

**FINANCIAL AGENCY AGREEMENT**  
**for**  
**ADVISORY SERVICES**  
**for**  
**EQUITY SECURITIES, DEBT, AND WARRANTS**  
**under the**  
**CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT**

This Financial Agency Agreement (“FAA”) is entered into as of October 24, 2022 (the “Effective Date”), by and between the U.S. Department of the Treasury (“Treasury”) and Houlihan Lokey Capital, Inc. (the “Financial Agent”).

**Recitals**

Treasury designates qualified financial institutions as financial agents of the United States to provide specified services in a fiduciary capacity.

Treasury has determined that it is in the interests of the United States to designate the Financial Agent to provide the services described herein.

The Financial Agent desires to serve as a financial agent of the United States under the terms and conditions contained herein.

Accordingly, in consideration of the representations, warranties, and mutual agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Treasury and the Financial Agent agree as follows.

**1. Designation and authorization**

Pursuant to the authority of the Secretary of the Treasury under Division A, Title IV, Subtitle A, Section 4003(g) of the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act, Treasury hereby designates and authorizes the Financial Agent to act as a financial agent of the United States under the terms and conditions of this FAA to perform certain services as more fully described in Exhibit A.

**2. Term**

A. The initial term of this FAA is for two (2) years from the Effective Date and shall expire on October 24, 2024, unless terminated earlier by Treasury pursuant to the provisions hereof.

B. Treasury shall have the right and option to extend the term of this FAA beyond the initial expiration date for a total of five (5) consecutive one-year extensions. Treasury may exercise any such extension option by using reasonable efforts to give written notice to the Financial Agent at least thirty (30) calendar days prior to the end of the then current term. In the event Treasury

exercises any such extension options, this FAA shall be in full force and effect during the stated extension period.

C. The Financial Agent acknowledges that the services provided under this FAA are vital to the Federal Government and must continue without interruption during any transition period if Treasury decides to use a different entity to perform such services in the future, if Treasury decides to perform such services itself, or if termination requires an orderly shutdown of services. To provide for such a transition, Treasury shall have the right to extend the term of this FAA beyond any expiration date for a period not to exceed one (1) year. Treasury may exercise such option by giving written notice of such extension to the Financial Agent prior to the end of the then current term. Treasury will use reasonable efforts to provide such written notice at least thirty (30) calendar days prior to the end of the then current term. Treasury may reduce the number or extent of services to be provided by the Financial Agent during any such transition period. In such event, Treasury agrees that it will work diligently to transfer or shut down the services performed hereunder as soon as reasonably possible.

D. The Financial Agent agrees to cooperate with Treasury and/or any successor entity and to provide such services as are necessary to ensure an effective and orderly transfer or shutdown of services, functions, records, and data during any transition period described in the preceding paragraph.

### **3. Services to be provided by Financial Agent**

A. The Financial Agent shall perform the services required under this FAA, as more fully described in Exhibit A, in accordance with the highest practices and professional standards of care, with a degree of attention used in a well-managed operation. The Financial Agent shall use qualified individuals with suitable training, education, experience, and skills to perform the services.

B. The Financial Agent shall ensure all services provided under this FAA, including the development, operation, and maintenance of all systems, applications, and databases, are being performed in and are located in the United States unless specifically authorized otherwise by Treasury in writing. The Financial Agent shall also ensure that all employees of the Financial Agent, including affiliate, contractor, and subcontractor personnel, providing services under this FAA perform their work in the United States and are United States citizens unless specifically authorized otherwise by Treasury in writing. For the purpose of these requirements, when used geographically, the term "United States" means the 50 states and the District of Columbia.

C. Treasury may, in its sole discretion, modify, add to, or reduce the specific services required under the general scope of this FAA by providing written notice to the Financial Agent. If any such modification, addition, or reduction causes an increase or decrease in the cost of, or the time required for, performance of any service required by this FAA, Treasury and the Financial Agent will negotiate an equitable adjustment in the price of the service or other terms of performance.

D. Treasury may periodically issue instructions through bulletins, letters, or other

communications, consistent with this FAA, which will further describe or clarify the scope of the duties and services of the Financial Agent under this FAA. To the extent that any such instructions are inconsistent with the terms of this FAA or would constitute a material change in the terms or scope of services under this FAA, the terms of this FAA shall govern unless otherwise specified by Treasury.

E. The Financial Agent shall keep Treasury informed of changes in technology and business methods that might allow the Financial Agent to perform its services under this FAA in a more efficient or cost-effective manner.

#### **4. Compensation**

A. Treasury shall compensate the Financial Agent for services in accordance with Exhibit B, as amended from time to time.

B. Treasury does not guarantee any set quantity of assignments or transactions, minimum volume of assets or business or level of compensation to the Financial Agent and shall not adjust compensation on the basis that volume level did not meet the Financial Agent's expectations.

C. The Financial Agent shall maintain complete and accurate records of and supporting documentation for its costs incurred in providing services under this FAA, the amounts billable to Treasury, and payments made by Treasury. The Financial Agent shall follow generally accepted accounting principles when recording or reporting financial information regarding services provided under this FAA. The Financial Agent agrees to provide Treasury with documentation and other information with respect to any amounts billed to Treasury as may be reasonably requested by Treasury.

D. Treasury may deduct from any amount to be paid to the Financial Agent any amount that the Financial Agent is obligated to reimburse or pay to Treasury.

E. If this FAA is terminated before the end of the initial or extended term, the Financial Agent will only be compensated for services performed through the effective date of termination.

#### **5. Financial Agent's fiduciary duty**

The Financial Agent acknowledges and agrees that it owes a fiduciary duty of loyalty and fair dealing to the United States when acting as a financial agent of the United States. The Financial Agent agrees to act at all times in the best interests of the United States when carrying out its responsibilities under this FAA and in all matters connected with this agency relationship. The Financial Agent acknowledges and agrees that its fiduciary duties under this FAA include, but are not limited to, the following:

A. Performing its obligations with care, competence, and diligence;

B. Construing the terms of this FAA and any related instructions from Treasury in a reasonable manner to serve the purposes and interests of the United States;

C. Using any Nonpublic Information (as defined in Section 6) received or developed in connection with this FAA solely for the purposes of fulfilling its duties to Treasury and not for its own commercial purposes or for those of a third party;

D. Maintaining the integrity of the programs covered by this FAA, protect the reputation of Treasury and the Federal Government, and enhance the public's trust in the safety and efficiency of the Federal Government and the services provided hereunder; and

E. Acting only within the scope of its actual authority and to comply with all lawful instructions or directions received from Treasury.

## **6. Nonpublic and Sensitive Information**

A. The Financial Agent shall take appropriate measures to ensure the confidentiality of Nonpublic Information and to prevent its inappropriate use and shall document these measures in sufficient detail to demonstrate compliance. Nonpublic Information is defined as any information that Treasury provides to the Financial Agent pursuant to this FAA, or that the Financial Agent obtains or develops pursuant to this FAA, until Treasury determines the information is otherwise and informs the Financial Agent of such determination in writing, or until the information becomes part of the body of public information from a source other than the Financial Agent. Nonpublic Information includes, without limitation, information about Treasury's business, economic, and policy plans; prospective transactions; financial and asset information; trade secrets or other information protected by the Trade Secrets Act; information subject to the Privacy Act; personally identifiable information (PII); and Sensitive Information. This definition may include other information designated by Treasury or as defined by other Federal Government sources not mentioned above.

B. Sensitive Information is defined as any information received in connection with this FAA for which the loss, misuse, unauthorized access to, or modification of could adversely affect the national interest, the conduct of Federal programs, or the privacy of individuals that they are entitled to under the Privacy Act.

C. PII means any information received in connection with this FAA about an individual, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and information, which can be used to distinguish or trace an individual's identity, such as their name, social security number, date and place of birth, mother's maiden name, biometric records, etc., including any other personal information which is linked or linkable to an individual. This definition includes information for which the loss, misuse, modification of, or unauthorized access to such information could adversely affect the privacy that individuals are entitled to under the Privacy Act.

D. The Financial Agent shall use Nonpublic Information solely for the purposes of fulfilling its duties under this FAA and not for its own commercial purposes or for those of a third party. The Financial Agent may disclose such Nonpublic Information only to those employees of Treasury or the Financial Agent, including affiliate, contractor and subcontractor personnel, who have a

legitimate need to know the information to assist in the proper performance of services required by this FAA, consistent with the conflict-of-interest mitigation and information barrier measures identified in Exhibit E.

