agreement.

 9.4 In performing its duties hereunder, Agent shall be held to the standard of care exercised by banks generally in performing similar duties and shall be responsible only for its negligence or intentional misconduct. In no event shall Agent be liable for special, indirect or consequential damages of any kind, even though Agent may have been previously informed of the possibility that such damages may occur.

10. **Representations and Warranties.** The parties hereby make the following representations and warranties to each other, each of which shall continue throughout the term of this Agreement and of each Loan hereunder.

 10.1 Agent hereby represents and warrants as follows:

 10.1.1 It has all necessary corporate and governmental authority to execute and deliver this Agreement, to engage in the transactions contemplated hereby and to perform its respective obligations hereunder.

 10.1.2 It has, or at the time of any relevant Loan shall have, obtained all necessary approvals of applicable governmental and self-regulatory organizations (including approval by Inland Revenue as an agent for the purposes of stock lending regulations and an approved UK collecting agent), and satisfied all conditions and qualifications imposed by applicable taxing authorities, necessary in order to comply with all statutes, laws, rules and regulations applicable to that Loan.

 10.2 Lender hereby represents and warrants as follows:

 10.2.1 It has taken all corporate action and obtained all necessary governmental, administrative, and other consents or approvals necessary to execute and deliver this Agreement, to engage in the transactions contemplated hereby and to perform its obligations hereunder.

 10.2.2 It is not restricted under the terms of its constitution, by statute, rule or regulation or in any other manner from lending Securities to Borrowers in accordance with this Agreement or from otherwise performing its obligations hereunder.

* + 1. It is absolutely entitled to pass full ownership of all Securities provided hereunder to Borrowers free from all liens, charges and encumbrances.

11. **Disclosure and Confidentiality.**  Lender authorizes Agent to disclose, to any Borrower who at any time so requests, (1) Lender’s name; (2) the fact that Lender has authorized Agent to lend its Securities to the Borrower; (3) the fact that specific Securities loaned to the Borrower are owned by Lender; (4) any publicly available financial information concerning Lender in Agent’s possession; and (5) any other information the Agent reasonably believes is necessary to effectuate the transactions contemplated herein, including tax i.d. numbers. Before disclosing any information described in this paragraph to a Borrower who has requested it, Agent shall obtain from the Borrower, as a condition for such disclosure, a written agreement (which may be the Borrowing Agreement) requiring the Borrower to hold such information in confidence.

12. **Definitions.** For the purposes of this Agreement, the following definitions shall apply.

 12.1 “Borrowed Securities,” with respect to any Borrower, shall mean (a) Securities of the Account that have been loaned to the Borrower and (b) for purposes of paragraphs 4.2 and 4.3 shall include Securities of all other relevant Participating Lenders loaned to the Borrower; plus in either case (1) all cash, securities or other property received in the event of a call, redemption, exchange, maturity or similar action or event with respect to the Borrowed Securities, and (2) all cash, securities or other property received or issued in exchange or replacement for the Borrowed Securities in the event of a merger, consolidation, recapitalization, reorganization, liquidation or takeover of the issuer of the Borrowed Securities.

 12.2 “Borrowing Agreement” shall mean the master borrowing agreement, as amended, entered into between Agent and a Borrower establishing the general terms and conditions governing all Loans to that Borrower.

 12.3 “Collateral” shall mean (a), with respect to a particular Loan, all collateral delivered to the Agent by a Borrower with respect to the relevant Borrowed Securities; and (b), with respect to paragraphs 4.2 and 4.3, all Collateral delivered to the Agent by a Borrower with respect to all Loans of all Participating Lenders to that Borrower.

12.4 “Equivalent Securities” shall mean Securities that are identical (as to issuer, class, quantity and description) tothe relevant Borrowed Securities, and such term shall include the certificates and other documents of or evidencing title and transfer in respect of the foregoing (as appropriate).

12.5 “Federal Funds Rate” shall mean the federal funds rate as published in the Midwest Edition of *The Wall Street* *Journal* (or if not there quoted, as quoted in any publication reasonably selected by the Agent), as determined for each business day during the relevant period.

 12.6 “Filing” shall mean a filing by a Borrower (or by a creditor of, or some other person acting with respect to, the Borrower) of a petition in bankruptcy or a petition seeking reorganization, winding-up, liquidation, dissolution or similar relief, including appointment of a trustee, receiver or liquidator of a substantial part of the property of the Borrower under a bankruptcy, insolvency or similar statute, code, law, rule or regulation of any jurisdiction.

 12.7 “Loan” shall mean a loan of Securities to a Borrower from the Account of Lender or from the account of another Participating Lender.

 12.8 “Market Value” of Borrowed Securities and Collateral shall be determined as provided in the relevant Borrowing Agreement, and shall include accrued interest if appropriate to particular Securities.

 12.9 “Participating Lender” shall mean at any time any person who has appointed Agent as agent for the purpose of lending Securities and for whom Agent is then acting in that capacity.

 12.10 “Premium or Loan Fee” shall mean an agreed fee required to be paid by a Borrower to Agent for the benefit of Lender in respect of each Loan of Lender’s Securities as to which the Borrower has furnished non-cash Collateral.

 12.11 “Rebate Fee” shall mean an agreed amount required to be paid by Agent for the account of Lender to a Borrower in respect of each Loan of Lender’s Securities as to which Borrower has furnished cash as Collateral.

12.12 “Required Value” shall mean the Market Value of all the Borrowed Securities outstanding to a Borrower plus any additional margin as agreed upon between Agent and the Borrower in conformity with the margins set forth in Schedule B.

12.13 “Substitute Payment” shall have the meaning given in paragraph 6.2 hereof.

12.14 “Term Loan” shall mean a Loan collateralized by cash, in which the agreed date of maturity or renegotiation of the Loan is greater than one business day. Cash Collateral for a Term Loan is invested separately from other cash Collateral and other Term Loans.

13. **Tax Considerations.**

 13.1 Each Borrower shall represent, as a condition for any Loan, that it has obtained all necessary approvals of applicable governmental and self-regulatory organizations (including approval by Inland Revenue as an approved Borrower or UK intermediary), and has satisfied all conditions and qualifications imposed by applicable taxing authorities, necessary in order to comply with all statutes, laws, rules and regulationsapplicable to that Loan, which representation shall continue throughout the term of each Loan.

 13.2 Lender shall provide Agent with complete, accurate and current information necessary to permit Agent to comply with applicable tax statutes, treaties, rules and regulations relating to the lending of Securities. In addition, Lender shall properly execute and deliver to Agent any and all forms, undertakings, and other documents reasonably requested by Agent in order to comply with such statutes, treaties, rules and regulations.

 13.3 Notwithstanding the first sentence of paragraph 9.1 hereof, Agent shall attempt in good faith to comply with all applicable tax laws, treaties, rules and regulations governing Lender’s participation in Agent’s securities lending program based on Agent’s best interpretation of those laws, treaties, rules and regulations and the information furnished by Lender; provided, however, that notwithstanding the foregoing Lender shall indemnify Agent for taxes payable by Agent that otherwise should have been paid from amounts received by Lender, plus interest on such taxes at the Federal Funds Rate until paid, plus any penalties other than penalties resulting from Agent’s negligence or intentional misconduct.

 13.4 Lender acknowledges that it is responsible for satisfying itself as to the tax consequences to it relating to the lending of its securities by Agent pursuant to this Agreement. Agent does not offer any advice as to the foregoing.

14. **Miscellaneous.**

14.1This Agreement may be amended by instrument in writing signed by the parties and may be terminated by either party at any time by written notice to the other party, subject to the performance by both parties of any of their respective obligations that remain outstanding at the time of termination. Upon termination of this Agreement by either party, Agent shall terminate all outstanding Loans of Lender’s Securities and shall make no further Loans thereof.