E. The measures required by this Section to protect Nonpublic Information shall include, but are not limited to, (i) security measures to prevent unauthorized access to facilities and storage containers where Nonpublic Information is stored, (ii) security measures to detect and prevent unauthorized access to computer equipment and data storage devices that store or transmit Nonpublic Information in accordance with Section 9, (iii) training to ensure that persons receiving Nonpublic Information know their obligations to maintain its confidentiality and to use it solely for purposes contemplated by this FAA, and (iv) programs designed to ensure compliance with Federal securities laws, including laws relating to insider trading.

F. Treasury may periodically issue other policy statements or guidance to clarify the Financial Agent's obligations regarding Nonpublic Information. If the Financial Agent has any questions on the designation or proper handling of Nonpublic Information, it shall immediately seek clarification from Treasury whose decision shall be binding upon the Financial Agent.

G. The Financial Agent's agreement with respect to Nonpublic Information is a continuing one that shall survive the termination or expiration of this FAA. However, the Financial Agent shall not be required to protect Nonpublic Information that is lawfully disclosed independent of the Financial Agent and is in the public domain.

H. The Financial Agent shall strictly enforce the terms of confidentiality agreements it has with its employees, affiliates, contractors, and subcontractors that provide services under this FAA. In addition, the Financial Agent shall ensure that each employee of the Financial Agent and all affiliate, contractor, and subcontractor personnel to whom Nonpublic Information is or may be disclosed review and sign a Non-Disclosure Agreement containing substantially the provisions and obligations in Exhibit D.

I. Notwithstanding the requirements of this Section, the Financial Agent may disclose Nonpublic Information if required pursuant to a lawful court order or valid subpoena, or if required by a federal regulatory or supervisory authority, or if required by a body duly charged with oversight of relevant programs, including but not limited to the Government Accountability Office, the Treasury Special Inspector General for Pandemic Recovery, and the Treasury Office of Inspector General, as applicable, after giving prior notice to Treasury to the extent legally permissible and, if not then legally permissible, as soon as it becomes legally permissible.

## **7. Breaches of Nonpublic Information**

A. The Financial Agent shall immediately notify Treasury of any discovered or suspected breaches of Nonpublic Information that may occur while handling Treasury data, whether paper or electronic, including unauthorized access, use, disclosure, or loss of Nonpublic Information. Such immediate notification should occur whether before or after regular business hours or on a

weekend or holiday and should not be delayed as the Financial Agent researches or confirms the particular details on an incident or suspected incident.

B. In response to a reported breach of Nonpublic Information, Treasury may request the Financial Agent conduct an investigation and report detailed findings as to the cause and impact of the breach as well as the remediation taken. As determined by Treasury after reviewing any investigation conducted by the Financial Agent, the Financial Agent may be liable and may be required to reimburse the Federal Government or any affected individual for any costs, expenses, or damages which result from the fraud, theft, willful misuse or negligence of the Financial Agent or its employees, affiliates, contractors, or subcontractors with respect to the handling and maintenance of Nonpublic Information.

C. The Financial Agent must ensure that all of its employees, affiliate, contractor and subcontractor personnel covered by this Section receive the proper education and guidance.

## **8. Privacy Act**

Treasury may determine that, in connection with the services provided under this FAA, the Financial Agent has obtained or developed a system of records as defined under the Privacy Act of 1974, 5 U.S.C. § 552a. For purposes of the Privacy Act, when a Government agency delegates the development, operation, or maintenance of a system of records on individuals to accomplish an agency function, the person that operates the system is bound by the Privacy Act as if such person were an employee of the agency. Violations of the Privacy Act may involve the imposition of criminal penalties. If Treasury makes such a determination, it shall so notify the Financial Agent. After receiving such notice, the Financial Agent shall promptly provide training to all of its officers, employees, affiliates, contractors, and subcontractors with access to such system of records on the duties and responsibilities imposed on them by the Privacy Act and by applicable regulations and guidance, including the potential penalties for wrongful disclosure.

## **9. Information technology security**

A. The Financial Agent shall develop, maintain, enforce, and review for effectiveness, information technology security measures designed to ensure the (i) availability, (ii) access controls, and (iii) integrity of any systems, databases, or data stores containing or processing Nonpublic Information.

B. The availability measures shall be designed to ensure such systems, databases, or data stores are available for operation and use to support the services required under this FAA. The access control measures shall be designed to ensure such systems, databases, or data stores are protected against unauthorized access and use. The integrity measures shall be designed to ensure that systems processes and storage and retrieval of Nonpublic Information in databases or data stores are complete, accurate, and protected against unauthorized modification.

C. The Financial Agent shall ensure that neither it, nor its affiliates, contractors or subcontractors providing service hereunder, use “covered telecommunication equipment or

services” within the meaning of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) as a substantial or essential component of any system, or as critical technology as part of any system.

D. At Treasury’s request, the Financial Agent shall submit to Treasury for review the specific information technology security measures set out in this section.

## **10. Personnel security**

A. Treasury will rely on the Financial Agent’s personnel security screening standards. The Financial Agent shall ensure that all employees, affiliate, contractor, and subcontractor personnel who have access to Nonpublic Information in connection with this FAA have appropriate personnel security background checks.

B. Upon request, the Financial Agent shall provide Treasury with a listing of all such background investigation requirements (*e.g.*, FBI fingerprint check, police check, credit check, verification of citizenship status, etc.). Treasury may request additional personnel security checks.

C. Consistent with Section 3B, all Financial Agent employees, including affiliate, contractor, and subcontractor personnel, who have access to Nonpublic Information must be United States citizens performing their work in the United States, unless specifically authorized by Treasury in writing.

## **11. Conflict of interest mitigation and information barriers**

A. Consistent with Exhibit E, the Financial Agent and any affiliate, contractor, or subcontractor that provides services under this FAA shall adequately segregate personnel or employ suitably robust internal controls designed to ensure that such personnel do not divulge to any other personnel Nonpublic Information regarding Treasury’s programs and portfolios, including but not limited to trading, brokerage, sales, asset management activities, or any other activities that may conflict with its duties owed to Treasury, except as required by law, or as required for internal senior management or legal purposes consistent with the Financial Agent’s duties owed to Treasury.

B. As part of its obligation to comply with the conflict-of-interest requirements of this FAA, the Financial Agent shall implement the conflicts of interest mitigation and information barrier measures set forth in Exhibit E.

## **12. Employee codes of conduct and ethics**

The Financial Agent must establish policies and procedures reasonably designed to assist all individuals performing services under this FAA to comply with applicable laws and regulations, and to comply with requirements for the disclosure and the avoidance, mitigation, or neutralization of any actual or potential personal conflicts of interest, consistent with the

provisions of Exhibit E. The Financial Agent must have in place policies and procedures establishing a Code of Conduct and a Code of Ethics.

### **13. Representations and warranties**

The Financial Agent represents and warrants to Treasury the following, the truth and accuracy of which are a continuing obligation of the Financial Agent:

- A. The Financial Agent is an institution established and regulated under the laws of the United States or any state, territory, or possession of the United States and has significant operations in the United States.
- B. The Financial Agent has full corporate power and authority to enter into, execute, and deliver this FAA and to perform its obligations hereunder.
- C. The Financial Agent is not aware of any legal or financial impediments to performing its obligations under this FAA that it has not disclosed in writing to Treasury.
- D. The Financial Agent is not delinquent on any Federal tax obligation or any other debt owed to the United States or collected by the United States for the benefit of others.
- E. The Financial Agent is not on any Federal excluded parties, debarment, or suspension lists, including but not limited to the Excluded Parties List system maintained by the General Services Administration.
- F. The Financial Agent is not subject to any pending or current legal, regulatory, or enforcement actions that could impair the Financial Agent's ability to provide services under this FAA, or that could in any way pose a reputational risk to Treasury or the Financial Agent.
- G. The Financial Agent has or shall promptly obtain all required licenses, bonding, facilities, equipment, and trained personnel to perform its obligations under this FAA.
- H. The Financial Agent owns or is licensed to use software programs and data processing hardware that are necessary for it to perform its obligations under this FAA, and to the best of its knowledge such software programs and data processing hardware do not infringe upon or constitute an infringement on or misappropriation of any valid United States patent, copyright, trademark, trade secret or other proprietary rights of any third party.
- I. The Financial Agent does not use, and its affiliates, contractors, and subcontractors providing services hereunder do not use, "covered telecommunications equipment or services" within the meaning of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) as a substantial or essential component of any system, or as critical technology as part of any system.
- J. The Financial Agent maintains a sufficiently robust compliance program designed to detect and prevent violations of Federal securities laws.
- K. The Financial Agent covenants to disclose all actual or potential organizational conflicts of



interest, including conflicts with the interests of any corporate parents, affiliates, and subsidiaries, and of any contractors and subcontractors providing services under this FAA, and to avoid, mitigate, or neutralize to the extent feasible and to Treasury's satisfaction any personal or organizational conflicts of interest that may be identified by Treasury or the Financial Agent, consistent with the conflicts mitigation measures set forth in Exhibit E.

L. If doing other business with Treasury or another Federal agency, the Financial Agent is not in any kind of probationary status and can demonstrate how it is addressing and resolving any identified deficiencies in performance, if any.

M. The Financial Agent maintains a diversity and inclusion policy and takes proactive steps to promote diversity and inclusion in its contracting and hiring practices, including but not limited to hiring, recruiting, retention, and promotion, in a manner reflective of the Financial Agent's size and other characteristics.

#### **14. Use of affiliates and contractors**

A. The Financial Agent shall, consistent with Section 3B, use only its own employees and employees of corporate affiliates to perform services under this FAA unless the Financial Agent obtains the prior written consent of Treasury to use contractors or subcontractors to perform such services. Treasury may approve or reject any contractor or subcontractor in its sole discretion. Treasury shall have the right to impose requirements for any such contractor or subcontractor including, without limitation, requirements relating to the location of the contractor's or subcontractor's offices, the citizenship of the contractor's or subcontractor's employees, and the contractor's or subcontractor's physical and data security systems.

B. The Financial Agent must execute any agreement with a contractor or subcontractor in its own name and not on behalf of the United States or Treasury, and any such contractor or subcontractor does not become a contractor, subcontractor, agent, or subagent of Treasury. Treasury shall not be deemed a party to any arrangement or agreement the Financial Agent may enter into with another entity to perform any services under this FAA. Treasury will not be liable for any payment to any entity other than the Financial Agent.

C. The Financial Agent is responsible for the supervision and management of any affiliate, contractor, or subcontractor that assists in the performance of services under this FAA. The Financial Agent shall remove and replace any affiliate, contractor, or subcontractor that fails to perform its duties. The Financial Agent shall ensure that all of its affiliates, contractors, and subcontractors providing services hereunder comply with the terms and provisions of this FAA. The Financial Agent shall be responsible for the acts or omissions of its affiliates, contractors, and subcontractors providing services hereunder as if the acts or omissions were by the Financial Agent.

D. If the Financial Agent seeks to utilize a contractor or subcontractor to provide a portion of the services under this FAA, the Financial Agent agrees to use commercially reasonable efforts to engage one or more small businesses as contractors or subcontractors, which may include minority- or women-owned businesses.

## **15. Reviews and audits**

Treasury, Treasury Special Inspector General for Pandemic Recovery, Treasury Office of Inspector General, the Government Accountability Office, Congressional oversight bodies, other Federal agencies, and other entities as authorized by Treasury shall have the right during normal business hours to conduct announced and unannounced onsite and offsite physical, personnel and information technology testing, security reviews, and audits of the Financial Agent, and to examine all books and records related to the services provided and compensation received under this FAA. The Financial Agent shall be responsible for implementing corrective actions associated with such testing, reviews, or audits as directed by Treasury. The Financial Agent shall also conduct any internal audits and obtain any independent audits as Treasury or another government agency with oversight authority over Treasury may reasonably require.

## **16. Internal control program**

A. The Financial Agent shall have an internal control program designed to ensure effective delivery of the services under this FAA as set forth in Exhibit A. The internal control programs must include documentation of the control objectives for major activities, the associated control techniques, and mechanisms for testing and validating the controls.

B. Upon request, the Financial Agent shall provide Treasury with documentation regarding its internal control programs and any audit reports applicable to the services set forth in Exhibit A. The Financial Agent shall meet the internal control program requirement in accordance with Treasury's timelines.

## **17. Intellectual property rights**

A. For purposes of this Section, the following definitions apply:

“Business Methods” means any ideas, concepts, designs, practices, and business methods created by the Financial Agent or its affiliates, contractors or subcontractors, jointly or independently, at any time, expressly for the purpose of providing the services under this FAA.

“Data” means any recorded information, regardless of form or the media on which it may be recorded, regarding any of the services described in this FAA.

“Federal Government” means any Federal Government department, agency, bureau, corporation or instrumentality, or any Federal Reserve Bank.

“Software” means any software source and object code created by the Financial Agent or its affiliates, contractors or subcontractors, jointly or independently, expressly for the purpose of providing the services under this FAA.

“Unlimited Rights” means perpetual rights to, without limitation, use, copy, maintain, modify, enhance, disclose, reproduce, prepare derivative works, and distribute, in any

manner and for any purpose and to permit others to do so.

B. For use within the Federal Government, Treasury shall have exclusive Unlimited Rights to Software and may use it for any purpose within the Federal Government's authority. For use outside the Federal Government, Treasury shall have non-exclusive Unlimited Rights to Software and may use it for any purpose within Treasury's authority.

C. For use within the Federal Government, Treasury shall have exclusive Unlimited Rights to Business Methods and may use them for any purpose within the Federal Government's authority. For use outside the Federal Government, Treasury shall have non-exclusive Unlimited Rights to the Business Methods and may use them for any purpose within Treasury's authority.

D. The Financial Agent shall obtain any patents to the Software and Business Methods that are necessary to ensure that Treasury will be able to exercise its Unlimited Rights therein.

E. The Financial Agent shall provide to or obtain for Treasury an implied license or the right to use during the term of this FAA any other pre-existing software or software obtained independently from a third party that is necessary to perform the services described in this FAA, to the maximum extent permitted by law and consistent with the commercial licensing arrangements attached to such software.

F. Except as otherwise provided herein or prohibited by law, Treasury shall have non-exclusive Unlimited Rights to all Data produced, developed, or obtained without third party restriction, by the Financial Agent or its affiliates, contractors, or subcontractors for the purpose of providing services under this FAA. If requested, such Data shall be made available to Treasury in industry standard useable format.

G. At the expiration or termination of this FAA, Treasury may require the Financial Agent to transfer the rights in all Software to a successor financial agent or other entity, including Treasury.

H. In accordance with 28 U.S.C. § 1498, Treasury hereby authorizes and consents to all use, manufacture, and production of any invention, product or work described in and covered by a United States patent or copyright by the Financial Agent or any affiliate or contractor of the Financial Agent in the performance of this FAA.

## **18. Liability of Financial Agent**

A. Except as otherwise provided in this Section, the Financial Agent will not be liable to Treasury for (i) any exercise of, or failure to exercise, any discretionary authority duly granted to the Financial Agent under this FAA; and (ii) any loss or liability incurred as a result of any action or failure to act by any custodian selected by Treasury (Custodian), a broker, a clearing agency, or a securities depository, *provided that* this provision shall not constitute a waiver of any rights Treasury may have under Federal securities or other laws.

B. The Financial Agent is liable and shall reimburse Treasury for any monetary loss or costs

that result from the fraud, theft, embezzlement, willful misconduct, bad faith, or negligence of, or breach of fiduciary duty by, the Financial Agent or an affiliate, contractor, or subcontractor of the Financial Agent providing services under this FAA.

C. The Financial Agent may be liable for costs, expenses, or damages associated with a breach of Nonpublic Information, as set forth in Section 7.

D. If Treasury reasonably believes that the Financial Agent is in breach of this FAA, an investigation of the Financial Agent's actions by Treasury or another entity may be required. If ultimately found to be in breach, the Financial Agent shall be liable for the reasonable costs and expenses of any such investigation to the extent that such costs and expenses are reasonably documented.

E. If Treasury terminates this FAA as a result of a default by the Financial Agent, the Financial Agent shall be liable to and shall reimburse Treasury for the costs of replacing the Financial Agent with a successor agent. These costs shall include, but are not limited to, the costs incurred by Treasury to select and train a successor agent; transfer systems, data, and software to the successor agent; and modify Treasury systems and program agency systems to connect to those of the successor agent.

## **19. Notice to Treasury**

The Financial Agent shall promptly notify Treasury if (i) the Financial Agent becomes aware of any loss, damage, investigation, action, proceeding, or claim related to its performance under this FAA that may have a material adverse effect on Treasury or the Federal Government, or that may damage the public's trust in the operations of Treasury; (ii) the Financial Agent breaches any material obligation or condition of this FAA; or (iii) any representation or warranty made by the Financial Agent herein is or becomes materially false, incorrect, or incomplete.

## **20. Defaults**

The following, as solely determined by Treasury, constitute events of default by the Financial Agent under this FAA:

A. The Financial Agent fails to perform or comply with any covenant or any of its material obligations under this FAA.

B. The Financial Agent or any of its employees, affiliates, contractors, or subcontractors providing services under this FAA commits a negligent, willful, or reckless act that results in a loss, damage or increased risk to Treasury.