 14.2 This Agreement supersedes any preexisting securities lending agreement, and prevails over any contrary provisions of any other agreement, between the parties. This Agreement represents the entire agreement of the parties concerning its subject matter and supersedes any and all prior written or oral communications with regard thereto. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity and enforceability of any other provision hereof.

 14.3 Neither party may assign its obligations hereunder without the prior written consent of the other party. This Agreement is solely for the benefit of the parties hereto and their successors and permitted assigns. Nothing in this Agreement shall be construed to give any rights whatever against either party to any person who is not a party hereto, nor shall any such person be considered a “third party beneficiary” of this Agreement.

 14.4 Section headings are for convenience only and may not be used for interpretation.

 14.5 Lender acknowledges that provisions of the Securities Investor Protection Act of 1970 may not protect the Lender with respect to Loans of Borrowed Securities and therefore the Collateral delivered by Borrower to Agent may constitute the only source of satisfaction of Borrower’s obligations in the event Borrower fails to return the Borrowed Securities.

14.6 Agent uses the services of EquiLend, a joint venture in which Agent has an indirect ownership interest. EquiLend is an electronic platform over which subscribing borrowers and lenders can share information and negotiate loans of securities. Agent may also purchase or license related data or analytic tools from EquiLend. Use of the EquiLend platform is intended to increase the efficiency by which information is exchanged between Borrowers and Agent but will not change the way in which the securities lending program is administered. No Participating Lender will be required to pay any additional fees relating to transactions between Agent and EquiLend.

15. **Governing Law.** The validity, interpretation and performance of this Agreement shall be governed by and construed under the laws of the State of Florida, except to the extent pre-empted by the laws of the United States of America, which shall govern to that extent. Any and all litigation arising under this Agreement shall be instituted in the appropriate court in Leon County, Florida, following the conclusion of any applicable contract dispute resolution proceedings.

16. **Indemnification.**

16.1 Agent shall indemnify, defend and hold Lender harmless from and against any losses, damages, costs and expenses (other than special, incidental, indirect or consequential losses, damages, costs or expenses) Lender may incur if Agent is unable to recover Borrowed Securities and distributions made during the term of the Loan or Loans with respect to those Securities as a result of:

 (i) Agent’s failure to make a reasoned determination of the creditworthiness of a Borrower through adequate analysis of all material, public information available to Agent’s credit committee before lending a security as provided in Section 2 of this Agreement and during the term of the Loan or Loans a Default occurs with respect to the Borrower;

 (ii) Agent’s failure to demand adequate and appropriate Collateral on a prompt and timely basis as provided in Section 4 hereof, perfect a security interest or obtain rights equivalent thereto in the Collateral, maintain control of the Collateral as provided in this Agreement and make a reasoned determination of the quality and suitability of Collateral investments through adequate analysis of all material, public information available to the applicable Agent committees; or

 (iii) Agent’s failure otherwise to perform its duties and responsibilities under this Agreement in accordance with the terms of this Agreement and applicable law.

16.2 Irrespective of the applicability of paragraph 16.1, in the event of a Default by a Borrower that is not a Sale-Related Default, Agent shall (1) credit Lender’s Account with the amount of distributions made with respect to the Borrowed Securities of Lender that are due and payable by the Borrower on or before the date of Default but not so paid and (2) transfer into Lender’s Account replacement Securities that are Equivalent Securities by purchasing such securities in the principal market in which such securities are traded; except that Agent may, at its option, in lieu of replacing some part or all of the Borrowed Securities, credit Lender’s Account with an amount equal to the Market Value on the Default Date of Borrowed Securities not replaced, which amount shall be satisfiable at Agent’s option in cash, or by a transfer to Lender’s Account of Collateral securities valued as of the Default Date, or by a combination of both cash and Collateral securities so valued.

 16.3 Irrespective of the applicability of paragraph 16.1, in the event a Borrower fails to return Borrowed Securities upon termination of a Loan, and such failure constitutes a Sale-Related Default, Agent shall, in accordance with Agent’s Investment Manager Guidelines then in effect, in lieu of the indemnification provided in paragraph 16.2, (a) waive any overdraft charges arising from any investment made for Lender’s account in anticipation of timely receipt of the proceeds, (b) credit Lender’s account with interest at the Lender’s applicable short-term investment rate on the sale proceeds not reinvested up to the date such proceeds are credited to the Account, (c) credit Lender with the amounts of any distributions made with respect to such Borrowed Securities that have not otherwise been received by the Lender and (d) indemnify Lender from and against any Buy-in Costs or other direct expenses for which Lender would otherwise be liable as a result of the failure of the sale to settle in a timely fashion.

 16.4 For purposes of this Section 16, the following definitions shall apply.

 16.4.1 “Buy-in Costs” shall mean out-of-pocket expenses incurred by Lender in connection with the failed settlement of a sale of Lender’s Securities that are on loan hereunder at the time of sale, as a result of the purchase of substitute securities at a higher price by the buyer’s broker in accordance with applicable exchange rules.

 16.4.2 “Default” shall mean (a) a Filing, or (b) any other failure by a Borrower to return Borrowed Securities within the time period allowed by the relevant Borrowing Agreement after demand by Agent, except such a failure that is waived by Agent or cured by the Borrower within one business day of the Borrower after the Default Date.

 16.4.3 “Default Date” shall mean, with respect to any Default, the earliest date on which the Agent is entitled under the provisions of the applicable Borrowing Agreement to treat the relevant Loan or Loans to the Borrower as having terminated.

 16.4.4 “Investment Manager Guidelines” shall mean the rules and procedures established by Agent governing the conduct of securities transactions in its custodial accounts and the required communications between Agent and its custodial clients and their investment managers regarding those transactions.

 16.4.5 “Sale-Related Default” shall mean a Default by a Borrower in returning Borrowed Securities that have been recalled by Agent due to a sale of such securities by Lender or an investment agent of Lender.

 16.5 In the event a Collateral Account Loss (or other loss of principal value of Collateral) exists at the same time as a Borrower Default, Agent shall have the right to set off the unpaid amount of any obligation of Lender to Agent arising under this Agreement arising from the Collateral Account Loss (or other loss of principal value of Collateral) against any obligation of Agent to Lender arising under this Section 16. Any payment by Agent under paragraph 16.2 shall be applied toward the discharge of Agent’s obligation (if any) to Lender under paragraph 16.1. Agent shall be subrogated to, and Lender shall be deemed to have transferred to the Agent, all of Lender’s corresponding rights against a Borrower (and against any guarantor of the Borrower) and in the Collateral and its proceeds to the extent of any payment, transfer or credit made pursuant to this Section 16.

\_\_\_\_\_\_\_\_\_\_ FLORIDA PREPAID COLLEGE BOARD

By: By:

 Senior Vice President Name: Kevin Thompson

Date: Title: Executive Director

**EXHIBIT D - Securities Lending Agreement**

**Schedule A - List of Borrowers**

**To be provided by Respondent upon selection**

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**EXHIBIT D - Securities Lending Agreement**

**Schedule B – Securities Lending Collateral Guidelines**

**To be provided by Respondent upon selection**

**EXHIBIT D - Securities Lending Agreement**

**Schedule C – Fees for Securities Lending**

**PRICING SCHEDULE C - SECURITIES LENDING SERVICES**

Percentage of Securities Lending Revenues to be

Received by the Trustee: \_\_.00 %

Percentage of Securities Lending Revenues to be

Received by the Board: \_\_.00 %

TOTAL: 100.00 %

Note: Tiered fee schedule and minimal annual income floor may be incorporated if proposed by Respondent

**Calculation of Fee**

The compensation due to the Trustee for trustee and securities lending services shall be determined each month on an accruaFl basis by multiplying the “Percentage of Securities Lending Revenue to be Received by the Trustee,” as reflected on this Pricing Schedule, by the sum of all revenues received by the Trustee resulting from lending of securities included in the Board’s portfolio during that month. The calculation shall be performed each month during the term of this Contract. The Trustee shall absorb all fees and charges relating to securities lending, or any other costs, with the exception of rebates. All revenues from lending securities that belong to the Board which are received by the Trustee each month, less the percentage of such revenues to which the Trustee shall be entitled as a fee (the “Percentage of Securities Lending Revenues to be Received by the Trustee” on the Pricing Schedule), shall be paid by the Trustee to the Board, in the manner directed by the Board, not later than fifteen days following the end of the month in which such revenues were earned.