C. The Financial Agent breaches a fiduciary duty to the United States with respect to its responsibilities under this FAA.

D. Any representation or warranty made herein by the Financial Agent is or becomes materially false, incorrect, or incomplete.

- E. The Financial Agent is or becomes delinquent on any Federal tax obligation or any other debt owed to the United States or collected by the United States for the benefit of others.
- F. The Financial Agent becomes insolvent or a receiver, liquidator, trustee, conservator, or other custodian is appointed for the Financial Agent.
- G. The Financial Agent is in default under any other agreement between the Financial Agent and Treasury or any bureau of Treasury.

## **21. Remedies for default**

Treasury may take any, all, or none of the following actions in the event of a default by the Financial Agent under this FAA:

- A. Treasury may terminate this FAA and cease its performance hereunder effective immediately or following a transition period as described in Section 2C. If this FAA is terminated, the designation and authorization of the Financial Agent for purposes of providing the services under this FAA are automatically revoked.
- B. Treasury may modify, limit, or reduce the scope or quantity of services being provided by the Financial Agent under this FAA. In such cases, the authorization of the Financial Agent for purposes of providing any discontinued services under this FAA is automatically revoked.
- C. Treasury may revoke the Financial Agent's designation as a financial agent for the United States, encompassing this FAA and any other financial agency agreements with Treasury, which shall be deemed terminated as of the effective date of such revocation.
- D. Treasury may declare any other agreement between the Financial Agent and Treasury to be in default.
- E. Treasury in its sole discretion may put the Financial Agent on probation for failing to perform satisfactorily a service (or services) delineated in this FAA. Probation means that Treasury will withhold some or all of the Financial Agent's compensation until in Treasury's determination the Financial Agent has cured the non-performance issues. Treasury reserves the right to consider other measures in addition to withholding the compensation if the Financial Agent is put on probation, including but not limited to, preclusion from additional work under the existing agreement and ineligibility to be designated for other work under a new agreement. The payment of compensation may also be adjusted consistent with Section 18 of this FAA.
- F. Treasury may consider information or history regarding any default hereunder when making any decisions regarding future use of the Financial Agent for performance of financial agent services.
- G. Treasury may take any other action available at law or in equity.

## **22. Actions in the interest of the United States**

Notwithstanding any other provision of this FAA, when Treasury in its sole discretion determines that such actions are necessary to protect the interests of the United States, Treasury may reduce the authorized scope of work under this FAA, terminate this FAA, or revoke the Financial Agent's status as a financial agent of the United States even in the absence of an event of default by the Financial Agent under this FAA.

## **23. Disputes**

Treasury and the Financial Agent agree that it is in their mutual interest to resolve disputes by agreement. If a dispute arises under this FAA, the parties will make all reasonable efforts to resolve the dispute by mutual agreement. If a dispute cannot be resolved informally by mutual agreement at the lowest possible level, the dispute shall be referred up the respective chain of command of each party in an attempt to resolve the matter. This referral will be done in an expeditious manner. The Financial Agent shall continue diligent performance of the services required by this FAA pending resolution of any dispute. Treasury and the Financial Agent reserve the right to pursue other legal or equitable rights they may have concerning any dispute. However, the parties agree to take all reasonable steps to resolve disputes internally before commencing legal proceedings.

## **24. Data and records retention**

A. In addition to its fiduciary duties and any other obligation to retain financial and accounting records that may be imposed by Federal or state law, the Financial Agent shall retain all data, books, reports, documents, audit logs and records, including electronic records, related to the performance of services required by this FAA. In addition, the Financial Agent shall maintain a copy of all computer systems and application software necessary to review and analyze these electronic records. Unless otherwise directed by Treasury, the Financial Agent shall retain these records for at least 7 years from the date the data or record was created and shall transfer any such records to Treasury at Treasury's request. Treasury may also notify the Financial Agent from time to time of any additional records retention requirements resulting from litigation in which Treasury may have an interest, and the Financial Agent agrees to comply with these litigation requirements.

B. Upon the expiration or termination of this FAA, the Financial Agent shall provide to Treasury any and all data and records requested by Treasury related to the services performed under this FAA in the format requested by Treasury.

## **25. Transfer or assignment**

A. The Financial Agent may not transfer or assign its rights under this FAA without the prior written consent of Treasury, which may be granted or withheld in the sole discretion of Treasury. Any purported transfer or assignment without the prior written consent of Treasury shall be void.

B. The Financial Agent shall notify Treasury as soon as legally possible of any proposed merger, acquisition, or other action involving the Financial Agent, its corporate affiliates, or its contractors or subcontractors providing services under this FAA that will affect the Financial Agent's ability to carry out its responsibilities under this FAA.

C. In the event that the Financial Agent is involved in a merger or acquisition, Treasury may, in its sole discretion, elect to continue this FAA and to treat the Financial Agent's successor in interest to be a successor financial agent, or elect not to continue this FAA, in which case Treasury shall notify the Financial Agent of the termination date of the FAA.

## 26. Notices

All notices required to be given herein shall be in writing and shall be delivered by e-mail to the following contacts unless expressly stated otherwise herein:

To Treasury:

Deputy Assistant Secretary for Fiscal Operations and Policy  
U.S. Department of the Treasury  
1500 Pennsylvania Ave, NW  
Room 2112  
Washington, D.C. 20220  
[OFA\\_Agents@treasury.gov](mailto:OFA_Agents@treasury.gov)

To the Financial Agent:

David R. Hilty  
Managing Director  
Houlihan Lokey Capital, Inc.  
245 Park Avenue, 20<sup>th</sup> Floor  
New York, NY 10167  
[DHilty@hl.com](mailto:DHilty@hl.com)

*with a copy to:*

Legal Department  
Houlihan Lokey  
245 Park Avenue, 20<sup>th</sup> Floor  
New York, NY 10167  
[Legal@hl.com](mailto:Legal@hl.com)

The party giving the notice shall send an e-mail to (1) the party receiving the notice and (2) the Treasury general mailbox at [OFA\\_Agents@treasury.gov](mailto:OFA_Agents@treasury.gov).

## **27. Publicity and Disclosure**

A. The Financial Agent shall not make use of any Treasury name, symbol, emblem, program name, or product name, in any advertising, signage, promotional material, press release, Web page, publication, or media interview, without the prior written consent of Treasury.

B. The Financial Agent, its affiliates, contractors and subcontractors providing services under this FAA, and their respective employees shall not make statements to the media or issue press releases regarding their services under this FAA without the prior written consent of Treasury. The Financial Agent shall refer any media inquiries or requests for interviews, comments, or similar items to Treasury.

C. The Financial Agent acknowledges that this FAA is confidential and, consistent with applicable law, shall not disclose this FAA or any portion thereof to third parties unless Treasury has released such portion into the public body of information.

## **28. Annual Certification and Reporting**

A. The Financial Agent shall sign an annual certification to Treasury in the form set forth in Exhibit C, which shall include, among other things, a representation that the Financial Agent is not delinquent on any Federal tax obligation or any other debt owed to the Federal Government or collected by the United States for the benefit of others.

B. The Financial Agent shall notify the Treasury Special Inspector General for Pandemic Recovery or the Treasury Office of Inspector General if it becomes aware of any instance of a possible violation of Federal criminal laws regarding fraud, conflict of interest, bribery, or illegal gratuities affecting or related to the services performed under this FAA. Such notification shall be on a timely basis, which shall not normally exceed one week. The Financial Agent shall also disclose any other facts or information that Treasury should reasonably expect to know about the Financial Agent and its affiliates, contractors, and subcontractors providing services under this FAA to help protect the reputational interests of Treasury and the Financial Agent.

## **29. Freedom of Information Act**

This FAA may be subject to disclosure under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). If the Financial Agent objects to the disclosure under FOIA of any information included in this FAA, it shall submit such objections in a letter to Treasury that identifies the specific items of information in the FAA that it believes are exempt from disclosure and provide, for each item of information, (i) a list of the FOIA exemptions that it believes apply to the information and (ii) a detailed explanation of the reasons for such a determination. The Financial Agent shall submit such letter to Treasury within 30 calendar days after the Financial Agent’s execution of this FAA and, as applicable, of any amendment thereto. The Financial Agent agrees that this 30-day period shall serve as its opportunity to object to the disclosure of its information in response to any future FOIA request, and that its failure to submit such a letter within 30 days shall waive the Financial Agent’s right to object to the disclosure of such information under FOIA.