For each 12 month period after the contract start date, the total revenue received by the Trustee over the previous 12 months, as calculated above, will be compared to any agreed upon annual income floor. If the total revenue received by the Trustee is less than the agreed upon annual income floor, the Board will pay the Trustee the difference between the income received and the annual income floor. If the total revenue received by the Trustee is more than the annual income floor, no additional payments will be due to the Trustee from the Board.

**EXHIBIT D - Securities Lending Agreement**

**Schedule D – Master Securities Borrowing Agreement**

THIS AGREEMENT dated \_\_\_\_ day of \_\_\_\_\_\_, 20\_\_ between \_\_\_\_\_\_\_\_\_\_\_, an \_\_\_\_\_\_\_\_ corporation (referred to herein in its individual capacity as “\_\_\_\_\_” and in its capacity as Agent for and on behalf of the Beneficial Owners as the "Agent"), and \_\_\_\_\_\_\_\_\_\_\_ (the "Borrower"), sets forth the terms and conditions under which the Agent may lend to the Borrower either U.S. or Foreign Securities against a pledge or other transfer of Collateral. This Agreement supersedes any and all prior agreements between the parties concerning the subject matter hereof. Certain capitalized terms used in this Agreement are defined in Section 30 below.

*The parties agree as follows:*

1. **Loans of Securities.**

1.1 Subject to the terms and conditions of this Agreement, either party hereto may, from time to time, orally initiate a transaction (a “Loan”) whereby Agent may lend securities of one or more Beneficial Owners to Borrower. The Borrower and Agent shall agree orally on the terms of each Loan, including the issuer of the securities, the description and amount of securities to be lent, the terms of compensation (including the rate and the minimum period for which compensation will be paid), and the amount and type of Collateral to be transferred by Borrower, which terms may be amended during the Loan upon agreement of the Borrower and Agent hereto.

1.2 Notwithstanding the provisions in this Agreement with respect to when a Loan occurs or terminates, but subject to provisions of Section 8 governing transfer of Collateral against loans of Foreign Securities and the provisions of Sections 12 and 13 concerning default remedies, a Loan hereunder shall not occur until both the Loaned Securities and the Collateral therefor are transferred and shall not terminate until both the Loaned Securities and the Collateral are retransferred. The Borrower and Agent agree that no such loan or transfer shall constitute for any purpose a purchase or sale of the Loaned Securities.

1.3 WITHOUT WAIVING ANY RIGHTS GIVEN TO THE AGENT HEREUNDER, IT IS UNDERSTOOD AND AGREED THAT THE PROVISIONS OF THE SECURITIES INVESTOR PROTECTION ACT OF 1970 MAY NOT PROTECT THE AGENT OR ANY RELEVANT BENEFICIAL OWNER WITH RESPECT TO LOANED SECURITIES HEREUNDER AND THAT THEREFORE THE COLLATERAL TRANSFERRED TO THE AGENT MAY CONSTITUTE THE ONLY SOURCE OF SATISFACTION OF BORROWER'S OBLIGATION IN THE EVENT BORROWER FAILS TO RETURN THE LOANED SECURITIES.

1.4 The terms of this Agreement shall be supplemented, but not superseded, by current market practices and by usage, customs and conventions.

1. **Transfer of Loaned Securities.** Agent shall transfer Loaned Securities to Borrower on the date agreed to by Borrower and Agent, subject to Borrower’s transfer of Collateral as provided below.
2. **Collateral.**
	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 of the applicable Clearing Organization on the day of such transfer), transfer to Agent Collateral in an amount equal to the percentage of the Market Value of the Loaned Securities agreed to by the Borrower and Agent, which shall not be less than 100% of the Market Value of the Loaned Securities.
	2. The Collateral for any Loan may consist of cash, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities ("Government Securities") or other securities acceptable to Agent, irrevocable bank letters of credit issued by a bank other than the Borrower or an affiliate thereof, or any combination thereof, acceptable to the Agent. The Collateral transferred by Borrower to Agent, as adjusted pursuant to Section 8 below, shall be security for the Borrower’s obligations in respect of such Loan and Borrower hereby pledges with, assigns to, and grants Agent a continuing security interest in and a lien upon the Collateral, which shall attach upon the transfer of the Collateral to Agent and which shall cease upon the re-transfer of the Collateral to Borrower. Cash so transferred, or received under Section 8, or upon maturity of any securities transferred as Collateral, shall be retained as cash Collateral. In addition to the rights and remedies given to Agent hereunder, Agent shall have all the rights and remedies of a secured creditor under the Illinois Uniform Commercial Code as in effect during the term of this Agreement. Except as provided in Section 12 hereunder, Agent shall be obligated to transfer the Collateral to Borrower on termination of the Loan and after transfer by the Borrower to the Agent of the Loaned Securities.
	3. It is understood that Agent may invest the Collateral, if such consists of cash, at the risk of the Beneficial Owners, but that Agent shall, during the term of any Loan hereunder, segregate Collateral from all proprietary assets of Agent. Agent may pledge, re-pledge, hypothecate, re-hypothecate, lend, re-lend, sell or otherwise transfer the Collateral, or re-register Collateral evidenced by physical certificates in any name other than Borrower’s, only in the event of a Default by the Borrower. Collateral shall be segregated by Agent by appropriate identification on Agent’s books and records. Borrower may at any time, with the prior consent of Agent, substitute for Collateral previously transferred Collateral having a Market Value at least equal to the Market Value of Collateral to be withdrawn.
3. **Loan Rebate Fee; Loan Fee.**
	1. In consideration of the Agent's right to invest cash Collateral for the account of the Beneficial Owners, the Agent agrees to pay the Borrower in respect of cash Collateral a Loan Rebate Fee (except that in the case of a “negative” Rebate Fee the Borrower shall pay the Agent the fee) computed daily for each Loan on the cash Collateral value in respect of such Loan, at such rates as Borrower and Agent may agree. Except as the Borrower and Agent may otherwise agree, the amount of the Loan Rebate Fee shall be computed to include the date upon which the Borrower transfers the Collateral to the Agent up to but excluding the earlier of (a) the day that Collateral is retransferred to the Borrower in accordance with Section 5 of this Agreement or (b) the date upon which the Borrower is in default under this Agreement for failing to transfer Loaned Securities upon termination as required under Section 5 hereof.
	2. Unless otherwise agreed, all accrued Loan Rebate Fees shall be paid by the Agent by the earlier of: (a) the date of termination of this Agreement, or (b) as to each Loan which was in effect for all or any part of a month, the tenth Business Day after receipt of the Borrower's fee statement.
	3. In consideration of the provision of Section 3 of this Agreement permitting the Borrower to furnish the Agent with non-cash Collateral, the Borrower agrees to pay the Agent a Loan Fee computed daily for each Loan, based on the Market Value of the Loaned Securities (as determined from time to time by Agent), at such rates as Borrower and Agent shall agree. Except as the Borrower and Agent may otherwise agree, the amount of the Loan Fee shall be computed to include the date on which the Agent transfers the Loaned Securities to the Borrower but not the date on which the Loaned Securities are re-transferred to the Agent.
	4. Unless otherwise agreed, all accrued Loan Fees shall be paid by the Borrower by the earlier of: (i) the date of termination of this Agreement or (ii) as to each loan of securities which was in effect for all or any part of a month, the tenth Business Day after receipt of the Agent's fee statement.
	5. Notwithstanding the foregoing, in the event of a Borrower Default all Loan Fees shall be immediately payable to Agent and in the event of a Beneficial Owner Default all Loan Rebate Fees respecting that Beneficial Owner shall be immediately payable to Borrower.
	6. All Loan Rebate Fees and Loan Fees shall be paid in U.S. Dollars or in such currency as may be agreed upon by the Borrower and Agent.