### **30. Amendments**

Amendments to this FAA shall be in writing and signed by the parties. Notwithstanding the foregoing, Treasury reserves the right to unilaterally modify the terms and provisions of this FAA, through written notice to the Financial Agent, to comply with changes in legislation or regulations, court orders, executive orders, or audit findings or any interpretation thereof.

### **31. Miscellaneous**

A. This FAA will be interpreted under Federal law, and if there is no applicable Federal law, under the laws of the State of New York.

B. This FAA is not a Federal procurement contract and is therefore not subject to the provisions of the Federal Property and Administrative Services Act (41 U.S.C. §§ 251-260), the Federal Acquisition Regulations (48 CFR Chapter 1), or any other Federal procurement law.

C. Any provision of this FAA that is determined to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this FAA, and no such prohibition or unenforceability in any jurisdiction shall invalidate such provision in any other jurisdiction.

D. Failure on the part of Treasury to insist upon strict compliance with any of the terms hereof shall not be deemed a waiver, nor will any waiver hereunder at any time be deemed a waiver at any other time. No waiver will be valid unless in writing and signed by an authorized officer of Treasury. No failure by Treasury to exercise any right, remedy, or power hereunder will operate as a waiver thereof. The rights, remedies, and powers provided herein are cumulative and not exhaustive of any rights, remedies, and powers provided by law.

E. This FAA shall inure to the benefit of and be binding upon the parties to this FAA. No other person or entity will have any right or obligation hereunder, except for successor financial agents accepted by Treasury.

F. This FAA may be executed in two or more counterparts (and by different parties on separate counterparts), each of which shall be an original, but all of which together shall constitute one and the same instrument.

G. This FAA and the attached Exhibits constitute the entire agreement between the parties.

### **32. Incorporation by reference**

Exhibits A-E attached to this FAA are incorporated herein by reference and given the same force and effect as though fully set forth herein.

*[Signature page follows.]*

**In witness whereof**, Treasury and the Financial Agent, each by their respective authorized officials, hereby duly execute and deliver this Financial Agent Agreement as of the Effective Date.

**U.S. Department of the Treasury**



David Lebryk  
Fiscal Assistant Secretary

10/20/2022  
Date

**Financial Agent**



David R. Hilty  
Managing Director

October 19, 2022  
Date

*[Signature Page to the Houlihan Lokey Capital, Inc. FAA]*

## **EXHIBITS**

Exhibit A      Provision of Services and Other Terms

Exhibit B      Compensation

Exhibit C      Annual Certification Format

Exhibit D      Non-Disclosure Agreement

Exhibit E      Conflicts of Interest Mitigation

## **EXHIBIT A**

### **PROVISION OF SERVICES AND OTHER TERMS**

#### **1. Scope of Services**

The Financial Agent shall provide services, as described herein, to assist Treasury in evaluating and disposing of the equity, warrants, and debt assets (“Assets”) issued to Treasury by participating companies (“Participating Companies”) in connection with the loan and payroll support programs authorized under (A) Division A, Title IV, Subtitle A of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136), (B) Division A, Title IV, Subtitle B of the CARES Act, (C) Division N, Title IV, Subtitle A of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260), and (D) Title VII, Subtitle C of the American Rescue Plan Act of 2021 (Pub. L. 117-2) (collectively, the “Acts”).

#### **2. Disposition Policies and Procedures**

The Financial Agent shall assist Treasury in devising and documenting policies and procedures for assessing and implementing disposition decisions and executions, including but not limited to outlining and evaluating potential strategies, methodologies, and techniques. The Financial Agent shall provide Treasury with ongoing analysis of and potential changes to such disposition policies and procedures, and strategies for achieving Treasury’s disposition objectives.

#### **3. Disposition Implementation and Restructuring**

As assigned by Treasury and in accordance with Treasury’s disposition policies and procedures, the Financial Agent shall analyze, develop, document, and implement potential transactions with respect to the Assets, including valuation of investments in connection with such transactions and the means of disposition. Such analysis will include (i) analyzing, reviewing, and documenting financial, business, regulatory and market information related to potential transactions; (ii) advising on and monitoring mergers and acquisitions, bankruptcies, and restructuring strategies prior to the disposition of the Assets; (iii) reporting on the potential performance of the Assets and their disposition given a range of market scenarios and transaction structures; (iv) identifying and negotiating with issuers or third-party buyers on the repurchase or purchase of Assets; and (v) analyzing and proposing disposition alternatives and structures including the use of additional underwriters, brokers, or other capital market advisors for the best means and structure to dispose of such Assets.

#### **4. Communication and Coordination**

- A. The Financial Agent will communicate with a Participating Company’s management at a frequency and in a manner and format determined by Treasury.
- B. As directed by Treasury, the Financial Agent shall engage with Treasury’s other financial agents to provide Treasury with both collective advice and a diversity of strategic and tactical opinions.

C. Treasury will provide the Financial Agent with a certificate of names of all the individuals who are authorized to act on behalf of Treasury (“Authorized Persons”) and will provide prompt updates to the certificate as Authorized Persons change.

D. The Financial Agent may rely upon any notice, instruction, or other communication that the Financial Agent reasonably believes (based on the most recent certificate of Treasury received by the Financial Agent) to have been given by an Authorized Person.

## **5. Operational Requirements**

Consistent with the FAA and the Exhibits thereto, and subject and subject to any guidelines established by Treasury and the Financial Agent, the Financial Agent shall:

A. As requested by Treasury, analyze the ongoing market and economic value of the Assets incorporating pricing and relative value measures from external sources and models, as appropriate, in accordance with Treasury’s disposition policies and procedures.

B. Submit deliverables in specified formats and in accordance with the delivery dates requested by Treasury.

C. Identify, document, and enforce internal controls on an ongoing basis.

D. Maintain a compliance program designed to detect and prevent violations of Federal securities laws, and to identify, document, and enforce controls to mitigate conflicts of interest.

E. Permit Treasury’s internal and external auditors, or other governmental oversight entities, to audit books and records related to the services in this notice.

F. Support the preparation of reports to oversight bodies, including the United States Congress, and other parties as requested.

G. Retain all documentation and reports related to the services, subject to Treasury’s record keeping requirements.

H. Respond promptly to Treasury’s verbal and written inquiries.

## EXHIBIT B

### COMPENSATION

#### 1. Compensation

The Financial Agent shall be compensated for performance of its obligations under the FAA as set forth in this Exhibit B. The Financial Agent shall not be entitled to any other form of compensation or reimbursement for the performance of its obligations under the FAA, which shall be performed as its sole expense.

The Financial Agent shall receive compensation to provide services under the FAA in accordance with the following provisions. The Financial Agent must submit a proper invoice prior to receiving any compensation hereunder.

- A. Disposition Policies and Procedures Fee.** For a period not to exceed three (3) months, the Financial Agent will receive a monthly fixed fee of \$425,000 to develop and deliver to Treasury asset disposition policies, procedures, and strategies. This fee will be paid monthly in arrears for services rendered to Treasury. Fees will be prorated to reflect a start or end date that creates a monthly compensation period that covers a partial calendar month.
- B. Monthly Monitoring Fee.** For the period following the three-month period of developing the disposition policies, procedures, and strategies prior to a decision by Treasury to implement any disposition actions, the Financial Agent will receive a monthly fixed fee of \$150,000. This fee will be paid monthly in arrears for services rendered to Treasury and will be prorated to reflect a start or end date that creates a monthly compensation period that covers a partial calendar month.
- C. Disposition Implementation Fee.** Upon written notice by Treasury to implement dispositions, the Financial Agent will receive:

  - (i) Monthly Fee.** A monthly fixed fee of \$350,000 paid monthly in arrears for services rendered to Treasury, prorated to reflect a start or end date that creates a monthly compensation period that covers a partial calendar month. Upon written notice by Treasury, at any time the Disposition Implementation may be suspended and the Financial Agent will receive the Monthly Monitoring Fee of \$150,000 per month in accordance with subsection B, above.
  - (ii) Disposition Fee.** For each sale by Treasury of Assets to a third party, the Financial Agent will receive a fee equal to thirty basis points (0.30%) of the net proceeds of such disposition.
- D. Restructuring Fee.** If the Financial Agent receives written notice from Treasury to engage in discussions with an issuer on a financial restructuring of that Participating Company's obligation to Treasury, then upon the completion of the financial

restructuring the Financial Agent will receive a fee equal to seventy-five basis points (0.75%) of the principal amount of the claim held by Treasury of the Participating Company capped at \$7,500,000. For any claim less than \$65,000,000, the Financial Agent and Treasury will jointly evaluate the level of resources necessary to perform the required services and agree on a financial restructuring fee. The Financial Agent shall use all reasonable efforts to have such financial restructuring fee to be paid by the Participating Company as part of the financial restructuring.