5. **Termination of Loans.** Unless otherwise agreed, the Borrower may terminate a Loan on any Business Day by giving notice to Agent and transferring the Loaned Securities to Agent. Agent may terminate a Loan by giving notice to the Borrower, whereupon the Borrower shall transfer the Loaned Securities to the Agent before the expiration of (a) the standard settlement time for the securities on the principal exchange or market in which the securities are traded, (b) five Business Days or (c) such other period as mutually agreed upon by both Borrower and Agent, whichever period is least. The Agent shall upon transfer of the Loaned Securities to the Agent by the Borrower transfer the Collateral (as adjusted pursuant to Section 8) to the Borrower.

6. **Rights of Borrower in Respect of the Loaned Securities**. Until transfer to the Agent of the Loaned Securities, the Borrower shall have all incidents of ownership of such securities including, without limitation, the right to transfer the Loaned Securities to others and the right to vote or consent, subject, however, to Section 7 hereof. The Agent hereby waives the right to vote the Loaned Securities during the term of the Loan.

7. **Dividends, Distributions, Etc.**

 7.1 Agent shall be entitled to receive all distributions on or in respect of any Loaned Securities made by the issuer thereof, the payable dates (or if applicable the record dates) for which are during the term of the Loan and which are not otherwise received by Agent, to the full extent the Agent would be so entitled if the Loaned Securities had not been lent to Borrower, irrespective of whether the Borrower received the same, including, but not limited to, all: (a) property; (b) stock dividends; (c) securities received as a result of split-ups of the Loaned Securities and distributions in respect thereof; (d) interest payments; and (e) rights to purchase additional securities. Agent shall also be entitled to receive any distributions made on or in respect of the Loaned Securities which are paid to Borrower after termination of the Loan, to the full extent it would be so entitled if the Loaned Securities had not been lent to Borrower.

 7.2 In the case of a distribution of cash, if any withholding or other tax, duty, fee, levy or charge (“Tax”) is deducted or withheld or is required to be deducted or withheld with respect to a distribution with respect to Loaned Securities then the Borrower shall pay to Agent in addition to the amount of the relevant distribution an amount necessary in order that the net amount of the distribution received after payment of such Tax equals the net amount of the distribution that would have been received if such distribution had been paid directly to the Agent unless a lesser amount is agreed to between the Borrower and Agent.

 7.3 If a Beneficial Owner of Loaned Securities would have been entitled to any tax credit or tax refund or an amount equivalent thereto accruing to a holder of the Loaned Securities (“Tax Benefit”) had the securities not been loaned to the Borrower, then unless a different amount is agreed upon between Borrower and Agent, the Borrower shall pay to the Agent the amount of the Tax Benefit the Beneficial Owner would have received in the absence of the Loan before the imposition of any tax deducted or withheld or required to be deducted or withheld with respect thereto, which amount shall be due on the date established in accordance with prevailing market practice or as mutually agreed.

 7.4 Subject to Section 13, any cash amounts payable by Borrower pursuant to this Section 7 with respect to cash distributions paid on or in respect of the Loaned Securities, shall be paid by a transfer of cash to Agent by Borrower on payable date and in no event shall the amount thereof be retained by the Borrower and accounted for as part of the Loan Fee or otherwise. Non-cash distributions shall, at Agent's option, either be added to the Loaned Securities and considered such for all purposes, or shall be transferred to Agent on the date of distribution; provided the Borrower shall in all cases transfer to Agent any non-cash distributions made with respect to securities attributable to a terminated Loan.

 7.5 Subject to Section 12, Borrower shall be entitled to receive all distributions on or in respect of non-cash Collateral made by the issuer thereof, the payment dates (or if applicable the record dates) for which are during the term of the Loan and which are not otherwise received by Borrower, to the full extent it would be so entitled if the Collateral has not been transferred to Agent; and any distributions made on or in respect of such Collateral which Borrower is entitled to receive hereunder shall be paid to Borrower forthwith by Agent.

8. **Marking to Market.**

 8.1 Borrower and Agent shall each Business Day mark to market all Loans made hereunder. In the event that the Market Value of all the Collateral then held by Agent is less than the Required Value at the close of trading on any Business Day or any time during a Business Day, the Agent, by notice to the Borrower, may demand that the Borrower shall prior to the close of business of the applicable Clearing Organization on the same Business Day transfer to the Agent cash, securities or an increased amount of letter of credit (in each case acceptable to Agent as Collateral as provided in Section 3) the Market Value of which, together with the Market Value of all the Collateral then held, will equal the Required Value.

8.2 In addition, if at Agent's request in the case of loans of Foreign Securities Borrower transfers Collateral to Agent in advance of receipt of Loaned Securities instead of simultaneously therewith as provided in Section 3, then, for each Business Day before transfer of Loaned Securities to Borrower, Agent by notification to Borrower may at any time prior to the close of trading on that Business Day demand that the Borrower shall prior to the close of business of the applicable Clearing Organization on the same Business Day transfer to the Agent cash, securities or an increased amount of letter of credit (in each case acceptable to Agent as Collateral as provided in Section 3) the Market Value of which, together with the Market Value of all the Collateral then held, will equal the Required Value at such time.

8.3 In the event that the Market Value of all the Collateral is greater than the Required Value at the close of trading on a Business Day or at any time during a Business Day, the Borrower may, by notice to the Agent, demand that the Agent release Collateral having a Market Value (or consent to a reduction in the amount under a letter of credit) in excess of the Required Value.

8.4 Where pursuant to the preceding provisions of this Section 8 each of the Borrower and Agent is required to transfer Collateral to the other, then in the absence of a Default by either party the Market Value of all the Collateral transferable by one party to the other, together with any other amounts payable by that party hereunder to the other in respect of distributions, loan fees, rebates or otherwise, may be aggregated with and set off against the Market Value of all the Collateral transferable and other amounts payable by the other party so that only Collateral and other amounts having a Market Value equal to the difference shall be transferred by the party with the obligation to transfer the greater aggregate.

8.5 For purposes of this Section 8, (a) Collateral shall be transferred as provided in Section 3 and (b) the "Required Value" shall mean 102% of the Market Value of all the outstanding Loaned Securities in the case of U.S. securities, 105% of the Market Value of all the outstanding Loaned Securities in the case of Foreign Securities, or such other percentage (not less than 100%) of the Market Value of U.S. or Foreign Securities as may be agreed to by the Borrower and Agent.

9. **Representations of the Parties**. The Borrower, \_\_\_\_\_\_\_\_ and the Agent hereby make the following representations and warranties to each other (and in the case of Borrower, to the Beneficial Owners), each of which shall continue during the term of this Agreement and of any Loan hereunder:

9.1 Each of Borrower and \_\_\_\_\_\_\_\_ 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 except as enforceability may be limited by applicable law relating to enforcement of creditors' rights.

9.2 Each of Borrower and \_\_\_\_\_\_\_\_represents and warrants that the execution, delivery and performance by it of this Agreement and each Loan hereunder will comply with all laws and regulations applicable to it, including those of applicable securities and financial regulatory and self-regulatory organizations.

9.3 The Borrower represents and warrants that it has, or will have at the time of transfer of any Collateral, the unrestricted right to grant a first security interest therein, subject to the terms and conditions hereof, and that it transfers the Collateral free of any adverse claims, liens, charges or encumbrances.

10. **Covenants.**

10.1 The Borrower and Agent agree and acknowledge that this Agreement and each Loan hereunder shall be a "securities contract," as such term is defined in Section 741(7) of Title 11 of the United States Code (the "Bankruptcy Code"). Each and every transfer of funds, securities and other property under this Agreement and each Loan hereunder shall be a "settlement payment" or a "margin payment," as those terms are used in Sections 362(b)(6) and 546(e) of the Bankruptcy Code, and the rights given to Borrower and Agent hereunder upon a Default by the other shall 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. Furthermore, if a party hereto is an "insured depository institution," as that term is defined in the Federal Deposit Insurance Act, as amended ("FDIA"), each Loan hereunder shall be a "securities contract" and "qualified financial contract," as such terms are defined in the FDIA and any rules, orders or policy statements thereunder.

10.2 The Borrower represents, warrants and covenants that it enters into this Agreement and each Loan transaction as principal and not as agent for any person.

10.3 The Agent agrees not to draw a draft under any letter of credit constituting a part of the Collateral unless a Default (as defined in Section 11) shall have occurred (including the expiration of any specified grace or notice period).

 11. **Events of Default.** All Loans between Borrower and any Beneficial Owner with whom Borrower has outstanding Loans shall terminate immediately upon the occurrence of any one or more of the following events (individually, a "Default"), provided that in the event of a Default by a Beneficial Owner or by Agent on behalf of a Beneficial Owner (a “Beneficial Owner Default”), only those Loans between the Borrower and the relevant Beneficial Owner shall terminate:

(a) if any Loaned Securities shall not be transferred to Agent upon termination of the Loan in accordance with Section 5;

(b) if any Collateral shall not be transferred to Borrower upon termination of the Loan in accordance with Section 5;

(c) if either Borrower or Agent shall fail to transfer Collateral as required by Sections 3, 5 or 8, as applicable;

(d) if either Borrower or Agent shall fail to make the payment of distributions as required by Section 7 hereof and such default is not cured within one (1) Business Day of notice of such failure to Borrower or Agent, as the case may be;

(e) if (i) Borrower, \_\_\_\_\_\_\_ or a Beneficial Owner shall commence as debtor any case or proceeding under any bankruptcy, insolvency, reorganization, liquidation, dissolution or similar law, or seek the appointment of a receiver, conservator, trustee, custodian or similar official for such party or any substantial part of its property, (ii) any such case or proceeding shall be commenced against Borrower, \_\_\_\_\_\_ or a Beneficial Owner, or another shall seek such an appointment, or any application shall be filed against such party for a protective decree under the provisions of the Securities Investor Protection Act of 1970, which (A) is consented to or not timely contested by such party, (B) results in the entry of an order for relief, such an appointment, the issuance of such a protective decree or the entry of an order having similar effect, or (C) is not dismissed within 15 days, (iii) Borrower, \_\_\_\_\_\_\_\_\_ or a Beneficial Owner shall make a general assignment for the benefit of creditors, or (iv) Borrower, \_\_\_\_\_\_\_\_\_ or a Beneficial Owner shall admit in writing its inability to pay its debts as they become due;

(f) if Borrower or \_\_\_\_\_\_\_\_\_ shall have been suspended or expelled from membership or participation in any securities exchange or association of which it is a member or other self-regulatory organization to whose rules it is subject or if it is suspended from dealing in securities by any governmental agency;

(g) if Borrower or \_\_\_\_\_\_\_\_\_ shall have its license, charter, or other authorization necessary to conduct a material portion of its business withdrawn, suspended or revoked by any applicable federal or state government or agency thereof;

(h) if the Borrower is a financial institution and shall be placed under the supervision of the Board of Governors of the Federal Reserve System or Comptroller of the Currency or shall receive funding from one or more Federal Reserve Banks;

(i) if any representation by either Borrower, \_\_\_\_\_\_\_\_\_ or Agent under this Agreement, including any representation by Borrower under Section 14 of its financial condition or applicable capital ratio, was incorrect or untrue when made or deemed made;

(j) if either Borrower or Agent notifies the other, orally or in writing, 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

(k) if either Borrower or Agent (i) shall fail to perform any material obligation under this Agreement not specifically set forth in clauses (a) through (j) above, including but not limited to the payment of fees as required by Section 4; and the payment of transfer taxes as required by Section 19, (ii) shall have received notice of such failure from the non-defaulting party and (iii) shall not have cured such failure by the agreed time on the following Business Day by which cash transfers may be effected.

(l) if any of the events described in Section 11(e) above applies to any parent company, subsidiary or corporate affiliate of the Borrower (wherever located) or if any parent company, subsidiary or corporate affiliate of the Borrower (wherever located) is in default (as defined in the relevant agreement) under any agreement with Agent providing for the borrowing of securities (of any type) from clients of Agent, and Agent serves written notice thereof upon Borrower.

12. **Agent's Remedies.** In the event of any Default by Borrower under Section 11 hereof, Agent shall have the right, in addition to any other remedies provided herein or under applicable law (without further notice to Borrower), (a) to purchase a like amount of the Loaned Securities (“Replacement Securities”) in the principal market for such securities in a commercially reasonable manner, (b) to sell any Collateral consisting of securities in the principal market for the securities in a commercially reasonable manner and (c) to apply and set off the Collateral and any proceeds thereof (including any amounts drawn under a letter of credit securing any Loan) against the payment of such purchase, after deducting therefrom all amounts, if any, due Agent under Sections 4, 7, 19 and 20. In the event Agent has effectively exercised said right to purchase, Borrower's obligation to return the Loaned Securities shall terminate. Agent may also apply the Collateral and any proceeds thereof to any other obligation of Borrower under this Agreement, including distributions paid to Borrower (and not forwarded to Agent) in respect of Loaned Securities. In the event the purchase price exceeds the amount of the Collateral, Borrower shall be liable to Agent for the amount of such excess (plus all amounts, if any, due to Agent hereunder) together with interest on all such amounts at a rate equal to the Call Money Rate, or such other rate as may be specified by the Borrower and Agent, 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. Agent shall have, and the Borrower hereby grants to Agent, as security for Borrower's obligation to pay such excess, a security interest in and right of setoff against any property of Borrower then held by Agent and any other amount payable by Agent to Borrower. The purchase price of securities purchased under this section, 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 Agent exercises its rights under this Section 12, Agent may elect in its sole discretion, in lieu of purchasing all or a portion of the Replacement Securities or selling all or a portion of the Collateral, to be deemed to have made, respectively, such purchase of Replacement Securities or sale of Collateral for an amount equal to the price therefor on the date of such exercise obtained from a generally recognized pricing source or the most recent closing bid quotation from such a source. Upon the satisfaction of all obligations hereunder, any remaining Collateral shall be returned to Borrower.

13. **Borrower's Remedies.**

13.1 In the event of any Beneficial Owner Default under Section 11 hereof, or in the event of any Default by \_\_\_\_\_\_\_\_\_ under subsections (e), (f) or (g) of said Section 11, Borrower shall have the right, in addition to any other remedies provided herein or under applicable law (without further notice to Agent), (a) to purchase a like amount of the securities identical to the Collateral consisting of securities (“Replacement Collateral”) in the principal market for such securities in a commercially reasonable manner, (b) to sell a like amount of the Loaned Securities in the principal market for the securities in a commercially reasonable manner and (c) to apply and set off the Loaned Securities and any proceeds thereof against (i) the payment of the purchase price of such Collateral, (ii) Agent’s obligation to return any cash or other Collateral and (iii) any amounts due the Borrower under Sections 4, 7, and 20. In such event, Borrower may treat such amount of the Loaned Securities as its own and Agent's obligation to return a like amount of the Collateral shall terminate; provided, however, that Agent shall immediately return, or consent to an appropriate reduction in the amount of, any letters of credit supporting any Loan upon the termination thereof due to a Beneficial Owner Default. Borrower may similarly apply the Loaned Securities and any proceeds thereof to any other obligation of the defaulting Beneficial Owner under this Agreement, including such Beneficial Owner’s obligations with respect to distributions paid to Agent (and not forwarded to Borrower) in respect of Collateral. In the event the sale price received from such sale is less than the value of the Collateral not returned, Agent shall be liable to Borrower for the amount of any deficiency (plus all amounts, if any, due to Borrower hereunder under Sections 4, 7 and 20), together with interest on such amounts at a rate equal to the Call Money Rate, or such other rate as may be specified by the Borrower and Agent, 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. Borrower shall have, and Agent hereby grants to Borrower, as security for Agent's obligation to pay such expense, a security interest in and right of setoff against any property of such Beneficial Owner then held by Borrower and any other amount payable by Borrower to Agent. In calculating this deficiency, there shall be deducted from the proceeds of the securities purchased or sold under this Section 13, broker's fees and commissions and all other reasonable costs, fees and expenses related to such purchase or sale. In the event Borrower exercises its rights under this Section 13, Borrower may elect in its sole discretion, in lieu of purchasing all or a portion of the Replacement Collateral or selling all or a portion of the Loaned Securities, to be deemed to have made, respectively, such purchase of Replacement Collateral or sale of Loaned Securities for an amount equal to the price therefor on the date of such exercise obtained from a generally recognized pricing source or the most recent closing bid quotation from such a source. Upon the satisfaction of all the relevant Beneficial Owner’s obligations hereunder, any remaining Loaned Securities or remaining cash proceeds thereof shall be returned to Agent.