- E. Contractor Fee.** Pursuant to Section 14 of the FAA, if it is determined by Treasury and the Financial Agent that underwriters, brokers or other capital market advisors (the “Contractors”) should be retained as the best means and structure to dispose of Assets, Treasury must provide advance written approval for such Contractors. Compensation for the services provided by Contractors shall be provided pursuant to a compensation schedule that shall be included in Treasury’s written approval.

On an annual basis, Treasury and the Financial Agent will jointly re-evaluate the Financial Agent’s costs and resources necessary to provide services required under the FAA and agree to work in good faith to amend the compensation amounts in this Exhibit to reflect increases or decreases in such costs and resources.

## **2. Methods of compensation**

Treasury retains the right to compensate the Financial Agent for services provided under the FAA in such a method or methods as Treasury, in its sole discretion, deems appropriate including but not limited to direct payments.

## **3. Probationary status**

Treasury may withhold all or a portion of the compensation set out in this Exhibit B if the Financial Agent is placed on probation.

## EXHIBIT C

### ANNUAL CERTIFICATION FORMAT

I, [Name of Authorized Official], a duly authorized official of [Name of Financial Agent] (the “Financial Agent”) certify that:

1. The Financial Agent has performed all tasks and responsibilities under the Financial Agency Agreement and observed its fiduciary duty to Treasury;
2. The Financial Agent continues to be an institution established and regulated under the laws of the United States or any state, territory, or possession of the United States and has significant operations in the United States;
3. The Financial Agent is taking all reasonable steps to ensure that Nonpublic Information and PII obtained from or on behalf of Treasury is properly safeguarded, and incident response procedures are in place;
4. All charges and expenses charged to Treasury are accurate and attributable to services provided to Treasury;
5. The Financial Agent is not on any Federal Excluded Parties, Debarments, or Suspension Lists, including the System for Award Management Exclusions list operated by the General Services Administration;
6. Financial Agent is not delinquent on any Federal tax obligation or on any other debt owed to the United States and that the Financial Agent agrees to execute IRS Form 8821, and any other necessary Federal forms, to allow Treasury to verify such information;
7. The Financial Agent is not aware of or subject to any legal or financial impediments, to include any pending or current enforcement actions, to performing its obligations under the Financial Agency Agreement that it has not disclosed in writing to Treasury;
8. All services provided under the Financial Agency Agreement, including the development, operation, and maintenance of all systems and databases used in providing services under the Financial Agency Agreement, are being performed in and are located in the United States unless specifically authorized otherwise by Treasury in writing;
9. All employees of the Financial Agent, including affiliate, contractor and subcontractor personnel providing services under this Financial Agency Agreement perform their work in the United States and are United States citizens unless specifically authorized otherwise by Treasury in writing;
10. The Financial Agent does not use, and its affiliates, contractors and subcontractors involved in providing services under the Financial Agency Agreement do not use, “covered telecommunications equipment or services” within the meaning of the John S. McCain



National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) as a substantial or essential component of any system, or as critical technology as part of any system;

11. The Financial Agent covenants, in accordance with the Financial Agency Agreement's requirements, to disclose all potential conflicts of interest not otherwise previously disclosed, including conflicts with the interests of any corporate parents, affiliates, and subsidiaries, and any contractors and subcontractors, performing services under the Financial Agency Agreement, and to avoid, mitigate, or neutralize to the extent feasible and to Treasury's satisfaction any personal or organizational conflicts of interest that may be identified by Treasury or the Financial Agent;
  
12. The Financial Agent covenants, in accordance with the Financial Agency Agreement's requirements, to disclose (a) to the Treasury Special Inspector General for Pandemic Recovery or to the Treasury Office of Inspector General, as applicable, any credible evidence of a possible violation of Federal criminal laws regarding fraud, conflict of interest, bribery, or illegal gratuities affecting or related to the services performed under the financial Agency Agreement; and (b) to Treasury any other facts or credible information not otherwise previously disclosed that Treasury should reasonably expect to know about the Financial Agent and its affiliates, contractors and subcontractors (if any) providing services under the Financial Agency Agreement to help protect the reputational interests of Treasury in connection with the Financial Agent providing services for Treasury under the Financial Agency Agreement;
  
13. Any other provisions or statements contained in the Financial Agency Agreement, and any amendments thereto, remain true and correct.

In the event that any of the representations made herein cease to be true and correct, the Financial Agent agrees to notify Treasury immediately.

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[Name of Authorized Official]  
[Title of Authorized Official]

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Date

## EXHIBIT D

### NON-DISCLOSURE AGREEMENT

#### Conditional Access to Nonpublic Information

I, \_\_\_\_\_, employee of \_\_\_\_\_ (“Organization”) hereby consent to the terms in this Agreement in consideration of my being granted conditional access to certain United States Government Nonpublic Information.

I understand and agree to the following terms and conditions:

1. By being granted conditional access to Nonpublic Information, the Organization and the U.S. Department of the Treasury (“Treasury”) have placed special confidence and trust in me, and I am obligated to protect this information from unauthorized disclosure, according to the terms of this Agreement.
2. Nonpublic Information refers to any information, provided to me by Treasury or the Organization in connection with my authorized services to Treasury, or that I obtain or develop in providing authorized services to Treasury, other than information designated as publicly available by Treasury in writing or that becomes publicly available from a source other than the Financial Agent. Nonpublic Information includes, but is not limited to, information about Treasury’s business, economic, and policy plans; prospective transactions; financial and asset information; trade secrets or other information protected by the Trade Secrets Act; information subject to the Privacy Act; personally identifiable information (PII); and Sensitive Information. This definition may include other information designated by Treasury or as defined by other Federal Government sources not mentioned above.
3. PII includes, but is not limited to, information pertaining to an individual’s education, financial transactions, medical history, and other information which can be used to distinguish or trace an individual’s identity, including but not limited to an individual’s name, social security number, date and place of birth, mother’s maiden name, biometric records, and any other personal information which is linked or linkable to an individual.
4. Sensitive Information is any information for which the loss, misuse, or unauthorized access to, or modification of which could adversely affect the national interest or the conduct of Federal programs, or the privacy of individuals that they are entitled to under the Privacy Act and other Federal statutes.
5. I am being granted conditional access to Nonpublic Information, contingent upon my execution of this Agreement, to provide authorized services to Treasury.
6. Except as set forth in paragraph 14 below, I shall never divulge any Nonpublic Information provided to me pursuant to this Agreement to anyone, unless I have been advised in writing by the Organization or Treasury that an individual is authorized to receive it.

7. I will submit to Treasury for security review, prior to any submission for publication, any book, article, column or other written work for general publication that is based upon any knowledge I obtain during the course of my work in connection with Treasury. I hereby assign to the Federal Government all rights, royalties, remunerations and emoluments that have resulted or will result or may result from any disclosure, publication, or revelation of confidential information not consistent with the terms of this Agreement.

8. If I violate the terms and conditions of this Agreement, I understand that the unauthorized disclosure of Nonpublic Information could compromise the security of individuals, the Organization and Treasury.

9. If I violate the terms and conditions of this Agreement, such violation may result in the cancellation of my conditional access to Nonpublic Information. Further, violation of the terms and conditions of this Agreement may result in the Organization and/or the United States taking administrative, civil or any other appropriate relief.

10. I understand that the willful disclosure of information to which I have agreed herein not to divulge, may also constitute a criminal offense.

11. Unless I am provided a written release by Treasury from this Agreement, or any portions of it, all conditions and obligations contained in this Agreement apply both during my period of conditional access, and at which time my affiliation or employment with the Organization ends.

12. Each provision of this Agreement is severable. If a court should find any provision of this Agreement to be unenforceable, all other provisions shall remain in full force and effect.

13. I understand that Treasury may seek any remedy available to it to enforce this Agreement, including, but not limited to, application for a court order prohibiting disclosure of information in breach of this Agreement.

14. I understand that if I am under U.S. Congressional or judicial subpoena, I may be required by law to release information, and I shall provide prior notice to Treasury of any such disclosure or release as soon as it becomes legally permissible.

I make this Agreement in good faith, without mental reservation or purpose of evasion.

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Signature

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Date

## EXHIBIT E

### CONFLICTS OF INTEREST MITIGATION

The following explains certain conflicts of interest mitigation controls that the Financial Agent shall implement and monitor during the term of the Financial Agency Agreement (“FAA”) for itself, and, if applicable, for corporate affiliates, contractors and subcontractors performing services under the FAA as approved by Treasury. The conflicts of interest mitigation controls are based on the Financial Agent’s role under the FAA, including the services set forth in Exhibit A of the FAA with regard to the Assets, as defined therein. To the extent the FAA, including Exhibit A, is amended, this Exhibit E shall be reviewed to ensure that it appropriately identifies and mitigates conflicts of interest.

For the purpose of this Exhibit E, a participant in the airline and national security relief programs pursuant to (1) Division A, Title IV, Subtitle A of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136), (2) Division A, Title IV, Subtitle B of the CARES Act, (3) Division N, Title IV, Subtitle A of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260), and (4) Title VII, Subtitle C of the American Rescue Plan Act of 2021 (Pub. L. 117-2) (collectively, the “Acts”), and assigned to the Financial Agent by Treasury, shall be considered an “Assigned Entity.” If, at a later date, Treasury has disposed of in full the Assets of an Assigned Entity, such entity shall no longer be considered an Assigned Entity following a period of three months (the “Cooling Off Period”) after the disposition date of such Assets of such entity.

#### **Potential Conflicts of Interest**

The following have been identified as potential conflicts of interest associated with the Financial Agent providing services to Treasury under the FAA:

1. The Financial Agent may provide investment banking, strategic advisory, due diligence, or other business services to an Assigned Entity. Because the Financial Agent may be responsible for advising Treasury with regard to, or assisting in, the disposition of Assets of the Assigned Entity, there exists a potential conflict of interest between the Financial Agent’s duty to Treasury and its duty to its other clients.
2. The Financial Agent may provide strategic advisory or due diligence business services to clients other than Treasury or an Assigned Entity regarding the acquisition of any of the Assets of an Assigned Entity. Because the Financial Agent may have knowledge of and access to material Nonpublic Information regarding Treasury’s plans, long-term strategy, trading objectives, portfolio holdings, there exists a potential conflict of interest between the Financial Agent’s duty to Treasury and its duty to its other clients.
3. The Financial Agent may provide strategic advisory or due diligence services on behalf of or related to direct competitors of an Assigned Entity. Because the Financial Agent may have knowledge of Treasury’s plans, and access to material Nonpublic Information, regarding the terms and conditions for loans or payroll assistance payments, and any associated financial instruments, for the Assigned Entity, there exists a potential conflict of interest between the Financial Agent’s duty to Treasury and its duty to its other clients.

4. The Financial Agent may maintain direct or indirect ownership interests in an Assigned Entity. Because the Financial Agent may have knowledge of material Nonpublic Information regarding Treasury's plans, long-term strategy, trading objectives, and portfolio holdings with respect to the Assigned Entities and/or Assets, there exists a potential conflict of interest between the Financial Agent's duty to Treasury and its duties with respect to its ownership interests in an Assigned Entity.
5. Individuals employed by or associated with the Financial Agent may own, on behalf of their personal accounts, securities issued by an Assigned Entity. Because these individuals may have knowledge of, and access to material Nonpublic Information regarding, Treasury's plans, long-term strategy, trading objectives, and portfolio holdings, there exists a potential conflict of interest between their duty to represent the interests of Treasury and their desire to represent their own interests that could impair such individuals' objectivity.

### **Mitigation Plans and Controls**

The Financial Agent owes a fiduciary duty to the United States as set forth in Section 5 of the FAA. The Financial Agent shall maintain and enforce corporate-wide policies and procedures addressing potential conflicts of interest regarding its work under the FAA, which for the purpose of this Exhibit E are collectively referred to as "Conflicts of Interest Mitigation Controls." To address the potential conflicts of interest identified above, the Financial Agent agrees to implement the following Conflicts of Interest Mitigation Controls.

#### **Conflict of Interest #1: An Assigned Entity is a Client of the Financial Agent**

The Financial Agent may provide revenue-generating business services, including strategic advisory, due diligence, or other business services (collectively, "Other Services") to an Assigned Entity. To address such potential conflicts of interest, the Financial Agent agrees to implement a structure that ensures that the Financial Agent does not unduly favor the interests of its other clients over those of Treasury.

Identification of Existing Other Services. Prior to performing services under the FAA with respect to an Assigned Entity, the Financial Agent agrees to notify Treasury as to whether the Financial Agent provides Other Services to the Assigned Entity during any period for which the FAA is in effect. As part of such notification, the Financial Agent shall disclose to Treasury whether the revenue received from such Assigned Entity over the previous 12-month period (exclusive of any revenue the Financial Agent received from Treasury) exceeded 5% of the Financial Agent's total revenue during that period. The Financial Agent shall mitigate any potential conflicts of interest by ensuring that, so long as the Financial Agent performs services under the FAA with respect to an Assigned Entity, no "Key Individuals," as defined in this section, performing services under the FAA participate in the performance of Other Services to the Assigned Entity. For the purpose of this Exhibit E, a "Key Individual" is an individual who participates personally and substantially in evaluating an Assigned Entity and rendering analysis and advice to Treasury. The phrase "personally and substantially" shall have the same meaning and interpretation ascribed to it in 5 C.F.R. § 2635.402(b)(4).

Limitation on Entering into Agreements to Perform Other Services. The Financial Agent agrees to refrain from entering into a new agreement, without express approval from Treasury, to perform Other Services for an Assigned Entity if such services are to be provided by any Key Individuals during the term of the FAA and the subsequent Cooling Off Period. For the avoidance of doubt, the limitation on entering into agreements to perform Other Services by Key Individuals applies to all Assigned Entities whether or not a current client of the Financial Agent.

Limitation on Other Services. During the term of the FAA and the subsequent Cooling Off Period, the Financial Agent agrees to refrain from performing, or entering into an Agreement to perform, Other Services for an Assigned Entity relating to, or otherwise affecting, the ownership, value, or disposition of the Assets, without express approval from Treasury.

### **Conflict of Interest #2: Services on Behalf of Clients with Regard to an Assigned Entity**

To the extent the Financial Agent has any active pre-existing engagements with clients other than Treasury or an Assigned Entity to provide strategic advisory or due diligence services relating to a current or prospective financial interest in an Assigned Entity, the Financial Agent agrees to disclose such engagements to Treasury. To address the concern that the Financial Agent may provide strategic advisory or due diligence services to clients other than Treasury or an Assigned Entity relating to a current or prospective financial interest in an Assigned Entity, the Financial Agent agrees to refrain from entering into an engagement, without express approval from Treasury, to perform any such strategic advisory or due diligence services on behalf of such clients with respect to the acquisition or disposition of any of the Assets of an Assigned Entity during the term of the FAA and any Cooling Off Period.

### **Conflict of Interest #3: Advisory Services on Behalf of or Related to Identified Competitors of an Assigned Entity**

To address the concern that the Financial Agent may provide strategic advisory or due diligence services to direct competitors of an Assigned Entity (“Identified Competitors”), identified by either the Financial Agent or Treasury, the Financial Agent agrees to refrain from entering into an engagement, without express approval from Treasury, to perform any such advisory or due diligence services on behalf of Identified Competitors, in each case related to an Assigned Entity, if such services are to be provided by any Key Individuals during the term of the FAA and any Cooling Off Period. To the extent the Financial Agent has any such active, pre-existing engagements to provide strategic advisory or due diligence services to Identified Competitors related to an Assigned Entity, the Financial Agent agrees to disclose such engagements to Treasury.

### **Conflict of Interest #4: Proprietary Accounts that Hold Securities of Assigned Entities**

To address the concern that the Financial Agent may unduly favor its proprietary interests at the expense of Treasury, the Financial Agent agrees to implement a structure that ensures that the Financial Agent does not use any knowledge of Nonpublic Information obtained or developed pursuant to the FAA to the advantage of its proprietary interests. An individual in possession of material Nonpublic Information (as defined below) obtained or developed pursuant to the FAA regarding the Assets be considered a Restricted Person and shall be subject to the requirements and

limitations applicable to such persons as described in the section below titled “Additional Conflict of Interest Mitigation Controls.”

### **Conflict of Interest #5: Personal Conflicts of Interest**

To address the concern about the objectivity of individuals, employed by or associated with the Financial Agent performing services for Treasury who may own, on behalf of personal accounts, securities issued by an Assigned Entity, the Financial Agent agrees that all personnel responsible for providing services under the FAA shall be subject to the Financial Agent’s code(s) of conduct, personal securities trading policy(ies), and guidelines on personal conflicts of interest (collectively, “Code of Conduct”). Requirements for such Code of Conduct are set forth in the section below titled “Additional Conflicts of Interest Mitigation Controls.”

### **Additional Conflicts of Interest Mitigation Controls**

Restrictions Regarding Material Nonpublic Information. While providing services under the FAA, some individuals within the Financial Agent may have access to material Nonpublic Information, such as knowledge of Treasury’s plans regarding the Assets and any associated financial instruments. Information is “material” if there is a substantial likelihood that a reasonable person would consider the information important in making an investment decision (*e.g.*, if the disclosure of the information would positively or negatively affect the market price of a security or obligation). Individuals in possession of material Nonpublic Information obtained or developed pursuant to the FAA shall not act, or cause others to act, on such information, except in performance of the FAA.

Identification and Control of Restricted Persons. When an individual is in possession of material Nonpublic Information obtained or developed pursuant to the FAA, the individual shall be considered a “Restricted Person.” The Financial Agent’s Compliance Department shall maintain a list of all Restricted Persons, including each individual’s name, title, business group, date they became a Restricted Person, and date of removal from the Restricted Person list. While in possession of material Nonpublic Information, Restricted Persons shall be considered behind the “ethical wall,” and subject to the transaction restrictions specified below.

Use of Securities Watch List. When an individual associated with the Financial Agent is in possession of material Nonpublic Information obtained or developed pursuant to the FAA regarding an Assigned Entity with publicly traded securities, such Assigned Entity shall be placed on the Financial Agent’s “Securities Watch List” and be subject to enhanced compliance review as specified in the Financial Agent’s insider trading policy. The individuals in possession of the material Nonpublic Information, including all Key Individuals and Restricted Persons, shall be prohibited from transacting in such securities, on behalf of either organizational or personal accounts, except in performance of the FAA. The Financial Agent’s Compliance Department shall employ testing to determine compliance with the Financial Agent’s insider trading policy at least quarterly. Without limitation, the Compliance Department shall identify non-compliant transactions and take appropriate corrective action.

Information Barrier Policies. Nonpublic Information related to the services under the FAA shall be shared only on a need-to-know basis. The Financial Agent shall maintain information barrier

policies and controls that are designed to restrict the dissemination, availability, and sharing of Nonpublic Information, including but not limited to material Nonpublic Information. Consistent with Section 11 of the FAA (“Conflict of interest mitigation and information barriers”), the Financial Agent shall enforce, maintain, and monitor existing information barrier policies within the Financial Agent to prevent the dissemination, availability, and sharing of Nonpublic Information, including but not limited to material Nonpublic Information.

Controls over IT and Paper Files Related to Nonpublic Information. The Financial Agent’s management, performance, and accounting systems shall restrict Nonpublic Information access only to those individuals who have a need to know such information. Paper files that include Nonpublic Information will also be appropriately segregated and controlled to avoid inappropriate access by unauthorized individuals. Any information technology systems, record systems, and storage systems and devices used by the Financial Agent in the performance of services under the FAA that may contain Nonpublic Information shall have appropriate administrative, technological, and physical security controls to help ensure that access to such information is limited to those individuals who have a need to know such information.

Prohibition on Certain Interactions with Affiliates. During the term of the FAA, the Financial Agent shall not provide advice to its unnamed affiliates regarding an Assigned Entity unless specifically authorized by Treasury in writing.

Limitation on Purchase of Assets. As the Financial Agent may be assisting Treasury in the valuation of its Assets, the Financial Agent, management officials performing services under the FAA, and Key Individuals shall not purchase or offer to purchase such Assets, nor assist anyone in purchasing or offering to purchase such Assets from Treasury, during the term of the FAA.

Code of Conduct. The Financial Agent shall maintain a Code of Conduct that sets out principles designed to guide its employees in the course of their business activities. All employees of the Financial Agent performing services under the FAA shall be required to annually acknowledge that they are familiar with and abide by the Code of Conduct. At a minimum, the Code of Conduct must provide for the following:

- Require all employees of the Financial Agent to hold as strictly confidential client information, to include all Nonpublic Information obtained or developed pursuant to the FAA, and to know and comply with all company policies, procedures, laws, and regulations that are applicable to their job duties.
- Establish rules requiring a Key Individual to disclose any assets held for investment by the Key Individual that could give rise to a conflict of interest.
- Include minimum requirements for pre-clearance of personal securities transactions (with customary exceptions), and regular reporting of security holdings, and personal securities transaction activity.

Training. All Key Individuals performing services under the FAA shall be required to receive compliance training prior to providing services under the FAA, and annually thereafter. The training shall advise each individual of their obligations and requirements under the FAA, including the Exhibits.



Monitoring / Compliance. The Financial Agent shall monitor its conflicts of interest mitigation plans and controls set forth in this Exhibit E. The Financial Agent shall document such internal oversight and, upon request by Treasury, provide a report on the effectiveness of the Financial Agent's mitigation controls in ensuring compliance with all requirements of the FAA.

Incident Reporting. Anyone performing services under the FAA shall be required to promptly report any breaches or violations of the conflicts of interest mitigation controls or other requirements of the FAA to the Financial Agent's Compliance Department. A description of the incident shall be documented in an incident report and promptly provided to Treasury.

Prohibition on Acceptance and Solicitation of Gifts. The Financial Agent shall ensure that no Key Individual shall accept or solicit favors, gifts, or other items of monetary value from any individual or entity whom the Financial Agent knows is seeking official action from Treasury in connection with the services performed under the FAA or has interests which may be substantially affected by the performance or nonperformance of duties to Treasury in carrying out services under the FAA.

Limitations on Communications with Employees of Treasury. During the term of the FAA, the Financial Agent shall not directly or indirectly make any offer or promise of future employment or business opportunity to, or engage directly or indirectly in, any discussion of future employment or business opportunity with, any Treasury employee with personal or direct responsibilities related to the FAA. The Financial Agent shall not offer, give, or promise to offer or give, directly or indirectly, any money, gratuity, or other thing of value to any employee of Treasury, except as permitted by Government-Wide Ethics Rules, 5 C.F.R. Part 2635. The Financial Agent shall not solicit or obtain from any Treasury employee, directly or indirectly, any information that is not public and was prepared for use by Treasury for the purpose of evaluating a bid, proposal, or offer to enter into any service agreement or procurement contract.

Certifications. The Financial Agent shall certify to Treasury in writing no later than ten (10) business days after the Effective Date of the FAA, and then semiannually thereafter (due by April 15 and October 15), that to the best of its knowledge and belief:

- It has no organizational conflicts of interest except to the extent already described in this Exhibit E, or explain in detail the extent to which it cannot so certify and (except to the extent already described in this Exhibit E) describe the actions it has taken and plans to take to mitigate these conflicts;
- All Key Individuals providing services under the FAA have no personal conflicts of interest or are subject to a mitigation or waiver plan approved by Treasury; and
- All Key Individuals providing services under the FAA to whom Nonpublic Information (as that term is defined in section 6 of the FAA) is or may be disclosed under the FAA, have certified to the Financial Agent's Compliance Department that he or she will comply with the requirements of the FAA not to share Nonpublic Information with any unauthorized person or entity.

Subsequent Notification. The Financial Agent has a continuing obligation to search for and to report any potential organizational or personal conflicts of interest. The Financial Agent shall notify Treasury in writing as soon as practicable, and in no instance later than five (5) business days, after learning of any new or expanded conflicts of interest that arise during the term of the FAA. The disclosure shall describe the steps the Financial Agent has taken or proposes to take to mitigate the potential conflict or request a waiver from Treasury.

Reviews. Treasury, on its own behalf or through an entity contracted by Treasury, may conduct an ad hoc review of the compliance of the Financial Agent with all conflicts of interest and confidentiality obligations and responsibilities set forth in the FAA. Additional reviews may be conducted by oversight bodies with explicit authority under the Acts, including the Treasury Office of Inspector General, Treasury Special Inspector General for Pandemic Relief, and the U.S. Government Accountability Office. The Financial Agent shall cooperate fully with Treasury or its designated representative to provide any and all such information (in whatever form) requested to perform such a review.

Changes to Conflicts of Interest Mitigation Controls. The Financial Agent and Treasury agree that Treasury's investment objectives, trade operations, and policies, as well as the Financial Agent's business, may evolve over time. The Financial Agent shall inform Treasury and negotiate in good faith all proposed material changes to the Conflicts of Interest Mitigation Controls prior to their adoption and Treasury retains the option of disapproving any proposed material change, in which case the Financial Agent agrees not to change such control. The Financial Agent and Treasury agree to negotiate and resolve any such proposed changes in good faith and as quickly as reasonably possible. In addition, the Financial Agent shall promptly notify Treasury of any changes to the Code of Conduct of the Financial Agent