13.2 Notwithstanding the foregoing, (A) in the event of a Beneficial Owner Default, the claims, liens, rights of set-off and other remedies available to the Borrower under this Section and applicable law shall apply and extend only to such Beneficial Owner and its Loaned Securities and shall not apply or extend to any other Beneficial Owner or its Loaned Securities; and (B) in the event of a \_\_\_\_\_\_\_\_\_ Default other than a default under sections (e), (f) or (g) of Section 11, Borrower’s remedies shall be limited to termination of all outstanding Loans and any available remedies under applicable law and Borrower shall have no remedies, claims, liens or rights of set-off or otherwise against any Beneficial Owner or Loaned Securities as a result of such Default.

14. **Borrower's Financial Condition.** Borrower shall deliver to the Agent its most recent statement required to be furnished to customers by Rule 17a-5(c) of the Securities and Exchange Commission under the Securities Exchange Act of 1934, or if Borrower is a bank, copies of the most recent quarterly and annual (or more frequent) financial reports required to be furnished to the principal regulators of the bank and its parent holding company, respectively. Borrower represents that such statement or report fairly represents its financial condition, including any applicable net capital ratio or primary and total capital ratios, as of the date of that statement. Borrower also represents that there has been no material adverse change in its financial condition or any applicable net capital ratio or primary and total capital ratios, since that date. Borrower shall promptly deliver to the Agent all statements subsequently required to be furnished to Borrower's customers by such rule. Borrower shall also deliver to the Agent its most recent financial information otherwise available to the public and, as long as any Loan is outstanding under this Agreement, shall promptly deliver to the Agent any such financial information subsequently available. If Borrower is a bank, references to "Borrower" in this section shall include its parent holding company and Borrower shall furnish to Agent all statements subsequently required to be furnished to the principal regulator of the bank and its parent holding company. Each new Loan by Borrower under this Agreement shall constitute a recertification, as of the time such Loan is negotiated, of the representations hereinabove made by Borrower in this Section 14.

15. **Market Value.** Unless otherwise agreed as to specific securities or specific circumstances, Market Value of both Loaned Securities and Collateral shall be determined and defined as provided in this section.

15.1 If the principal market for the securities to be valued is a national exchange in the United States, Market Value shall be the price at the close of trading on the most recent trading date on the principal exchange on which they are traded or, if there was no sale on that day, by the last sale price on the next preceding Business Day on which there was a sale on such exchange, as quoted by such exchange;

15.2 For over-the-counter securities, if the securities to be valued are quoted on NASDAQ, their Market Value shall be the closing sale price on the preceding Business Day, or if the securities are issues for which last sale prices are not quoted on NASDAQ, the closing bid price on such day; for all other such securities, their Market Value shall be the highest bid price on the preceding Business Day available from any recognized pricing source, and if the relevant quotation did not exist on such day, then the relevant quotation on the next preceding Business Day in which there was such a quotation shall be the Market Value;

15.3 If the securities to be valued are Government Securities, their Market Value shall be the average of the bid and asked prices on the Business Day next preceding the date on which such determination is made as quoted by a recognized pricing service acceptable to the Borrower and Agent, or if not so quoted on such day, on the next preceding Business Day on which they were so quoted;

15.4 If the securities to be valued are Foreign Securities, their Market Value shall be determined as of the close of business on the preceding Business Day in accordance with market practice in the principal market for such securities; and

15.5 The Market Value of a letter of credit shall be the undrawn amount thereof.

15.6 Market Value of any security shall include accrued interest to the extent not already included therein, unless market practices with respect to the valuation of such securities in connection with securities loans is to the contrary. Notwithstanding the foregoing, either party may use intra-day prices of securities available from a recognized pricing service, if more recent than previous closing prices, to establish the Market Values of Loaned Securities and Collateral for the purpose of demanding Collateral under Section 8. Valuations used in good faith hereunder shall be binding on both Borrower and Agent and neither party shall be liable for damages incurred by the other party resulting from errors in valuations furnished by recognized pricing services.

16. **Transfers.**

16.1 All transfer of securities hereunder shall be by (a) physical delivery of certificates representing such securities together with duly executed stock or bond transfer powers, as the case may be, with signatures guaranteed by a bank or member firm of the New York Stock Exchange, Inc., (b) transfer on the books of a Clearing Organization reasonably acceptable to Agent, or (c) such other means as Borrower and Agent may agree.

16.2 All transfers of cash Collateral hereunder shall be by (a) wire transfer in immediately available funds or (b) such other means as Borrower and Agent may agree.

16.3 All transfers of a letter of credit from Borrower to Agent shall be made by physical delivery to Agent of an irrevocable letter of credit issued by a bank acceptable to Agent. Transfer of a letter of credit from Agent to Borrower shall be made by causing such letter of credit to be returned or by causing the amount of such letter of credit to be reduced to the amount required after such transfer.

16.4 A transfer of securities, cash or letters of credit may be effected under this Section 16 on any day except (a) a day on which the transferee is closed for business at the address shown in paragraph 21 below or (b) a day on which a Clearing Organization or wire transfer system is closed, if the facilities of such Clearing Organization or wire transfer system are required to effect the transfer.

17. **Contractual Currency.**

17.1 (a) Any payment in respect of a distribution under Section 7 shall be made in the currency in which the underlying distribution of cash was made; (b) any return of cash shall be made in the currency in which the underlying transfer of cash was made and (c) any other payment of cash in connection with a Loan under this Agreement shall be in the currency agreed upon by Borrower and Agent in connection with such Loan (the currency referred to above being the “Contractual Currency”). Payment may be made in a currency other than Contractual Currency, except that the relevant payment obligation shall be discharged only to the extent of the amount of Contractual Currency that the payee may purchase, consistent with normal banking procedures, with such other currency (net of transaction costs) on the banking day next following its receipt of such currency. For purposes of this paragraph, amounts in Euro (whether denominated in the Euro unit or a national currency unit) shall be treated as being in the same currency only if those amounts are expressed in the Euro unit or the same national currency unit.

17.2 For purposes of this Agreement, currency conversions shall be made on the basis of the current rates provided by a reputable pricing information service (such as the services provided by Reuters, Extel Statistical Services and Telerate) reasonably chosen by the Agent.

18. **Miscellaneous.** This Agreement supersedes any other agreement between the Borrower and Agent concerning the loans of securities within or outside the United States and shall not be assignable by either party without the prior written consent of the other party. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may be canceled by either Borrower or Agent upon written notice to the other, subject only to fulfillment of any obligations then outstanding. This Agreement may not be modified, except by a writing signed by both Borrower and Agent. Section headings are for convenience of reference only and may not be used in the interpretation of the provisions of this Agreement. The invalidity or unenforceability of any separable portion of this Agreement shall not impair the validity and enforceability of the remaining portions. This Agreement shall be governed by and construed in accordance with the laws of the United States of America to the extent applicable, otherwise the internal laws of the State of Illinois.

19. **Transfer Taxes and Necessary Costs.** All transfer taxes and necessary costs with respect to the transfer of the Loaned Securities and securities in the Collateral by the Agent to Borrower and by Borrower to the Agent shall be paid by Borrower. Borrower shall indemnify Agent from and against any loss, liability or expense Agent may incur in any capacity by reason of the Borrower's failure to pay any said taxes or costs.

20. **Indemnification, Etc.** Except for taxes other than transfer taxes, Borrower agrees to indemnify, defend, hold and save harmless the Agent from any claim, actions, demands or lawsuits of any kind whatsoever arising in any way out of the use that Borrower makes of the Loaned Securities, except such as may be caused by the negligence or willful acts of the Agent. If either of the parties does not return any securities constituting Collateral or securities identical to Loaned Securities as provided in Section 5, that party agrees to reimburse the other party for any losses caused by such other party's inability to retransfer such securities to a subsequent purchaser, except that such other party shall take all reasonable steps to minimize any such loss.

21. **Remedies.** All remedies hereunder shall survive the termination of the relevant Loan, return of Loaned Securities or Collateral and termination of this Agreement.

22. **Notices.** Notices shall be in writing and all notices pursuant hereto shall be sufficient if delivered by registered or certified mail or by telex, telegram, or facsimile transmission confirmed by such mail to the party entitled thereto at the following addresses:

If to \_\_\_\_\_\_\_\_ or Agent, to the following address:

If to the Borrower, to the following address:

or to such other address as either party may furnish to the other by notice.

23. **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.

24. **Riders.** Agent may deliver to Borrower one or more Riders to this Agreement. The purpose of a Rider is to modify this Agreement with respect to Loans of Foreign Securities to take account of laws, rules, regulations, customs or practices relating to securities transactions applicable to exchanges, markets or clearing organizations in the country or countries specified in the Rider (the "Countries"). Each Rider shall apply only to the types of securities there specified and only to transactions in those securities taking place in the Countries. Agent may by a later notice or Rider revoke or amend any Rider previously issued. As to matters within its scope, the terms of each Rider shall prevail over inconsistent provisions in this Agreement or previous Riders. Effective upon the date of issuance of a Rider, the Rider shall become a part of this Agreement as if its terms were specifically stated herein, without the execution of any further document, except that at Agent's request Borrower shall acknowledge receipt of any Rider; and except further that the Rider shall not apply to loans hereunder outstanding on the date of its issuance if the Borrower retransfers the Loaned Securities in conformity with Section 5 before such date or within the standard settlement time applicable to the Loaned Securities after the date of the Borrower's receipt of the Rider (or within such other time period agreed to by the parties).

25. **Disclosure and Confidentiality.**

25.1 Agent shall, at such intervals as Agent may determine, but in any event no less frequently than quarterly, provide Borrower with current information concerning the Beneficial Owners, which shall include at a minimum the names of all the Beneficial Owners and whether any Beneficial Owner is an ERISA plan or trust, and may include information concerning the identity of the specific Beneficial Owners whose securities have been loaned to the Borrower and the Market Value of those securities. All such information, together with any and all documents containing such information and the fact that Agent is the source of the information, is referred to in this Agreement as the “**Information**.”

25.2 The Borrower shall (A) hold in strictest confidence and maintain the confidentiality of (i) the Information and the fact that it has the Information, (ii) this Section 25 and its contents, and (iii) any and all decisions the Borrower may make concerning the volume, selection or timing of present or future securities loans under this Agreement as a result of its access to the Information and not disclose any of the foregoing to any third person**, including any parent, subsidiary or corporate affiliate of the Borrower,** unless (1) pursuant to order or valid process of a court or administrative body having jurisdiction over Borrower or (2) with the prior express written permission of Agent; (B) not use the Information for any purpose other than permitting Borrower to perform credit evaluations, risk management, compliance or legal review, or senior management oversight as Borrower may reasonably deem necessary to comply with regulatory requirements; and (C) take all reasonable steps to safeguard the Information and prevent its unauthorized disclosure, including maintaining adequate security of documents, files, computers, tapes, etc. containing the Information, minimizing the duplication of the documents containing the Information, limiting access to the Information to the minimum number of officers and employees of the Borrower required to have such access for a permitted purpose and taking adequate measures to assure that each such person observes the requirements of this Section 25. Notwithstanding the foregoing, Borrower may disclose Information to any affiliated or parent company who regularly performs credit analyses for the Borrower, provided such affiliate or parent first executes a written agreement with Agent substantially similar in content and form to this Section 25. Further notwithstanding the foregoing, in no event shall Information be disclosed to personnel responsible for trading or sales, except any Information that does not specifically identify Beneficial Owners by name. Further, in no event shall Information be used to solicit Agent’s clients.

25.3 The Borrower shall indemnify and hold harmless \_\_\_\_\_\_\_\_\_ and Agent, and \_\_\_\_\_\_\_\_\_’s officers, employees and agents, from any and all liability, loss, cost or expense (including attorneys' fees in a reasonable amount) that it or any of them may incur as a result of or arising from any breach by Borrower of its obligations under this Section 25, which indemnification shall survive the termination of this Agreement. In addition, \_\_\_\_\_\_\_\_\_ or Agent may use any equitable remedy it deems appropriate to enjoin an actual or threatened violation by the Borrower of this Section 25.

25.4 This Section 25 shall terminate automatically upon termination of this Agreement and may be terminated by either party by notice in writing to the other party. Upon termination, the Borrower shall delete any of the Information in its computer memories and deliver to Agent all documents containing the Information, including notes, tapes and storage discs, but the Borrower shall continue to comply with the nondisclosure requirements of this Section 25 notwithstanding such termination. Agent shall retain all Information for any period requested by the Borrower.

25.5 **Identification of Principals.** Notwithstanding anything set forth in the Agreement to the contrary, Agent agrees that it shall not effect any Loan with Borrower on behalf of any Beneficial Owner unless Borrower has notified Agent (through any format generally used in the industry for such purpose or as otherwise agreed by Agent and Borrower (the “Agreed Format”)) of Borrower’s approval of such Beneficial Owner, and has not notified Agent (through the Agreed Format) that it has rescinded such approval. Agent further agrees to provide Borrower, before the close of business on the next business day after agreeing to enter into a Loan, with notice in the Agreed Format, of the specific Beneficial Owner or Beneficial Owners for whom it is acting in connection with such Loan, and the portion of each Loan allocable to the account of each of the Beneficial Owners for which it is acting.

25.6 **Information.** Borrower acknowledges that, except with respect to Information regarding Loans entered into on behalf of specific Beneficial Owners, Agent did not create or compile the Information and is merely forwarding Information obtained from Beneficial Owners. Accordingly, Agent only represents and warrants that any Information provided through the Agreed Format is an accurate representation of what has been provided to the Agent by the Beneficial Owner and to the extent Agent forwards such Information to the Borrower it will be forwarded absent Agent’s gross negligence or intentional misconduct. Borrower acknowledges that Agent shall not have any obligation to provide Borrower with confidential information regarding the financial status of any Beneficial Owner. Agent agrees, however, to use all reasonable efforts to assist Borrower in obtaining from the Beneficial Owners such information regarding the financial status of such Beneficial Owners as Borrower may reasonably request.

25.6 If Borrower determines at any time for any reason in its sole discretion that any Loan is unacceptable to it (including if Agent failed to identify the Beneficial Owner or Beneficial Owners as set forth above) Borrower shall be entitled to terminate any such Loan pursuant to the terms hereof. For the avoidance of doubt, Borrower shall be responsible for performance under the terms of the Loan until the Loaned Securities are received by Agent.

26. **Liability of \_\_\_\_\_\_\_ to Borrower.**

26.1 Borrower agrees and confirms that each Loan under the Agreement has been and shall be entered into by Agent as agent for a disclosed principal, and that \_\_\_\_\_\_\_\_\_ shall have no liability for any loss, damage or expense that may be incurred by Borrower as a result of any Agent Default or any Beneficial Owner Default (as defined in Section 11).

26.2 Borrower further agrees that \_\_\_\_\_\_\_\_\_ shall have no liability to Borrower under this Agreement or any Loan, except to the extent herein provided for \_\_\_\_\_\_\_\_\_ Defaults. Nothing in this Agreement shall be construed to require \_\_\_\_\_\_\_\_\_ to guarantee the performance by any Beneficial Owner of any of the obligations hereunder of such Beneficial Owner.

26.3 Upon the existence of a Beneficial Owner Default, Borrower's remedies shall not include any right of setoff, offset, recoupment or counterclaim against any obligation of Agent or \_\_\_\_\_\_\_\_\_ arising in other transactions in which Agent or \_\_\_\_\_\_\_\_\_ is acting as principal or as agent for a person other than the relevant Beneficial Owner.

26.4 If either Borrower or Agent becomes aware of a Default by a Beneficial Owner under paragraph (e) of Section 11 of this Agreement, it shall promptly notify the other party thereof, but neither party shall have any obligation to determine at any time that such a Beneficial Owner Default exists until it has been given actual notice thereof.

27. **Interpretation of Terms.** Subject to the provisions of Section 26 of this Agreement and this Section 27, (a) all references to "Agent" in this Agreement shall be construed to reflect that (i) each Beneficial Owner shall have, in connection with any Loan or Loans entered into by Agent on its behalf, the rights, responsibilities, privileges and obligations of Agent directly entering into such Loan or Loans with the Borrower under this Agreement, and (ii) each Beneficial Owner has designated Agent as its sole agent for performance of its obligations to Borrower and for receipt of performance by Borrower of its obligations to such Beneficial Owner in connection with any Loan or Loans under this Agreement (including, among other things, as agent for each Beneficial Owner in connection with transfers of securities, cash or other property and as agent for giving and receiving all notices under this Agreement); and (b), unless the context otherwise requires, both Agent and the Beneficial Owners shall be deemed "parties" to this Agreement and all references to a "party" or "either party" in this Agreement shall be deemed revised accordingly.

28. **Separate and Aggregate Transactions.** For purposes of Defaults by Borrower under Section 11 of this Agreement, all defaulted Loans between the Borrower and all the Beneficial Owners may be deemed to be aggregated, so that upon the occurrence of a Borrower Default Agent may treat all Collateral then held by Agent on behalf of all the Beneficial Owners as Collateral for a single Loan to the Borrower. For purposes of any Beneficial Owner Default, all defaulted Loans between the Borrower and the defaulting Beneficial Owner may be aggregated and treated as a single Loan, but Loans between the Borrower and the defaulting Beneficial Owner shall be treated separately from Loans between the Borrower and the other Beneficial Owners. Upon the occurrence of a Beneficial Owner Default, Agent shall notify Borrower of the Loans of securities of the relevant Beneficial Owner and Borrower shall not apply securities, cash or other property of or due any other Beneficial Owner against the obligations of the Beneficial Owner in default.

29. **ERISA Representations.** As provided in the confidentiality provisions of Section 25 above, Agent shall disclose to Borrower which of the Beneficial Owners are ERISA plans or trusts (“Plans”). As to each Loan hereunder of Loaned Securities of a Plan, the Borrower and Agent agree that each such Loan shall be conducted in accordance with Department of Labor Prohibited Transaction Exemption 81-6 as amended or any successor exemption. The Borrower and Agent hereby make the following representations to each other, each of which shall continue throughout the term of this Agreement and each Loan hereunder:

(A) Borrower represents and warrants that it is either a bank subject to federal or state supervision, or a broker-dealer registered under the Securities Exchange Act of 1934, as amended, or exempt from registration under section 15(a)(1) of that Act as a dealer in Government Securities.

(B) Borrower represents and warrants, as to any Beneficial Owner identified by Agent as being a Plan, that during the term of this Agreement, neither the Borrower nor any affiliate of the Borrower has any discretionary authority or control with respect to the investment of the assets of any such Plan, 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, except as shall be disclosed from time to time to Agent in writing by Borrower.

(C) Agent represents and warrants that each Beneficial Owner who is a Plan has agreed to identify any borrower to Agent if at any time such borrower, or an affiliate of such borrower, has discretionary authority or control, 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.

30. **Definitions.** For the purposes hereof:

30.1 **"Beneficial Owner"** shall mean a person for whose account Agent holds securities that may be loaned by Agent to Borrower pursuant to this Agreement.

30.2 **"Business Day"** shall mean, (a) with respect to any Loan, a day on which regular trading occurs in the principal market for the securities subject to the Loan (or, in the case of a payment denominated in Euro, a day on which TARGET operates), and (b) with respect to the valuation of any Loaned Securities or securities Collateral, a day on which regular trading occurs in the principal market for the securities whose value is being determined. Notwithstanding the foregoing, (i) for purposes of Section 8, “Business Day” shall mean any day on which regular trading occurs in the principal market for any Loaned Securities or for any securities Collateral under any outstanding Loan and “next Business Day” shall mean the next day on which a transfer of Collateral may be effected; and (ii) in no event shall a Saturday or Sunday be considered a Business Day.

30.3 **"Call Money Rate"** shall mean the charge on loans to brokers on stock exchange collateral, as published in the Midwest Edition of *The Wall Street Journal*.

30.4 **"Clearing Organization"** shall mean The Depository Trust Company, or, if agreed to by the Borrower and Agent, such other clearing agency at which Borrower (or Borrower's agent) and Agent (or Agent's agent) maintain accounts, or a book-entry system maintained by a Federal Reserve Bank or other central bank, or TARGET.

30.5 **"Collateral"** shall mean the property described in Section 3 (including any letters of credit), any other property accepted by the Agent in exchange therefor, all accounts in which such property is deposited or held, all investments of cash collateral and any proceeds of any of the foregoing, all as adjusted pursuant to Section 8.

30.6 **"Euro"** shall mean the currency of the member states of the European Union that adopt a single currency in accordance with the Treaty establishing the European Communities, as amended by the Treaty on European Union;

30.7 **"Foreign Securities"** shall mean, unless otherwise agreed, securities that are principally cleared and settled outside the United States.

30.8 **"Loan"** shall mean a loan of securities hereunder.

30.9 **"Loaned Securities"** shall mean any securities transferred as a Loan hereunder (including all distributions other than cash made to the Borrower by the issuer of Loaned Securities to the same extent the Agent would be entitled if the Loan had not been made) until the Clearing Organization credits the Agent's account for such securities, or the certificate for such securities (or identical securities) is transferred or otherwise accepted back hereunder or until the securities are replaced by purchase, except that, if any new or different securities shall be exchanged for any Loaned Securities by recapitalization, merger, consolidation or other corporate action, such new or different security shall, effective upon such exchange, be deemed to become Loaned Securities in substitution for the former Loaned Securities for which such exchange was made. For purposes of return of Loaned Securities by Borrower or purchase or sale of securities pursuant to Section 12 or 13 hereunder, (a) such term shall include securities of the same issuer, class, quantity and description as the Loaned Securities, as adjusted pursuant to the preceding sentence; and (b) Loaned Securities shall include securities redenominated into Euro notwithstanding such redenomination or that the nominal value of such securities may have changed in connection with such redenomination.

30.10 **“TARGET”** shall mean the Trans-European Automated Real-time Gross Settlement Express Transfer system.

 IN WITNESS WHEREOF, Borrower and Agent, by their duly authorized officers, have signed this Master Securities Borrowing Agreement the day and year first above written.

\_\_\_\_\_\_\_\_\_\_, BORROWER

Individually and as Agent as aforesaid

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Print Name:

 Title: