

PROFESSIONAL SERVICES AGREEMENT
(Main Street Lending Program-Workout Services)

This Professional Services Agreement (the “Agreement”) effective as of March 1, 2021 (the “Effective Date”) is made by and among MS FACILITIES LLC, a Delaware limited liability company (“the Company”), the Federal Reserve Bank of Boston (the “Bank”), as managing member of the Company (the “Managing Member”) located at 600 Atlantic Avenue, Boston MA 02210, and FTI CONSULTING, INC, a Maryland corporation, located at 555 12th Street NW, Suite 700, Washington DC 20004 (the “Supplier”).

WHEREAS, the Company has entered into (i) that certain Credit Agreement, dated as of May 29, 2020 (as amended, supplemented or modified from time to time, the “Credit Agreement”), between the Company, as borrower, and Bank, as lender, (ii) that certain Security Agreement, dated as of May 29, 2020 (as amended, supplemented or modified from time to time, the “Security Agreement”) between the Company, as borrower, and Bank, as secured party, (iii) each of the Custodian Agreement and Administration Agreement, each dated as of June 1, 2020 (as amended, supplemented or modified from time to time, the “Custodian Agreement” and “Administration Agreement”), pursuant to which State Street Bank (“State Street”) will act as custodian with respect to Company’s property (State Street in such capacity, together with its successors in such capacity, the “Custodian”) and administrator with respect to certain reports provided from time to time under the Credit Agreement (State Street in such capacity, together with its successors in such capacity, the “Administrator”) and (iv) that certain Credit Administration Services Agreement, dated as of June 14, 2020 (as further amended, supplemented or modified from time to time, the “Credit Administration Services Agreement”) between the Company, the Bank as managing member, and Guidehouse Inc. as credit administrator (in such capacity, together with its successors in such capacity, the “Credit Administrator”).

WHEREAS, the Company will enter into Master Participation Agreements from time to time with originating eligible lenders (“Eligible Lenders”) under which the Company will acquire eligible participation interests through the Main Street New Loan Facility (“MSNLF”), the Main Street Priority Loan Facility (“MSPLF”), the Main Street Expanded Loan Facility (the “MSELF”), the Nonprofit Organization New Loan Facility (the “NONLF”) and the Nonprofit Organization the Nonprofit Organization Expanded Loan Facility (the “NOELF” and the MSNLF, MSPLF, NONLF, NOELF and MSELF together, the “Main Street Facilities” or the “MSLP”); and

WHEREAS, the Bank, as Managing Member, desires to have the Supplier provide Services as specified below and in statements of work with respect to the loan participation administration, workout services and other activities from time to time by the Company in connection with the Main Street Facilities.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, the parties hereto agree as follows:

1. **Definitions**

1.1 As used herein, “Bank Affiliate” means any entity in the Federal Reserve System, including, but not limited to, each of the Federal Reserve Banks and the Board of Governors.

1.2 Unless otherwise defined herein, terms defined in the Credit Agreement or in the Security Agreement, as applicable, and used herein (including terms used in the preamble and the recitals hereto) shall have the meanings given to them in the Credit Agreement or in the Security Agreement, as applicable.

2. **Notices**

2.1 **Method of Delivery.** Any communication intended to affect a party's legal rights or contractual obligations under this Agreement, including, without limitation, notices of breach, requests for consent, amendment, or waiver, the exercise of any option, and any other notice to which the other party has a limited time to respond, are to be given in writing and delivered by hand or by commercial overnight carrier and by email if an email address for notice is provided. Notices will be deemed given when received. Notice is received when delivered, if by hand, on the next business day after deposit with an overnight carrier if the notice is marked for overnight delivery and delivery is acknowledged by a signature of the receiving party, or when it enters the recipient's email system in a form capable of being processed by that system (or on the following business day if it enters the system after the recipient's normal business hours).

2.1 **Address.** Notices are to be sent to the parties at the addresses set forth below.

FTI: FTI Consulting, Inc.
999 17th Street, Suite 700
Denver, CO 80202
Attn:
Email:

And to:

FTI Consulting, Inc.
555 12th Street NW, Suite 700
Washington DC 20004
Attn:
Email:

Company: MS FACILITIES LLC
c/o Federal Reserve Bank of Boston
600 Atlantic Avenue
Boston, MA 02210
Attention: Executive Vice President
Email:
Telephone:

and to:

Federal Reserve Bank of Boston
600 Atlantic Avenue
Boston, MA 02210
Attention: Senior Vice President and
General Counsel
Email:
and

Managing Member: Federal Reserve Bank of Boston
600 Atlantic Avenue
Boston, MA 02210
Attention: Executive Vice President
Email:
and

With a copy sent by email to:

With a copy sent Attention to: Senior
Vice President and General Counsel

Bank: Federal Reserve Bank of Boston
600 Atlantic Avenue
Boston, MA 02210
Attention: Executive Vice President
Email:
and

With a copy sent by email to:

With a copy sent Attention to: Senior
Vice President and General Counsel

2.2 Routine Communication. The parties do not intend the formalities of this section to inhibit their routine communication about the subject matter or administration of this Agreement. The parties may communicate about routine matters in any manner they determine to be efficient and effective, including telephone and electronic mail subject to any requirements for secure communication.

2.3 Points of Contact. Each party shall designate an individual to act as the primary point of contact for scheduling maintenance and managing the Services to be performed under this Agreement. Other individuals may request and schedule services as needed if the primary points of contact are unavailable.

3. Contract Documents

3.1 The provisions of this Agreement, including any amendment, any attachment listed below (“Attachment”), and any Statement of Work, constitute the “Agreement.” The Agreement represents the entire agreement between the parties and supersedes all prior written or contemporaneous oral agreements, understandings, or promises with respect to the subject matter hereof. Any provision on any acknowledgment of a purchase authorization, invoice, delivery document, or other document of the Supplier is expressly rejected and is null and void. In the event of any conflict among the documents comprising this Agreement, one document shall control over another document in the following order of decreasing precedence:

- (i) This Agreement including the attachments hereto, in no particular order of precedence:
 - (a) Attachment A, Form of Statement of Work (a “Statement of Work”)
 - (b) Attachment B [Intentionally Omitted]
 - (c) Attachment C, Service Contract Act Exemption Certificate
 - (d) Attachment D, Information Security Requirements
 - (e) Attachment E, Conflict of Interest Undertaking
 - (f) Attachment F, Reserve Bank Personally Identifiable Information Covenants
 - (g) Attachment G, Technology Platform Requirements
- (ii) Any Statement of Work executed hereunder per section 4.1; and
- (iii) The Bank’s Loan Workout Advisory Services Request for Proposal dated June 4, 2020 and FTI’s June 22, 2020 proposal, as amended by the updated response on July 8, 2020 and final pricing provided on July 29, 2020 for Loan Workout Advisory Services (the “RFP”)

3.2 No amendment, modification, waiver, or change in the provisions of this Agreement, which applies to the Supplier and the Bank and the Company, is effective unless agreed to by the Bank and Company and the Supplier in writing. Supplier acknowledges that the Bank’s personnel are not able to bind the Bank or the Company. Any online, click-through, passive assent, or other terms presented to Bank personnel are void.

3.3 The Supplier acknowledges and agrees that the services contemplated by this Agreement are being provided to the Bank in its individual capacity and also in its capacity as Managing Member of the Company. Unless expressly set forth herein, all obligations of Supplier described hereunder in respect of the “Bank” shall also be construed as applying to the Company (but for the avoidance of doubt obligations and liabilities specifically of the Company to the Supplier hereunder are obligations and liabilities solely of the Company (unless expressly specified as obligations of the Managing Member or the Bank), and the Bank and the Managing Member are not responsible for such obligations and liabilities of the Company).

4. **Scope and Description of Service**

4.1 A description of the services and related products that are the subject of this Agreement shall be defined in Statements of Work executed between the parties pursuant to this Agreement and in a form substantially similar to that defined in Attachment A (collectively, the “Service(s)”). The prices and/or discounts the Supplier has agreed to charge for the Service are included in the applicable Statement of Work (the “Pricing”). All Services defined in a Statement of Work shall be charged at the rates set forth in the Pricing. The Supplier shall provide the requested Services in accordance with this Agreement, including the Service Standard (as defined below). Except as otherwise agreed by the Bank and the Company or provided herein, substitutions of Service are not permitted. Nothing in this Agreement shall be construed to obligate the Bank and the Company to purchase the listed Service from the Supplier, and the Bank and the Company may purchase such Service from any other source.

4.2 The Company and the Supplier may agree on additional (or modifications to) Service(s) to be provided by Supplier by mutually agreeing to a Statement of Work. The Supplier acknowledges that any services described in the RFP shall be made available to be provided to the Bank as “Services” hereunder or under any Statement of Work, subject to the Pricing established herein. In addition, the Bank may, at any time, request that the Supplier make a change in the scope of the Service or perform extra work through an existing Statement of Work. Within five business days after the Supplier’s receipt of the Bank’s request for additional Services or a change in Services, the Supplier shall advise the Bank in writing of the Supplier’s ability to accommodate the request, and any amount and reason for any associated price change or additional fees. Unless otherwise noted in the Statement of Work, the Supplier shall promptly implement the change or additional Services which shall be documented in a new or updated Statement of Work.

4.3 Each Service shall, unless mutually agreed otherwise by the parties, include such maintenance, support, error correction, updates and enhancements normally and customarily provided by the Supplier to other parties, including customers and affiliates of the Supplier, that receive such service. Each Service shall include all functions, responsibilities, activities and tasks, and the materials, documentation, and resources to be used by the Supplier that are not specifically described in this Agreement as a part of such Service, but are incidental to, and would normally be considered an inherent part of, or necessary subpart included within, such Service or are otherwise necessary for the Supplier to provide such Service.

4.4 The Supplier will perform the Services (1) in accordance with the generally recognized standards of the Supplier’s profession, (2) with a level of care, technical skill, diligence, frequency, volume, amount and detail commensurate with the requirements of the Service, conforming to any specified Statement of Work and at least equal to the standards the Supplier applies to services performed for other comparable accounts and (3) in a manner consistent with (A) the requirements of the Master Participation Agreements entered into by the Company from time to time and other relevant provisions of the related documentation related to the MSLP, (B) all applicable legal requirements and (C) any other prevailing standards for such Service in the relevant industry (the foregoing clauses (1) through (3), the “Service Standard”).

4.5 For the avoidance of doubt, Services will be provided by Supplier Personnel, as defined below, located in the United States. Core functions related to data storage, backup and recovery of the Workout Application, as defined in Attachment G, underlying the Services will be hosted in the United States. All Company information that is stored, processed, or transmitted through the Workout Application shall remain stored, processed, or transmitted in the United States.

5. **Term of Agreement**

5.1 The term of this Agreement begins on the Effective Date and remains in force for five (5) years from the Effective Date, unless terminated sooner in accordance with this Agreement (the "Initial Term"). The parties may agree in writing to renew this Agreement for one additional year for like terms (the "Renewal Term").

6. **Termination of Agreement**

6.1 The Bank may terminate this Agreement or any Statement of Work entered into hereunder, without liability to Supplier, at any time during the term of this Agreement upon 30 calendar days' written notice to the Supplier in advance of the effective termination date. If there is a material failure by the Supplier to comply with any of its obligations under this Agreement, such failure shall constitute a default and the Bank may, at its sole discretion and without liability, terminate this Agreement, in whole or in part, after giving the Supplier written notice of the default(s) and afforded the Supplier sixty (60) days to cure such breach. Alternatively, the Bank may terminate an affected Statement of Work if the nature of the failure or nonperformance is limited to the requirements of that particular Statement of Work. In no event shall the Company or the Bank be responsible for loss of future profits of the Supplier. The Bank may also immediately terminate this Agreement if Supplier: (i) becomes insolvent; (ii) files a petition for relief under the U.S. Bankruptcy Code or is the debtor in an involuntary petition for relief under the U.S. Bankruptcy Code not dismissed within 60 days; or (iii) makes an assignment for the benefit of its creditors, has a receiver appointed to administer any of its business or property, or is the subject of any case or proceeding under any other insolvency law. Insolvency is not a breach susceptible of cure, and the Bank is not required to allow an opportunity for cure. In the event the Bank or the Company have breached the terms of this Agreement, and have not cured such breach within the thirty (30) days of notice of such breach, the Supplier may terminate this Agreement, or any Statement of Work entered into hereunder upon thirty (30) days written notice of termination delivered after the expiration of such sixty (60) day cure period.

6.2 Any Statement of Work outstanding as of the effective date of termination of this Agreement shall be honored by the Supplier unless withdrawn by the Bank, and the Services performed pursuant to any such Statement of Work shall be completed by the Supplier and will be governed by the terms of this Agreement. If any Statement of Work is withdrawn by the Bank prior to satisfactory completion of the Services provided for therein, Supplier shall refund any amount paid in advance for Service(s) not yet provided as of the effective date of termination.

6.3 The Supplier shall accept cancellation of any Statement of Work without penalty to the Company or the Bank; provided that the Bank shall provide a written cancellation notice to the Supplier not less than five days prior to the estimated commencement date of the applicable Services. The Bank may reschedule Services already ordered by providing the Supplier with a change order not less than five days prior to the estimated commencement date.

6.4 "Transition Services"

- (i) Upon the expiration or other termination of this Agreement or any Statement of Work, in whole or in part, for any reason, the Supplier shall continue, at the Bank's request, to perform the terminated or expired Services to facilitate an orderly transition of activities or operations performed by the Supplier to the Bank or a third party designated by the Bank ("Transition Assistance"). Unless otherwise agreed in writing

by the Bank and the Supplier, the Supplier shall provide Transition Assistance for up to 180 days following the expiration or termination of the Services.

- (ii) Transition Assistance includes, without limitation, the following:
 - (a) Providing the Bank and any third party designee reasonable access to Supplier Personnel to answer questions about the Services and facilitate transition planning;
 - (b) Providing a report of the status of Services as of the expiration or termination date;
 - (c) Compilation of and transfer to the Bank or a third party designee a complete copy of the Bank's information, then in the Supplier's possession or control, that is necessary or useful to continue activities and operations supported by the Services without interruption;
 - (d) Reasonable cooperation with the subsequent provider's or the Bank's employees and agents during the transition;
 - (e) Performance of other services reasonably requested by the Bank to facilitate transition to the Bank or a third party designee; and
 - (f) Assignment of Supplier Personnel who regularly perform the Services to perform the Transition Assistance.
- (iii) The Company shall pay for, and the Supplier will provide, Transition Assistance at the rates in effect at the expiration or termination of this Agreement for the Services replaced.
- (iv) The Supplier acknowledges that if it were to fail or refuse to provide Transition Assistance as described in this Section 6.4, the Bank could be immediately and irreparably harmed, and monetary compensation for the Supplier's failure or refusal to perform might not be measurable or adequate. In such circumstances, the Bank shall be entitled to injunctive, declaratory, or other equitable relief, including specific performance of this Section 6.4, and the Supplier shall not contest the Bank's action for equitable remedies on the grounds that damages are an adequate remedy, nor seek to have imposed on the Bank any obligation to post a bond or give other security as a condition to injunctive relief.

7. **Service Contract Act**

Supplier shall comply with the exemption certification attached to this Agreement as Attachment C.

8. **Confidentiality, Security and Controls**

8.1 *General.* "Confidential Information" means any information disclosed to any Supplier Personnel, in whatever form obtained from or through the Bank (including information from or about any Bank Affiliate) or developed by or otherwise obtained by the Supplier in connection with the performance of this Agreement, including, but not limited to, all information relating to the Company or the Bank's supervisory, regulatory, research, development, and business activities, security, data files, personnel information, and computer programs. The Supplier shall hold, and shall ensure that all Supplier Personnel hold, all such information confidential and shall

not disclose to any person, firm, corporation, or other entity, nor use for its own business or benefit, any Confidential Information obtained or generated by it during the term of this Agreement. The Supplier shall take all reasonable measures to recover any Confidential Information wrongfully disclosed.

The Bank, in addition to any other remedy available to it by law, shall be entitled to injunctive relief to enforce this confidentiality provision.

If the Supplier is compelled to testify against the Bank by subpoena or court order, or if the Supplier is required to disclose Confidential Information pursuant to applicable law or is required to provide Confidential Information to a regulatory agency, it shall give prompt written notice to the Bank, and afford the Bank the opportunity to review, in advance, any information being disclosed. In the event Supplier and/or any of its employees are required to testify or provide evidence at or in connection with any judicial or administrative proceeding relating to this Agreement to which Supplier is not a party, the Company will compensate Supplier at its regular hourly rates and reimburse Supplier for reasonable, documented, out-of-pocket expenses (including counsel fees) with respect thereto. Nothing in this Agreement shall restrict the Supplier's use of information that is or becomes: (i) publicly available through no breach of this Agreement; (ii) previously known to the Supplier without obligation of confidence; or (iii) acquired by the Supplier from a third party which is not under an obligation of confidence with respect to such information.

8.2 As requested by the Bank, the Supplier, and all Supplier Personnel, will terminate all electronic and physical means of accessing the Bank's Confidential Information, and upon the Bank's request, return or securely destroy, at the Bank's option, and certify such destruction in writing to the Bank, all material in any medium that contains, refers to, or relates to Confidential Information, including all archived and back-up copies. The Supplier will return all Confidential Information in the possession of any Supplier Personnel to the Bank within 60 days after Agreement expiration or termination, regardless of whether or not the Bank has requested the return of the Confidential Information, and unless the Bank requests destruction of the Confidential Information. Further, except as set forth in this Agreement, Supplier will not acquire any right in or assert any lien against the Bank's Confidential Information, and/or refuse to promptly return, provide a copy of, or destroy such Confidential Information upon the request of the Bank.

8.3 *Delivery or Destruction Infeasible.* If the Supplier believes that the delivery or destruction of any Confidential Information is not feasible (including Confidential Information that is retained on secure backup media in accordance with standard backup procedures in a manner that makes it impractical for the Supplier to delete the Confidential Information), or if the Supplier is required by applicable law, accounting rules, or other professional rules to retain a copy of any Confidential Information for some period, the Supplier may retain a copy of such Confidential Information subject to the restrictions of this Section 8 until the Confidential Information becomes public or otherwise ceases to be Confidential Information as defined in Section 8.1, or is returned to the Bank.

8.4 *Information Security.* Supplier agrees to comply in all respects with the provisions set forth in Attachment D.

8.5 *Personally Identifiable Information.* Supplier agrees to comply in all respects with the provisions set forth in Attachment F because the Services contemplated by this Agreement involve

the access to use, maintain, or otherwise handle Reserve Bank Personally Identifiable Information (also known as Reserve Bank PII) (as defined in Attachment F to this Agreement).

8.6 *Technology Platform.* Supplier agrees to comply in all respects with the provisions set forth in Attachment G with respect to the FTI Proprietary Loan Workflow Platform. .

8.7 *Program Management and Governance.* Supplier agrees to cooperate in all respects with the Bank and the Company on any program management and governance requirements including reasonably cooperating with the Custodian, Administrator and/or Credit Administrator and their advisors and auditors. Supplier agrees to develop a Risk and Control Matrix (“RCM”) for the MSLP including drafting key risks, controls, test scripts and sampling and testing approaches. The RCM will include IT General Controls to assess the risks and test controls related to any technology platforms used in the provision of the Services. Supplier shall provide to the Bank documented assurance testing results of privacy controls to produce an asset level conclusion.

9. **Prices and Payment**

9.1 The Company shall pay the applicable Pricing for those Service(s) provided by the Supplier to the Bank and Company. Any adjustments to the Pricing and related terms shall be at the mutual agreement of the parties, as reflected on the applicable Statement of Work, and will be made consistent with any new wage determination issued by the U.S. Department of Labor that is obtained by the Bank, if applicable. The prices stated in the Attachments are all inclusive, and the Bank shall not be liable for any additional amounts.

9.2 The Supplier shall invoice the Company in arrears. Each invoice shall: (1) include the relevant Company purchase order number(s), (2) include the name of the Company’s contact, (3) be accompanied by sufficient supporting documentation of all costs and calculations; (4) include a description of the Services it covers, and (5) be in a form acceptable to the Company. Unless notified by the Company otherwise in writing, the Supplier shall send invoices to . Unless set forth in the SOW, the Company shall make payments within forty five (45) days of receipt of Supplier’s acceptable invoice.

9.3 The Supplier shall provide to the Company with its signed copy of this Agreement a completed IRS form W-9 (Request for Taxpayer Identification Number and Certification) (“W-9”), Supplier Profile Form, (the “Payment Authorization”) using the forms provided by the Company. The Payment Authorization includes the Supplier’s written payment instructions the Company will use to make payments by electronic fund transfer. The Supplier may update its supplier profile information, including its payment instructions, by submitting to the Company an updated W-9, Supplier Profile Form, or Payment Authorization, as the case may be. The Supplier shall submit updated supplier profile information by e-mail. The Company is not liable for any payment delayed or misdirected as a result of the Supplier’s failure to provide a properly completed W-9, Supplier Profile Form, or Payment Authorization or any inaccuracies in the completed forms. The Company must have a reasonable time after receiving the forms to act on them.

9.4 The Supplier shall not charge the Company for any federal, state, or local taxes, from which the Managing Member, as a Federal Reserve Bank is exempt under 12. U.S.C. §531.

9.5 Notwithstanding any other provision this Agreement, the Company may reduce the amount of any payment otherwise payable to, or on behalf of, the Supplier by the amount of any obligation

of the Supplier to the Company that is or becomes due and payable, and the Supplier shall be deemed to have consented to such reduction.

10. **Cooperation**

When reasonably requested by the Company or the Bank, the Supplier will cooperate and coordinate with other service providers of the Company in providing the services and deliverables pursuant to or related to this Agreement or the MSLP, including, without limitation, coordinating with any such other service providers and Eligible Lenders as requested by the Company or the Bank. In no event will the Supplier take direction from any other service providers without direction from Company or the Bank.

11. **Acceptance**

The parties hereby agree that the Supplier shall use its commercially reasonable efforts to deliver Custom Works, as defined in an applicable Statement of Work, in accordance with the milestones and deadlines as mutually agreed by the Bank, the Company and the Supplier as described in the applicable Statement of Work. Such Statement of Work shall define the acceptance criteria and testing process for such Custom Work.

12. **Responsibility for Supplier Employees, Subcontractors, and Other Persons**

Notwithstanding any provision of the Agreement to the contrary, Supplier may not subcontract the performance of any Services unless specifically required by a Statement of Work. An assignment by Supplier of an individual who is contractor to Supplier, rather than an employee, is considered a subcontract. The Bank may give or withhold its consent to any proposed subcontract or contractor arrangement in its sole discretion. Any subcontract made by Supplier and not defined in a Statement of Work is void and any limitation of liability for such subcontractor or contractor arrangement is not subject to the liability cap defined below.

The Supplier is fully responsible for all acts and omissions of its employees, personnel, agents, representatives, and subcontractors, any other persons directly or indirectly employed by a subcontractor of the Supplier, and any other persons who perform work associated with the Services provided to the Bank or the Company on behalf of Supplier (collectively, the "Supplier Personnel"), except as defined in the next sentence. The Supplier's liability for the acts and omissions of its subcontractors, the use of which is defined in a Statement of Work, shall be limited to the fees paid to the subcontractor by the Supplier.

Supplier will remain liable for compliance with this Agreement in all respects by all Supplier Personnel, whether consented to by Bank or not. The Supplier agrees to be responsible for enforcing this Agreement as to all Supplier Personnel and to take such action, legal or otherwise, to the extent necessary to cause them to comply with this Agreement. Notwithstanding the foregoing, with respect to any Supplier Personnel who are subcontractors, the provisions of this Agreement that any subcontractor must comply with shall be specifically set forth in the Statement of Work governing the provision of services of such subcontractors.

Nothing in this Agreement creates any contractual relationship between any Supplier Personnel and the Bank, or any obligation on the part of the Bank, to pay or to see to the payment of any monies due any Supplier Personnel.

13. Reporting

13.1 The Bank may request at any time that the Supplier submit a written report which describes the progress, status of, cost data, and other matters pertaining to the Service rendered. Such report shall be furnished within five business days after the request. The Supplier shall also prepare and submit such additional reports or documentation of its performance and progress as the Bank or Company may reasonably request.

13.2 The Supplier shall attend periodic meetings as may be requested by the Bank.

13.3 The Supplier shall report its Tier II spend on a quarterly basis to the Bank and at any other time requested by the Bank. "Tier II spend" means the amount of money the Supplier spends with diverse suppliers, including but not limited to, small businesses and minority- and women-owned business enterprises, either as subcontractors or other providers of goods and services in direct support of the Supplier's contractual obligations to the Bank. Unless otherwise agreed to by the Bank in writing, the Supplier shall include the following information in its report: subcontractor name(s), address, telephone number, contact person, e-mail, Federal ID number, certification type (minority, woman-owned, small business), certification status and certifying agency, description of the service/commodity contracted, and the amount of payments made during the reporting period. The Supplier will use commercially reasonable efforts to include more or different information as requested by the Bank from time to time.

14. Compliance with Law

The Supplier and all Supplier Personnel and their respective suppliers shall at all times comply with all applicable federal, state, and local laws, codes, regulations, ordinances, and rules, in performing the Services, including but not limited to, consumer privacy laws, OSHA (federal and state) and other worker-protection requirements and environmental protections. Supplier shall maintain during the term of this Agreement any authorization, license, and permit as may be required by any such law or regulation to perform the Service. The Supplier shall notify the Bank immediately in writing in the event or likelihood of termination of any such authorization, license, or permit.

15. Equal Opportunity

The Bank does not discriminate on the basis of race, color, religion, sex, national origin, age, disability, genetic information, gender identity, or sexual orientation in the solicitation, award, or administration of contracts. The Bank also promotes the acquisition of goods and services from small businesses. The Bank is committed to ensuring that all firms interested in doing business with the Bank, including minority- and women-owned businesses, have the maximum practicable opportunity to participate fairly in contracts awarded by the Bank. By entering into this Agreement, the Supplier confirms its commitment to equal opportunity in employment and contracting. To implement this commitment, the Supplier shall, to the maximum extent possible consistent with applicable law, provide for the fair inclusion of minorities and women in its workforce. If requested by the Bank, the Supplier shall provide documentation, satisfactory to the Bank of the actions it has undertaken to verify its good faith compliance with this requirement. To the maximum extent possible consistent with applicable law, the Supplier shall comply with this policy in the awarding of subcontracts and shall require its subcontractors, if applicable, to provide, to the maximum extent possible consistent with applicable law, for the fair inclusion of women and minorities in

each of their respective workforces. The Supplier understands and agrees that a breach of this Section 15 constitutes a material breach of this Agreement.

16. Warranties

16.1 The Supplier shall render the Service(s) in accordance with the timetable, delivery schedules, and/or milestones as may be set by the parties in this Agreement, including in a Statement of Work.

16.2 The Supplier shall provide and make available to the Bank such resources as are necessary to perform the Services. The Supplier shall assign only qualified, experienced personnel to perform the Service. All Supplier Personnel who perform the Services shall comply with the Bank's rules, policies, and procedures applicable to the Bank's facilities and access to Federal Reserve information systems, including security procedures, which may include background screenings, of Supplier Personnel. For certain types of work, as determined by the Bank in its sole discretion, in addition to the requirements specified above, the Bank may request: (i) other background screening, including, without limitation, a criminal background check (where legally permissible), (iii) a national social security search, (iv) work authorization, (v) Patriot Act/OFAC watch list search, (vi) education verification, and/or (vii) employment history verification. The Bank may require additional background tests, consistent with applicable law, depending on the sensitivity of information or systems being accessed by Supplier personnel. Upon receipt of such a request from the Bank, Supplier shall reasonably cooperate and will request that such individual reasonably cooperate in such background screenings. Alternatively, if requested by the Bank, Supplier will provide an attestation letter confirming which checks were run, background check completion dates, and pass/fail criteria to determine 'acceptable results'. The Bank reserves the right to audit the results of the background screenings. The fact that the Bank requires a criminal background check or consumer report shall not in any manner relieve the Supplier of its responsibility to ensure that all Supplier personnel assigned to the Bank are reliable and of reputable background and sound character. The Bank may reject any Supplier Personnel based on the summary attestation letter or if the Bank determines that any Supplier Personnel poses operational, reputational or conflict of interest risk to the Bank or MSLP, and the Supplier shall immediately remove the individual from the assignment and replace (at no additional expense to the Bank) any of its employees or agents at the sole discretion of the Bank.

16.3 Except for reasons beyond the Supplier's reasonable control, including illness, death, or termination of employment without prior notice, the Supplier shall not remove, transfer, or reassign Supplier personnel who are either: (i) specifically identified in the Attachments or any Statement of Work; or (ii) filling key positions identified in the Attachments or any Statement of Work ("Key Personnel") unless it first gives at least 30 calendar days' prior written notice to the Bank and identifies substitute personnel with appropriate skills and experience to perform the responsibilities of the Key Personnel they are replacing. If Key Personnel become unavailable without prior notice to the Bank for reasons beyond the Supplier's reasonable control, the Supplier shall notify the Bank as soon as practicable and identify substitute personnel with appropriate skills and experience to perform the responsibilities of the Key Personnel they are replacing. In either case, the Bank shall have the opportunity, at its request, to review the resume of any individual to be assigned as a replacement for Key Personnel and to object to the assignment of any individual the Bank finds unacceptable for the tasks to be performed. The Supplier acknowledges and agrees that the loss of Key Personnel does not excuse the Supplier's performance of the Services and completion of the deliverables as described in this Agreement.

16.4 Supplier warrants and covenants that the Services provided under this Agreement meet the requirements set forth in the applicable Statement of Work and shall meet all Service specifications, including the Service Standard. The Supplier warrants that the Services shall be performed in a professional manner, in accordance with the generally recognized standards of the Supplier's profession, and with a level of care, technical skill, and diligence commensurate with the requirements of the Service to be performed under this Agreement.

16.5 The Supplier is responsible for the professional quality, technical accuracy, completeness, and coordination of all reports, designs, drawings, plans, information, specifications, and other items and Services furnished under this Agreement. If the Supplier fails to meet applicable professional standards or the requirements of the Service, the Supplier shall, without additional compensation, immediately correct or revise any error or deficiency. The Supplier further warrants that the Service provided hereunder will not violate or infringe upon the rights of others (including but not limited to, confidential information, trade secrets, patent, copyright, and trademark rights of third parties).

16.6 If, in the Bank's reasonable judgment after consulting with Supplier, the Service fails to meet any warranties in this Section 16, Supplier agrees to use its commercially reasonable efforts to correct such failure at no cost to the Bank. Additionally, Supplier agrees that the Bank or Company may obtain injunctive or other equitable relief to enforce the terms of this Section 16. The foregoing warranties survive delivery and are not waived by the Bank's acceptance of, or payment for, said Service.

16.7 Supplier shall adhere to, and shall cause employees and others performing services under this Agreement to adhere to, the conflict of interest undertakings set forth in Attachment E to this Agreement.

17. **Intellectual Property**

17.1 *Bank Materials.* All information, materials, and technology, including computer software, provided to Supplier by the Bank or Company or otherwise used by the Bank or Company in connection with the Services, including modifications, changes, and derivatives thereto whether or not created as part of the Services (the "Bank Materials") are and shall remain the property of the Bank, the Company, or its licensors, which shall retain all Intellectual Property Rights (as defined below) therein. Supplier obtains no right, title, or interest therein, except that during the term of this Agreement the Supplier may use Bank Materials for the sole, exclusive, and limited purpose of performing the Services in compliance with the terms and conditions of this Agreement. Supplier shall comply with any additional terms of any license or other agreement applicable to such Bank Materials. All Bank Materials shall be subject to the confidentiality provisions of this Agreement. Supplier shall not acquire any lien on or encumber Bank Materials in any way, and shall promptly return to the Bank and Company any and all Bank Materials in Supplier's possession or control upon Bank or Company's request and, in any event, upon termination or expiration of the applicable Statement of Work thereunder. "Intellectual Property Rights" means the rights to all inventions, patents, copyrights, trademarks, trade secrets, trade names, know-how, software, shop rights, moral rights, licenses, developments, research data, designs, business methods, processes, concepts, formulas, and other intangible proprietary or intellectual property rights, whether or not patentable (or otherwise subject to legally enforceable restrictions or protections against unauthorized third party usage), and any and all applications for, and

extensions, divisions, and reissuances of any of the foregoing, and rights therein, whether or not registered and whether arising by statute or common law.

17.2 *Pre-Existing Property.* “Pre-Existing Property” means any and all information, materials, technology, and intellectual property, including all patents, copyrights, moral rights, trademarks, trade secrets, and any other form of intellectual property rights recognized in any jurisdiction, including applications and registrations for any of the foregoing, owned or controlled by Supplier prior to Effective Date of this Agreement developed outside the scope of Service hereunder or for Supplier’s general use in connection with its provision of services for its clients. For the avoidance of doubt, the FTI Loan Workflow Program shall be deemed Pre-Existing Property of Supplier. “Custom Works” means all code, software, and other materials (including, but not limited to, drawings and documentation) delivered by Supplier in the course of Supplier’s performance of the Services that is created solely and exclusively for the Bank and/or the Company as set forth in this Agreement or Statement of Work thereunder and specifically identified as a Custom Work in the applicable Statement of Work. Custom Works expressly exclude any and all: (i) Supplier Pre-Existing Property, including any and all modifications thereto or derivative works thereof; and (ii) ideas, processes, programs, concepts, business methods, inventions, and developments of general application throughout all industries or a single industry that are discovered, created, or developed by Supplier during the course of performing the Services (“Supplier IP”), provided that Supplier IP shall never include any Bank Materials or Confidential Information (as defined in Section 8.1). In the event that the performance of the Services results in the development of Custom Works, all right, title, and interest in the Custom Works vest in the Bank (including for use in its management of the Company) and are deemed to be a work made for hire, and to the extent they may not be considered works made for hire, Supplier assigns to the Bank all right, title, and interest in and to the Custom Works (excluding the Supplier Pre-Existing Property and the Supplier IP) and any and all Intellectual Property Rights embodied therein. Supplier grants to the Bank a non-exclusive, non-transferable, revocable, and limited license to use the Supplier Pre-Existing Property and Supplier IP solely in conjunction with the Bank’s use of the Custom Works, provided that the Bank may not: (a) modify, disclose, alter, translate, or create derivative works of the Supplier Pre-Existing Property or Supplier IP; (b) license, sublicense, resell, distribute, lease, rent, lend, transfer, assign or otherwise dispose of the Supplier Pre-Existing Property or Supplier IP; or (c) disassemble, decompile, or reverse engineer any of the Supplier Pre-Existing Property or Supplier IP. This provision shall survive expiration or termination of this Agreement.

17.3 *Infringement Indemnity.* The Supplier shall be responsible for obtaining, paying for, and abiding by all licenses necessary for any patented, copyrighted, or otherwise legally-protected intellectual property used in any software, Supplier Pre-Existing Property, Supplier IP, or Custom Works that is necessary for any of the Services provided hereunder. Further, notwithstanding any other provision of this Agreement, the Supplier shall indemnify, defend, and hold the Bank and the Company, their directors, agents, employees, and officers harmless against any suits, costs, liabilities, claims, damages, judgments, awards, losses, penalties, and/or expenses (including attorneys’ fees) arising out of any third party claim that the software, Supplier Pre-Existing Property, Supplier IP, Custom Works, or Services provided by the Supplier, and/or any reasonably foreseeable use by the Bank or the Company of any software, Supplier Pre-Existing Property, Supplier IP, Custom Works, or Services infringes any United States copyright, patent, trademark, or other proprietary right, or constitutes misuse of a trade secret or confidential information belonging to a third party. The Supplier shall defend at its own expense any suit or proceeding brought against the Bank or the Company alleging such infringement or misuse. If the Bank or Company’s use of any software, Supplier Pre-Existing Property, Supplier IP, Custom Works, or

Services provided hereunder is prevented by injunction or found by a court of law to be infringing in any manner and to any degree, or is in the Supplier's reasonable opinion likely to become so infringing, the Supplier shall, at the Bank and Company's option and Supplier's expense: (i) procure for the Bank and the Company the right to continue using such software, Supplier Pre-Existing Property, Supplier IP, Custom Works, or Services; (ii) modify the software, Supplier Pre-Existing Property, Supplier IP, Custom Works, or Services in a manner acceptable to Bank to become non-infringing; or (iii) substitute other non-infringing software, Supplier Pre-Existing Property, Supplier IP, Custom Works, or Services that are acceptable to Bank and the Company. If the foregoing options (i), (ii), and (iii) are not reasonably available, the Bank and the Company may terminate this Agreement, and in either case Supplier shall refund to the Bank or the Company any amounts the Bank or the Company paid to Supplier before the termination date.

18. **Right to Audit**

18.1 The Supplier acknowledges that the Bank reserves, for itself, the Bank Affiliates, the United States Department of the Treasury and other governmental oversight entities and their respective authorized agents (including, but not limited to, external auditors) (each an "Oversight Entity"), the right to perform financial and compliance reviews of the Supplier in conjunction with a third party contractor that is under confidentiality obligations at least as restrictive as those the Bank uses to protect its own information. The Supplier agrees to participate in these reviews by: (i) providing the Bank or an Oversight Entity current requested information (unless otherwise instructed by the Bank, such information may not be more than one (1) year old) at least annually or upon the request of the Bank or an Oversight Entity; and (ii) allowing the Bank to share the Supplier's information with the Bank's third party contractor for purposes of the review. The Supplier is a public company and its filings are publicly available. In addition, the Supplier shall provide a Service Organization Control 1 and 2 report ("SOC Report"), or similar documentation evidencing the sufficiency of the Supplier's internal controls (including relating to conflicts of interest). If a SOC Report is not available, Supplier shall allow the Bank and Company to perform periodic control testing, at the Supplier's expense. The Bank may share the results of the third party contractor reviews with Bank Affiliates or any other Oversight Entity.

18.2 Any employee, agent, representative, contractor, or authorized designee of the Bank, or an Oversight Entity, shall have the right to audit, onsite and/or remotely, any and all Supplier and Supplier Personnel: (i) books, documents, and records, in whatever form they may be kept, whether written, electronic, or other, and including any and all documents and other materials, in whatever form they may be kept, which support or underlie those books, documents, and records (hereafter "Supplier Documentation"); (ii) operations or services (hereafter "Operations"), to the extent that they are kept by or under the control of the Supplier, including but not limited to, those kept by any Supplier Personnel; and (iii) all policies, procedures and records relating to any software or information technology used to provide the services and the Supplier's information security controls ("Technology Documentation"). For the avoidance of doubt, this includes but is not limited to all books and records related to the Supplier's performance of this Agreement and the obligations defined herein.

18.3 In addition to any audit requirements set forth in the attachments to this Agreement, at the request of the Bank or an Oversight Entity, the Supplier will make available to the Bank, or the Oversight Entity within a reasonable time, but not less than five business days, the Supplier Documentation, Operations, and Technology Documentation. Audits will be conducted during normal business hours at the Supplier's office or place of business, and the Supplier will provide

appropriate workspace to the Bank or the Oversight Entity for review of the Supplier Documentation, Operations, and Technology Documentation. Any audits of the Supplier Documentation, Operations, and Technology Documentation will be limited to that Supplier Documentation, those Operations, and that Technology Documentation and Services that are essential to the performance of this Agreement. In the event that the Supplier's office or place of business is not available, the Supplier will make the Supplier Documentation and Technology Documentation available for audit at the Bank's location at a time which is convenient for the Bank Oversight Entity. The Supplier will allow the Bank Oversight Entity to make all necessary copies of the Supplier Documentation and Technology Documentation. The Supplier will provide reasonable assistance, including the availability of Key Personnel at the request of the Bank or Oversight Entity. In addition, the Supplier will allow the Bank reasonable access to current employees for purposes of discussing matters pertinent to the performance of this Agreement.

18.4 The Supplier shall maintain the Supplier Documentation for the duration of this Agreement, including any renewals thereof, and for a reasonable period of time in accordance with applicable law, but in no event less than four years from either the expiration date of this Agreement or the date the Supplier last performed hereunder, whichever is later. The results of any audit conducted pursuant to this Section 18, including any copies of Supplier Documentation, may be shared with any employee, agent, representative, contractor, or authorized designee of any Bank Affiliate. This Section 18 shall not be construed to limit, revoke, or abridge any other rights, powers, or obligations to audit Supplier which any Bank Affiliate or other Oversight Entity may have by any applicable state or federal law or regulation, whether those rights, powers, or obligations are express or implied.

18.5 Notwithstanding the foregoing, the Company and the Bank may share information and records about the Services provided to it with: (a) its officers, directors and employees, solely acting in such capacity, who have a need to know for the Company and the Bank's benefit, (b) the Credit Administrator, Custodian, the Administrator, other providers engaged in the administration of the MLSP, other Federal Reserve Entities and the U.S. Department of the Treasury and (c) third party professional advisors (including, without limitation, their respective accountants, auditors, attorneys, financial and other advisors) which are acting for Company and the Bank's benefit and on Company or the Bank's behalf and which have a need to know such information in order to provide advice or services to the Company or Bank and are bound by obligations of confidentiality and non-disclosure. In no event shall Supplier assume any responsibility to any third party to which any information and/or records are disclosed or otherwise made available under this Section 18. In addition, Supplier acknowledges and agrees that information related to the Services may be incorporated in or required to be included in any reporting or disclosure required to be produced from time to time in connection with the MSLP pursuant the CARES Act or any reporting, disclosure or audit provisions or requirements that may be applicable to the Company, the Federal Reserve Entities or the U.S. Department of the Treasury. Upon reasonable notice from the Company or Bank, the Supplier shall provide the audit rights set forth in this Section 18 to Credit Administrator, Custodian, the Administrator, other providers engaged in the administration of the MLSP, other Federal Reserve Entities, the U.S. Department of the Treasury and other governmental oversight entities and their respective authorized agents (including, but not limited to, external auditors).

18.6 For the avoidance of doubt, the foregoing audit rights are applicable to all Supplier Personnel.

19. **Default**

Upon default by the Supplier, the Bank may immediately terminate any then-effective Statement of Work without any liability and may obtain the Services from another source at a reasonable price as is practicable under the circumstances. The Bank shall retain any other right and remedy as may be available to it at law or in equity.

20. **Insurance**

20.1 The Supplier shall maintain at minimum the following insurance during the term of this Agreement:

- (i) Workers' compensation insurance as required by law and employer's liability insurance as required by law;
- (ii) Commercial general liability insurance, including contractual liability coverage insuring the activities of the Supplier under this Agreement, under a comprehensive coverage form of policy in an amount not less than \$1,000,000 for bodily injury, including death, to any one person and not less than \$1,000,000 for any one accident and property damage insurance under a comprehensive form of policy in an amount of not less than \$1,000,000 for each accident and aggregate;
- (iii) Comprehensive automobile liability insurance, covering the operation of any automobile equipment, owned, hired, or non-owned in an amount not less than \$1,000,000 for each person per occurrence and property damage liability in an amount not less than \$1,000,000 for each occurrence; and
- (iv) Umbrella liability insurance in an amount not less than \$5,000,000;
- (v) Professional errors and omissions insurance with a limit of liability of no less than \$5,000,000 per occurrence and in the aggregate, and with a retroactive date no later than the effective date of this Agreement. Such policy shall provide coverage for all costs, expenses, and damages incurred by the Bank or any Bank Affiliate as a result of Supplier's failure to comply with the confidentiality, data security, back-up, or storage requirements set forth in this Agreement, and shall provide coverage for network risk for damages related to security breaches and unauthorized access, including privacy damages, identity theft damages, data destruction, and misappropriation of data.

20.2 The insurance referred to above will protect the Supplier, as a named insured for up to the respective policy limits above with respect to claims for damages for injury to persons or property arising out of or in connection with any act or omission of the Supplier, or, if required under any Statement of Work, of any Supplier Personnel.

20.3 At the Bank's request, the Supplier shall furnish the Bank with evidence in a form satisfactory to the Bank that the above insurance is in force, stating policy numbers, effective dates, expiration dates, and limits of liability thereunder. The Supplier shall notify the Bank, or ensure that its insurance company notifies Bank, in writing, not less than 30 calendar days prior to any cancellation of or change in the above insurance. If required under any Statement of Work, the Supplier shall ensure that all Supplier Personnel have the same insurance in effect, as applicable. With the exception of the workers' compensation policy and the errors & omissions policy, the Bank, all Bank Affiliates, and

their respective directors, agents, employees, direct and indirect officers, and each of their successors and assigns shall be named as additional insured. Unless prohibited by applicable law, such policy or policies of workers' compensation and employer's liability insurance shall be endorsed to include a waiver of subrogation in favor of the Bank.

20.4 Compliance by the Supplier with these requirements shall not relieve the Supplier from any liability assumed at law or under this Agreement.

21. **Indemnity and Liability**

21.1 The Supplier shall defend, indemnify, and hold the Bank, the Company, and all Bank Affiliates, and all of their respective directors, agents, employees, direct and indirect officers, and each of their successors and assigns (each, an "Indemnified Party") harmless from and against all third party claims, damages (including taxes), losses, costs and expenses (including attorneys' fees and costs of investigation and litigation), and liabilities arising out of or resulting to:

- (i) the Supplier's performance of its obligations under this Agreement, provided that any such claim, damage, loss, expense, or liability: (a) is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property; or (b) is caused in whole or in part by the negligent or willful act or omission of Supplier or any Supplier Personnel, and anyone for whose acts any of them may be liable;
- (ii) any incident resulting in a data breach or compromising data integrity, and any costs for the prevention of any such future incidents, including but not limited to, any costs of data recovery, system restoration, data monitoring, third party liability, government imposed actions, or penalties, notification to affected individuals, credit monitoring for affected individuals, or other measures reasonably requested by the Bank to protect the compromised information and continuity of its business operations;
- (iii) any breach of the confidentiality obligations in Section 8; or
- (iv) any violation, in whole or part, of an applicable law, regulation, ordinance, or rule related to, or in the performance of Services under this Agreement.

21.2 The Bank shall notify the Supplier promptly of the claim for which indemnification is sought, provided that any failure or delay in giving such notice shall not relieve the Supplier of its indemnification obligations except, and then only to the extent, the Supplier is prejudiced by the failure or delay. The Supplier shall keep attorneys representing the Bank and the Company informed and shall promptly provide them with copies of all documents filed or served in connection with any such claim. The Supplier shall defend at the Supplier's own expense any such suit, claim, proceeding, or investigation and the Bank will cooperate with the Supplier in the defense of any claim. The Bank and the Company shall be entitled, at its option, to control or participate in the investigation and defense of any such suit, claim, or proceeding and shall have final approval of any settlement that imposes liability or obligations on the Bank. Notwithstanding the foregoing, the Supplier shall not settle, compromise, or in any other manner dispose of any claim for which and Indemnified Party is entitled to be indemnified by Supplier unless the settlement includes a full and final release of all claims against the Bank and/or the Company, and imposes no liability or obligation on the Bank and/or the Company not expressly accepted by the Bank and/or the Company in writing. The indemnification obligations set forth in this Section 21 are not limited in any way by any limitation on compensation or benefits payable by or for the

Supplier or any subcontractor under workers' compensation statutes, disability benefit acts, or other employee benefit acts.

21.3 The Company shall defend, indemnify, and hold the Supplier and all Supplier affiliates, and all of their respective directors, agents, employees, direct and indirect officers, and each of their successors and assigns harmless from and against all third party claims, damages (including taxes), losses, costs and expenses (including attorneys' fees and costs of investigation and litigation), and liabilities arising out of or resulting from the Company's negligence or willful misconduct.

21.4 The Company acknowledges and agrees that it shall not take any actions inconsistent with the interpretation that the Supplier, Supplier Personnel and the Supplier's affiliates shall each be "Related Parties" of the Company in its capacity as Lender under each Co-Lender Agreement entered into by the Company in connection with the Main Street Facilities, including for purposes of the benefits of the indemnification provisions of Section 6.02 and the other provisions of such Co-Lender Agreement, in each case from and after the Agreement Date in relation to such Co-Lender Agreement.

21.5 Excluding Supplier's indemnification obligations for third party claims, or damages resulting from Supplier's gross negligence, bad faith or willful misconduct, Supplier shall not be liable to the Company, the Bank, or their respective Affiliates, successors, and assigns for (a) damages in excess of the total amount of the fees paid to Supplier under all Statements of Work under this Agreement (including any extensions or renewals thereof), or (b) consequential, indirect or punitive damages, damages for lost profits or opportunities or other like damages or claims of any kind.

22. **No Exclusivity**

Nothing contained in this Agreement will be construed as creating an exclusive relationship between the parties. The Bank or the Company may purchase the same or similar Services from another company at its discretion.

23. **Independent Contractor**

The Supplier is an independent contractor, and nothing herein shall be deemed to cause this Agreement to create an agency, partnership, or joint venture between the parties. Further, nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between the Bank or the Company and any Supplier Personnel. The Supplier assumes full responsibility for its acts and omissions and for the acts and omissions of all Supplier Personnel, including its employees and agents. The Supplier is required to make appropriate filings with the taxing authorities to account for and make all payments required by the local, state, and federal authorities to include income tax, social security, and SDI payments for the Supplier and any person(s) employed by the Supplier. The Supplier further agrees to indemnify, defend, and hold harmless the Bank and the Company from any and all claims made by the above-mentioned taxing authorities resulting from performance made by the Supplier in connection with this Agreement. If the Bank determines that taxes should be withheld, then the Bank reserves the right to unilaterally withhold, as appropriate, and to notify the Supplier accordingly.

24. **Assignability**

This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns (including by merger, sale or other transfer) permitted hereby. Except as permitted in this Agreement, Supplier may not transfer or assign this Agreement or subcontract the performance of any services without the prior written consent of the Company and the Managing Member. The Company and/or Managing Member may transfer or assign this Agreement, with prior written notice to FTI, to any other special purpose entity sponsored by the Bank (or any other Federal Reserve Bank) or the United States Department of the Treasury in connection with the Main Street Facilities.

25. **Cumulative Rights**

Remedies available to the Bank and the Company under this Agreement are cumulative, and the Bank may assert any available remedy at law or in equity.

26. **Dispute Resolution**

In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or the alleged breach thereto (excluding the failure of the parties to mutually execute an amendment to this Agreement), the parties will first use their best commercially reasonable efforts to settle the dispute, claim, question, or disagreement. To this effect, both parties will consult and negotiate with each other in good faith and, in recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

27. **Force Majeure**

In the event that either party is unable to perform its obligations under this Agreement as a result of a force majeure, neither party will be liable to the other for direct or consequential damages resulting from lack of performance. "Force Majeure" will mean fire, earthquake, flood, act of God, strikes, work stoppages, or other labor disturbances, riots or civil commotions, acts of terrorism or other hostilities, litigation, war or other act of any foreign nation, power of government, or governmental agency or authority, or any other cause like or unlike any cause above mentioned which is beyond the control of either party. If a party will be delayed or prevented from performing its obligations pursuant to this Agreement due to any cause beyond its reasonable control, such delay will be excused during the continuance of such delay and the period of performance will be extended to the extent necessary to enable it to perform its obligations after the cause of such delay has been removed; provided, however, if such performance is delayed for 30 or more days, the person(s) entitled to the benefit of such performance may elect to terminate the portion of this Agreement affected by such delay. Nothing contained in this section will be deemed to excuse the obligation to pay for Services delivered in accordance with the terms of this Agreement.

28. **Third Party Beneficiaries**

None of the provisions contained in this Agreement are intended by the parties hereto, nor will they be deemed, to confer any benefit on any person not a party to this Agreement other than, to the extent provided herein, any Indemnified Party.

29. **Further Assurances**

The parties will at their own cost and expense execute and deliver such further documents and instruments and will take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement or to show the ability to carry out the intent and purposes of this Agreement.

30. **Ethics Statement and Gratuities**

The Supplier shall perform services with honesty and integrity using its best skill and judgment and in the most expeditious and economic manner consistent with the Bank's policies, which can be found on the [Doing Business With Us](#) section of the Bank's website. Also, the Supplier, its employees, agents, or subcontractors shall not extend any gratuity or special favor to the Bank's employees.

31. **Governing Law and Jurisdiction**

Pursuant to the Federal Reserve Act (12 U.S.C. 632), this Agreement and all matters arising under or relating in any way to this Agreement shall be governed by and construed according to the federal laws of the United States and, in the absence of federal laws, the laws of the [Commonwealth of Massachusetts] shall govern this Agreement without regard to the conflict of law provisions as to the interpretation, validity, and effect of this Agreement. Any legal action or proceeding arising under this Agreement between the parties shall be brought in the United States District Court in Suffolk County in the Commonwealth of Massachusetts.

32. **Signatures; Counterparts**

The individuals signing this Agreement warrant that each has the authority to bind its respective party, and when signed by both parties, this Agreement will be a binding contract. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Once signed, both parties agree any reproduction of this Agreement made by reliable means (e.g., photocopy, scan, or facsimile) is considered an original. This Agreement, any Statement of Work, and any amendment may be executed by electronic signature, and such electronic signature will be considered an original signature for all purposes and will have the same force and effect as an original signature.

33. **Survival of Rights**

The rights and obligations described in Sections 2 (Notices and Contact Information), 3 (Contract Documents), 6.4 (Transition Services), 7 (Service Contract Act), 8 (Confidentiality), 9 (Prices and Payment), 11 (Acceptance), 12 (Responsibility for Supplier Employees, Subcontractors, and Other Persons), 14 (Compliance with Law), 16 (Warranties), 17 (Intellectual Property), 18 (Right to Audit), 21 (Indemnity), 24 (Assignability), 31 (Governing Law and Jurisdiction), and 34 (Miscellaneous Provisions) shall survive and continue after termination of this Agreement.

34. **Miscellaneous Provisions**

34.1 None of the rights or remedies of this Agreement shall be considered waived by the Bank unless such waiver is given in writing by the Bank. No such waiver shall be a waiver of any past or future default, breach, or modification of any of the conditions of this Agreement unless expressly stipulated in such waiver.

34.2 Neither the Supplier nor any of the agents, affiliates, or parties under its respective control shall use the Bank or the Company's name, or the name of any Federal Reserve System entity, or any adaptation or variation of such name in any advertising or promotional material or other publication, or otherwise publicize or communicate the Supplier's relationship with the Bank or the Company without the Bank and the Company's prior written consent.

34.3 The Supplier acknowledges and agrees that it has participated jointly with the Bank and the Company in the negotiation and drafting of this Agreement. If any ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted by the Supplier and the Bank and the Company, and no presumptions or burden of proof will arise favoring or disfavoring any party by virtue of authorship of any provision of the Agreement.

34.4 The heading for each section is not controlling as to the meaning of each section.

34.5 Each section or provision of this Agreement is severable, and if one or more section(s) or provision(s) is declared invalid, the remaining sections and provisions shall remain in full force and effect.

34.6 Supplier and all Supplier Personnel will not extend any gratuity or special favor to employees of the Bank or the Company. Supplier will perform the Services with honesty and integrity using its best skill and judgment and in the most expeditious and economic manner consistent with Bank's policies.

34.7 None of the provisions contained in this Agreement are intended by the parties hereto, nor shall they be deemed, to confer any benefit on any person not a party to this Agreement other than, to the extent provided herein, any indemnitee.

34.8 Supplier hereby covenants and agrees that it will not at any time before the expiration of one year plus one day, or if applicable, such longer preference period following the latest of the date of termination of this Agreement, the termination of the Credit Agreement and the security documents, and the day on which all of the "Obligations" (as defined in the Credit Agreement) have been paid in full (a) commence or institute against the Company or join with or facilitate any other person in commencing or instituting against the Company, any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution, receivership, insolvency or liquidation proceedings, or other proceedings under any United States Federal or state, or other jurisdiction, bankruptcy or similar law or statute now or hereafter in effect in connection with any obligations relating to this Agreement or (ii) participate in any assignment for benefit of creditors, compositions, or arrangements with respect to the Company's debts. The agreements in this Section 34.8 shall survive the termination of this Agreement and the other obligations and shall also survive the termination of the Credit Agreement and the security documents.

34.9 Any of the Bank Affiliates is eligible, at its option, to contract for similar workout services under the provisions of this Agreement by executing a Statement of Work which shall describe the Services to be performed by the Supplier and the materials to be created and delivered by the Supplier to that Bank Affiliate and incorporate all of the terms and conditions of this Agreement. For the purposes of a such a Statement of Work, references herein to the Bank shall be references to the Bank Affiliate which executes such a Statement of Work. Unless otherwise stated, each executed Statement of Work constitutes a separate contract and Supplier acknowledges that a Bank Affiliate's only contractual relationship with the Supplier with respect to the subject matter thereof is through the applicable Statement of Work. This Agreement is effective as to each

individual Bank Affiliate upon the signing of a Statement of Work by the Supplier and the Bank Affiliate. No Federal Reserve Bank shall be liable for any obligation of any other Federal Reserve Bank. Further, nothing in this Agreement shall be construed to imply that any Federal Reserve Bank must execute a Statement of Work in order to purchase services from the Supplier. No minimum purchase volume is guaranteed to the Supplier.

IN WITNESS WHEREOF, the Supplier, the Company and the Bank have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

AGREED:

FTI CONSULTING, INC.

By: _____
Name: _____
Title: Co-Leader Corporate Finance

AGREED:

MS FACILITIES LLC

By: Federal Reserve Bank of Boston as its
Managing Member
By: _____
Name: _____
Title: Executive Vice President

AGREED:

FEDERAL RESERVE BANK OF BOSTON

By _____
Name: _____
Title: First Vice President and Chief Operating
Officer

ATTACHMENT A

FORM OF STATEMENT OF WORK

Statement of Work for

[Work Description]

FTI CONSULTING, INC (“Supplier”), MS FACILITIES LLC, a Delaware limited liability company (“the Company”), the Federal Reserve Bank of Boston (the “Bank”), as managing member of the Company (the “Managing Member”) enter into this Statement of Work (“SOW”) for Services pursuant to the Professional Services Agreement between the parties having an Effective Date of [INSERT EFFECTIVE DATE OF AGREEMENT], including all amendments thereto, (the “Agreement”). This SOW is entered into pursuant to and governed by the terms of the Agreement, which is incorporated herein by reference. All Services provided hereunder by the Supplier shall conform to the Service Standard. This SOW shall be effective as of the date of the last signature below for a term of [LENGTH].

Description of Services:

Service Term:

Service Start Date:

Service End Date:

Estimated number of hours for the completion of services:

Total Estimated Cost for Services:

Travel:

Description of anticipated travel:

Estimated cost for travel:

All travel expenses must be in conformance with the Bank’s Non-Employee Travel Guidelines which will be provided to the Supplier on request.

Custom Works (if any) or Other Deliverables:

Acceptance Criteria for Custom Works or Other Deliverables:

[Define acceptance criteria if applicable]By signing in the signature blocks below, Bank, Company and Supplier agree to the terms of this SOW pursuant to the Agreement.

AGREED:

FTI CONSULTING, INC.

By: _____

Name: _____

Title: _____

AGREED:

MS FACILITIES LLC

By: _____

Name: _____

Title: _____

AGREED:

[Supplier]

[Address]

[email for noti

By: _____

Name: _____

Title: _____

Date: _____

AGREED:

FEDERAL RESERVE BANK OF BOSTON

By: _____

Name: _____

Title: _____

ATTACHMENT C

SERVICE CONTRACT ACT EXEMPTION CERTIFICATION

Supplier certifies that the statements checked below are true for the services provided under the Agreement listed below:

The services will be performed essentially or exclusively by persons employed in a bona fide executive, administrative, or professional capacity, as defined in 29 C.F.R. § 541. (29 C.F.R. § 4.113)

The contract and any subcontract are for the maintenance, calibration, or repair of equipment described in 29 C.F.R. § 4.123(e)(1)ⁱ and meet all the conditions listed there regarding compensation, pricing, and public sales.

The contract and any subcontract are for services described in 29 C.F.R. § 4.123(e)(2)ⁱⁱ and meet all the conditions listed there regarding compensation, pricing, public sales, and time spent servicing the contract or subcontract.

The services are not subject to the Service Contract Act for reasons not described above. (Please explain in detail the reasons not mentioned above that exempt the resulting contract or requested services from the Service Contract Act.)

ATTACHMENT D

Information Security Requirements

For purposes of this Attachment, all references to the “Bank” include any Bank Affiliate, or other entity engaged or designated by the Bank.

1. *General.* In performing the Services on the Bank’s premises, all Supplier Personnel will comply with all of the Bank’s information security policies, procedures, and requirements made available to the Supplier. Access to the Bank’s information assets and computer resources and devices by any Supplier Personnel may only be implemented by specific approval from the Bank.
2. *Access Agreements.* Any Supplier Personnel requiring access to the Bank’s information or information systems must agree to appropriate access agreements (e.g., nondisclosure agreements, conflicts of interest agreements, and access agreements) as provided or required by the Bank before access is granted and may be required to acknowledge, by written or electronic signature, their responsibilities and expected behavior with respect to information and information system usage.
3. *Access Monitoring.* Except as prohibited by law, the Bank may enter, search, and/or monitor at its discretion all computer and network equipment and any other computer or communications device provided by the Bank, including devices owned by any affiliate or other designee of Bank that are used to perform the Services pursuant to this Agreement with authorized or unauthorized access to any such resources. The Bank may also monitor the activities of any other computing device while that device is accessing the Bank’s computers or network. Notwithstanding the foregoing, if the Bank discovers malicious activity or has reasonable belief that the Supplier’s equipment was used to compromise the Bank’s network or computers, such equipment will be immediately disconnected from the Bank’s network or systems, and the Supplier will cooperate with the Bank, in a commercially reasonable way, to investigate such equipment. All Supplier Personnel, whether authorized or unauthorized, consent to the monitoring of their use of such resources and to the Bank’s access to and disclosure of any voice communications or data stored on such equipment. Further, no information, however classified, which is stored or transmitted using such equipment, will be considered private information of any employee or other person, except as required by law.
4. *Inspection Rights.* Except as prohibited by applicable law, the Bank will be afforded access to the technical capabilities, operations, documentation, records, and data bases of all Supplier Personnel under this Agreement for the purpose of carrying out a program of inspection to ensure continued efficacy and efficiency of safeguards against threats and hazards to data information security, integrity, and confidentiality.
5. *Personal Devices.* Supplier Personnel may not connect personal devices (e.g., USB Flash Memory drives, MP3 players, external hand devices, cell phones, etc.) to any computer, network, or electronic messaging resources of the Bank without authorization from the appropriate information asset owner.
6. *Authentication Credential Requirements.* All Supplier Personnel must have proper authorization and authentication credentials to access any computer, network, or electronic messaging resources of the Bank. Supplier Personnel are responsible for securely managing all authentication credentials in accordance with the Bank’s standards and all

authentication credentials must not be shared with others. Supplier Personnel may not attempt to circumvent approved authentication processes and procedures or access controls.

7. *Integrity of Computing Resources and Devices.* All Supplier Personnel are responsible for ensuring the integrity of all computing resources and devices which connect to any of the Bank's resources and which must meet the Bank's standards (including remote access to any of the Bank's systems). All Supplier Personnel must leverage antivirus, personal firewalls, desktop encryption, and any other required security software, and run the latest security patches on all computing resources and devices. Hardware, software, authentication devices, and communication or messaging equipment must be used only for purposes approved by the Bank. All internet access software used with and through any of the Bank's networks must be approved by the Bank and must be configured according to the Bank's information security standards. All internet connections made from any of the Bank's networked computing resources or devices must be made through the Bank's firewalls. All Supplier Personnel will take all necessary precautions to minimize the risk of virus infection to the Bank's network and computer system.
 - (i) Encryption of External Media Devices. All Supplier Personnel utilizing portable media devices which contain data, proprietary information, Confidential Information, or authentication information of the Bank must ensure such devices are encrypted according to the Bank's standards (e.g., USB Flash Memory drives).
 - (ii) Reporting Security Breaches. As used herein, "Incident" means any event that jeopardizes the confidentiality, integrity, or availability of Confidential Information. Incidents include an actual or suspected loss, theft, misuse, unauthorized disclosure or acquisition of, or unauthorized access to Confidential Information, regardless of whether it creates a likelihood of harm. Any security Incident or suspicious activity that involves data, proprietary information, Confidential Information, access, or authentication information of the Bank, or the loss or destruction of the Bank's property must be promptly () reported to the Bank (e.g., if a laptop containing the Bank's information is stolen, the theft must be promptly reported to the appropriate authority).
 - (iii) Remote Access. Supplier Personnel will not share their remote access configuration.
8. *Email Filtering.* All Supplier Personnel will have approved email filtering software that limits SpamWare, malware, or other malicious code transmitted through email installed on all computing resources and devices used while providing the Services.
9. *Approved Software.* Only licensed software provided by the Bank and in-house developed code (including Supplier developed code approved by the Bank) shall be used on the Bank's system. No public domain, shareware, or bulletin board software shall be installed. All additional hardware and software packages proposed for use, including upgrades, must be approved in advance and in writing by the Bank.
10. *Termination of Access.* Any data or system information captured, viewed, saved, or disseminated in any way, is proprietary information of the Bank and must be returned to the Bank upon termination or expiration of access. Upon completion of the Services or expiration or termination of this Agreement, whichever occurs first, the Supplier will ensure that all

Supplier Personnel terminate promptly all electronic and physical means of gaining access to the Bank's computer systems, including but not limited to, maintenance accounts and information security bypasses ("Access Privileges"). The Supplier will also ensure that all Supplier Personnel return all property and data of the Bank. At that time, the Supplier will provide the Bank with a list of all Supplier Personnel with Access Privileges to ensure Supplier's compliance with this Attachment.

11. *Reporting.* The Supplier shall deliver to the Bank written evidence of compliance with SSAE-18 documented in a SOC 2, Type II Audit Report, or other form of report acceptable to the Bank, on a biannual basis or upon the Bank's request. The Supplier shall also provide ConMon pen test results and vulnerability assessments, and an independent third party assessment of the Supplier's privacy program on at least an annual basis; provided that after the first annual report, a summary of such pen test results and vulnerability assessments may be provided.

12. *Breach Notification.* The Supplier will take all commercially reasonable measures to secure and prevent unauthorized entry, modification, or access to any systems on which the Bank information is transmitted or stored. The Supplier will promptly () notify the Bank at () of any breaches of security or unauthorized access to the Supplier's systems used to provide Service. The Supplier will use diligent efforts to remedy such breach of security or unauthorized access in a timely manner. In the event of any breach of this Attachment, the Supplier shall notify the Bank promptly (b) upon becoming aware thereof.

14. *Remedies.* The Supplier understands that failure to carry out the requirements of this Agreement may result in the exercise of all remedies at law or equity available to the Bank.

ATTACHMENT E

Conflict of Interest Undertakings

1. **Supplier Objectivity.** A conflict of interest exists for Supplier when other business relationships or financial interest of Supplier or Supplier's Affiliates or personal or business relationships, activities, and financial interests of those of Supplier officers or employees who are assigned to manage or perform the services under the Agreement could knowingly impair (a) Supplier's objectivity or impartiality in performing the Services or (b) the quality of the Services. It is Supplier's policy that all inherent and actual conflicts of interest be identified, evaluated, and either managed or avoided, as appropriate. Supplier's conflict management program is embedded within each business operation. Supplier warrants to the Company that no conflict of interest presently exists. If circumstances arise during the term of the Agreement that create or could create a conflict of interest, subject to its obligations of confidentiality, Supplier shall notify the Bank promptly and take such steps as the Bank may request to avoid, neutralize, or mitigate the conflict of interest. If the Bank determines that the conflict of interest cannot be avoided, neutralized, or mitigated in a manner satisfactory to the Bank, the Bank may terminate the Agreement upon notice to Supplier.
2. **Misuse of Information for Private Gain.** Neither Supplier nor any of its Supplier Personnel may use any Confidential Information except to fulfill the purposes of the Agreement and as expressly permitted in the Agreement. This restriction prohibits, without limitation, the knowing use of any Confidential Information for the benefit of Supplier or any of its Affiliates or their respective directors, officers, or employees (beyond the benefit of the consideration to be received by Supplier under the Agreement), for the benefit of any other Supplier client, or to inform any financial transaction, render any advice or recommendation, or attempt to influence any market or transaction for the benefit of any individual or entity.
3. **Vendor Bias.** Supplier shall not recommend to the Company or Bank in connection with Supplier's performance of services any products or services of an individual or entity (including Affiliates of Supplier) from which Supplier may receive a financial incentive based on (a) Supplier's recommendation of the product or service to the Bank or Company or (b) the Bank's purchase of the product or service, unless, in each case, Supplier first discloses in writing to the Bank the nature of the relationship and the specific terms of any financial incentive Supplier may receive.
4. **Bank Employees.** Supplier acknowledges that employees of the Bank are required to adhere to a code of conduct, a copy of which is posted on the "Doing Business With Us" page of the Bank's public website. Among other things, the code of conduct prohibits Bank employees from using their Bank positions for private gain and from soliciting or accepting gifts, meals, and other things of value from persons doing business, or seeking to do business, with the Bank. Supplier shall not offer any employee of the Bank gifts, meals, or other things of value unless an exception applies that would permit the employee to accept the gift, meal, or other thing offered consistent with the code of conduct.
5. **General Policies.**
 - 5.1 Supplier will provide the Bank with copies of all of its internal conflicts of interest and policies and procedures and agrees to abide by all relevant policies. Such policies and procedures must, at a minimum, be designed to, among other things:

- (a) identify any material financial conflicts of interest between Supplier and the Company or Bank;
- (b) require reporting of any conflicts of interest between Supplier and the Company or Bank that develop during the course of this Agreement; and
- (c) prevent the use of Confidential Information to enter into a trade or transaction unrelated to this Agreement.

5.2 Subject to its obligations of confidentiality, Supplier shall disclose potential conflicts of interest to the Bank as they arise and, at the request of the Bank will cooperate with the Company and the Bank to mitigate or avoid the conflict or if the conflict cannot be adequately mitigated or avoided, in the Bank's sole discretion, recuse itself from providing the services.

5.3 Supplier's conflict of interest records shall specifically describe the steps Supplier will take to mitigate the conflict that could arise from an Affiliate of Supplier participating or seeking to participate as sponsor of any participant in the Main Street Facilities while Supplier is providing services under this Agreement.

5.4 Supplier's employees who receive Confidential Information as permitted by this Agreement shall be subject to written obligations of confidentiality as restrictive as those set forth herein.

6. Ethical Wall. Supplier must maintain information barrier procedures acceptable to the Bank and designed, at a minimum, to ensure that (a) Supplier Personnel assigned to perform Services are adequately segregated from personnel involved with Supplier's other activities that might be in conflict with the duty Supplier owes to the Company and the Bank under this Agreement, and (b) any information related to the services is not shared with personnel involved in activities that might be in conflict with Supplier's duty to the Company and the bank under this Agreement without appropriate vetting and controls being put in place by Supplier's Legal and Compliance Departments.

Supplier acknowledges that individuals who sit atop of the ethical wall must be especially vigilant to ensure that discussions with or advice, guidance or direction given to, individuals on the other side of the wall is not based on or influenced by Confidential Information, and Supplier agrees to take appropriate steps to maintain and enforce appropriate procedures to control the handling of Confidential Information by individuals who sit atop the ethical wall. The implementation of the ethical wall policy of Supplier shall be reviewed by internal audit or compliance at least once within the first six months of the engagement and thereafter in accordance with Supplier's own review policies.

Supplier agrees to maintain a list of each of the individuals who has been assigned to perform services under this Agreement and the dates of such assignment that can be reviewed by the Bank.

7. Conflict Reporting and Records. Employees of Supplier shall be required to report promptly any breach or suspected breach of these conflicts requirements to the appropriate compliance officer. Such compliance officer of Supplier shall promptly report any breaches to the Bank's appropriate ethics officer. Supplier's compliance function shall maintain a log of all incidents of non-compliance and will complete a review of any reported incidents. The results of the review shall be analyzed and appropriate actions or mitigating remedies, such as counseling an employee, will be identified and implemented in an effort to avoid similar incidents. Supplier

shall also conduct periodic reviews of its conflicts policy and associated compliance procedures. Supplier will maintain all logs and information collected as records (including results of any reviews) and comply with all obligations applicable to records in this Agreement.

8. Compliance Training. All employees subject to the ethical wall policy shall complete compliance training specifically designed for to address the services provided under this Agreement. The compliance training program will inform each employee of their obligations under Supplier's conflict of interest policies and information barrier procedures for the Company and Bank. Supplier's compliance function shall be responsible for ensuring each employee subject to the ethical wall policy is properly trained and that all required documentation, including the acknowledgement of obligations, has been completed before Supplier provide such individual with access to Confidential Information. Supplier shall certify that it is in compliance with such training requirement in writing to the Bank on a periodic basis. The Bank may assess such compliance as part of any compliance review or audit conducted pursuant to this Agreement.

9. Insider Trading Restrictions. The information barrier procedures provided under this Agreement shall contain investment restrictions and monitoring measures as deemed necessary and appropriate by Supplier to prevent "behind the wall" individuals from knowingly trading in the securities of originating institutions or borrowers under the Main Street Facilities or otherwise trading on inside information gathered through the course of providing services to the Bank and Company. This procedure shall be provided to the Bank for review upon request.

ATTACHMENT F

Reserve Bank Personally Identifiable Information Covenants

DEFINITIONS

“**Incident**” means any actual or suspected loss, unauthorized disclosure, use, acquisition of, or access to Reserve Bank PII by Supplier or any of its Staff or Third parties whether in paper or electronic format.

“**Subcontractor**” means a Third party that provides products and/or services to the Supplier.

“**Third party**” means an entity or person, other than Supplier Staff, that is outside of Supplier’s organization, and includes Supplier’s Subcontractors.

“**Supplier Staff**” means all Supplier employees and contingent workers, including non-employees working under the supervision of the Supplier, such as temporary staff or individuals assigned by staffing agencies.

Personally Identifiable Information.

1. **Definition.** “**Reserve Bank PII**” or “**Reserve Bank Personally Identifiable Information**” means any personal information, in electronic or paper form, maintained or otherwise handled or possessed by Supplier on behalf of the Bank and that is linked or linkable to an individual by name or other identifying information. Examples of Reserve Bank PII include, but are not limited to, the following linked or linkable information:
 - Social Security number (including only the last 4 digits), driver’s license, passport, or other government issued identification number;
 - Financial institution account number, with or without access code;
 - Credit or debit card number;
 - Personal contact information, such as address, phone number, personal email account, etc.
 - Health or medical information in electronic or physical form relating to an individual’s medical history, medical treatment, mental or physical condition, or diagnosis, or payment for provision of health care;
 - Biometric data;
 - Date of birth;
 - Parents’ last name at birth;
 - Gender or ethnicity;
 - Personnel records;
 - Password, access code, or other information allowing access to account or network containing other Reserve Bank PII;
 - Investigative records, including financial, law enforcement, and background check; and
 - Compensation or tax information.
2. **Purpose, Use, Access & Sharing.** Supplier is prohibited from using Reserve Bank PII for any purpose other than for which it was specifically provided pursuant to this Agreement. Supplier shall only share Reserve Bank PII with Supplier Staff to the extent such Supplier Staff has a need to access the Reserve Bank PII in order to provide the specific Service to

the Bank pursuant to this Agreement. Supplier must require Supplier Staff with access to Reserve Bank PII to comply with Supplier's information security and data privacy requirements, including those that satisfy the requirements of this Attachment.

3. Sharing with Third parties. In addition, Supplier shall not share Reserve Bank PII with Supplier Subcontractors unless and to the extent Supplier:
 - (a) has performed and documented due diligence on such Subcontractors to ensure appropriate protection, handling, use, sharing retention and deletion of PII disclosed to such Subcontractors that are consistent with or comparable to the requirements that apply to Supplier pursuant to this Attachment;
 - (b) ensures that all Subcontractors do not transmit Reserve Bank PII to any entity outside of the United States or store Reserve Bank PII outside of the United States;
 - (c) has signed agreements with each such Subcontractors that contain provisions substantially similar to those in this Attachment for Reserve Bank PII;
 - (d) engages in ongoing monitoring of such Subcontractors to ensure effective Subcontractor implementation and continuing application of all applicable requirements; and
 - (e) within 14 days after the Bank's request provides to the Bank a list of Subcontractors with access to Reserve Bank PII and an attestation that the Supplier has complied with the requirements of this Attachment with respect to these Subcontractors.
4. Geographic Limitations. Supplier is prohibited from transmitting Reserve Bank PII to any Third party located outside of the United States and from accessing, storing, and processing Reserve Bank PII on servers and other devices located outside of the United States.
5. Minimization. Supplier agrees to minimize the collection, acquisition, processing, sharing, and retention of Reserve Bank PII to what is necessary for purposes of providing the specific Service to the Bank pursuant to this Agreement.
6. Destruction and/or Return of Reserve Bank PII. The Supplier agrees to destroy all Reserve Bank PII as soon as it is no longer necessary to satisfy the purpose for which the Reserve Bank PII was obtained pursuant to this Agreement, or two business days after termination or expiration of this Agreement, whichever is later. This requirement does not apply to the extent: (a) otherwise specifically provided in this Agreement; (b) required to be retained longer by the Supplier pursuant to applicable court order or state or federal laws or regulations, in which case Supplier will notify the Bank of what is retained, where and for how long; or (c) otherwise instructed in writing by the Bank, which may include the secure delivery of Reserve Bank PII to the Bank in lieu of destruction.
 - (i) The Supplier's obligation to destroy pursuant to this Section 6 includes all copies, back-ups, and iterations of Reserve Bank PII regardless of (A) the format in which it is retained; (B) the type of device on which, or location where, it is stored; and (C) whether it is retained or held by the Supplier, Supplier Staff, or a Subcontractor.
 - (ii) Destruction pursuant to this provision means the definitive obliteration of Reserve Bank PII in all media that ensures that it cannot be retrieved, recreated, reassembled, or reconstructed.

7. Notification of Incidents involving PII. The Supplier must notify the Bank promptly () when the Supplier, Supplier Staff, or Third parties become aware of an Incident. This notification must occur without delay on account of business hours, holiday or otherwise, even if it means notifying the Bank before the Supplier has commenced or completed its own investigation into the cause or extent of the Incident. Notice should be given to the Bank pursuant to the notice provision of this Agreement. Supplier shall report any Incident regardless of whether the Incident appears to present a risk of harm or loss. Supplier agrees to promptly (a) investigate the Incident; (b) act on the Bank's request for investigative steps; (c) regularly report detailed findings as to the cause and impact of the Incident; (d) cooperate with the Bank in its efforts to remediate and make proper notifications to individuals; and (e) upon the Bank's request, promptly provide progress reports regarding any investigation and/or remediation efforts.
- 8.
9. Specific Information Security Requirements. In addition to the General Information Security Program standards above, Supplier, Supplier Staff, and Subcontractors shall comply with the following authorizations and minimum standards when accessing, using or storing Reserve Bank PII:
- (a) *Minimum Standards for Storage on Laptops and Mobile Computing and Mobile Storage Devices.* Supplier must have written policies requiring the use of encryption and physical access controls (e.g., within a locked office, desk, filing cabinet, or file room) for storage on laptops and mobile computing and mobile storage devices.
 - (b) *Minimum Standards for Printing.* Printed Reserve Bank PII requires a conspicuous label that Supplier would ordinarily use to indicate the sensitivity and confidentiality of its own information. Where technically and operationally feasible, the labeling or marking must be on every page, including any cover memorandums or title pages. Otherwise, a conspicuous cover sheet labeled or marked as Supplier would its own sensitive and confidential information must be attached.
 - (c) *Minimum Standards for Marking Digital Versions.* A label indicating that the data or digital information is sensitive and confidential must be provided when the Reserve Bank PII is to be accessed or displayed on screen. Where technically and operationally feasible, a label commensurate with what Supplier would use to indicate the sensitivity and confidentiality of its own information should be included within the header of a document or at the top of a screen or page of web content; otherwise, a banner label must be displayed on the login screen of systems containing Reserve Bank PII, or on the first screen after login. The banner label must conspicuously state that the system contains sensitive and confidential information and that by continuing, the user acknowledges that unlabeled information within the system must be handled appropriately.

- (d) *Minimum Standards for Transmission.* Reserve Bank PII in digital form, including email and fax, must be encrypted during transmission.
- (e) *Minimum Standards for Storage in Print and Digital Formats.* Storage of Reserve Bank PII information on printed media requires physical access controls (e.g., within a locked office, desk, filing cabinet, or file room). Storage of Reserve Bank PII information on fixed media requires the use of technical access controls. Reserve Bank PII in digital form must be encrypted, tokenized or masked at rest throughout its lifecycle according to the highest industry standards.
- (f) *Minimum Standards for Media Sanitation.* Reserve Bank PII stored on electronic media or similar equipment to be reused, repaired, or disposed of must be cleansed or sanitized using a secure method (e.g., degaussing or data overwrite). This includes computers, and any other devices that have memory or storage that may contain Reserve Bank PII.
- (g)

10. Privacy.

- (a) The Supplier must maintain effective privacy policies, processes, and procedures during the term of this Agreement to ensure compliance with the provisions in this Section 10. Supplier must actively monitor for compliance with agreed upon requirements for Reserve Bank PII, including tracking and mitigating instances of non-compliance.
- (b) The Supplier agrees to maintain an appropriate privacy notice that is easily accessible and prominently displayed at the point(s) it collects Reserve Bank PII from individuals. The privacy notice must, at a minimum, describe the types of PII collected, the purpose(s) for which PII is collected, the intended use(s) of PII and, generally, how PII is shared internally and externally. If the Supplier changes its privacy notice, the Supplier shall promptly notify the Bank thereof and provide the Bank with the updated notice.
- (c) Where applicable, the privacy notices will also provide information relating to the type and method for consent offered to individuals. Any use of Reserve Bank PII for purposes other than providing the services to the Reserve Bank pursuant to this Agreement must be agreed to by the individuals providing the PII through opt-in or express consent, where the individuals must take affirmative action beyond just submitting the information, to agree to such other use or disclosure of the PII.
- (d) Where options for consents are provided in the privacy notice, the Supplier must implement processes to ensure that each individual's consent and preferences are documented and tracked, and that the preferences are implemented and honored.
- (e) The parties acknowledge and agree that Supplier is acting as a service provider (as such term is defined by the California Consumer Privacy Act of 2018 ("CCPA")) to Bank and Company in connection with Supplier's performance of Services pursuant

to this Agreement. Supplier acknowledges and confirms that it does not provide Company or Bank with any monetary or other valuable consideration in exchange for Reserve Bank PII and certifies that it understands and will comply with the restrictions set forth herein. Except as required by applicable law, regulation, or professional standard, Supplier will not collect, access, use, disclose, process, or retain Reserve Bank PII for any purpose other than the purpose of performing the Services or another business purpose permitted by 11 CCR § 999.314(c) and this Agreement. In particular, Supplier shall not sell (as defined by applicable data protection laws, including without limitation and to the extent applicable, the CCPA) any Reserve Bank PII. Supplier will, to the extent legally permissible, notify Bank and Company if Supplier receives a request from a data subject of Reserve Bank PII seeking to exercise such data subject's rights under any applicable data protection laws ("Data Subject Access Request"), and will, on Bank's or Company's reasonable request, provide reasonable assistance in connection with their response to such Data Subject Access Request

11. Audit Logs. The Supplier will maintain audit logs of all access to Reserve Bank PII and will actively monitor them for unauthorized access.
12. Indemnification. Notwithstanding any limitation on indemnification or damages provided elsewhere in this Agreement, the Supplier shall be liable for and agrees to indemnify, defend, and hold the Bank harmless from all costs and/or damages arising from, or related to, any Incident involving Reserve Bank PII including, but not limited to, any costs of data recovery, Incident investigation, third party liability, government imposed actions or penalties, and notification and identity theft protection services offered to affected individuals, the determination of which will be made in the sole discretion of the Bank. If requested by the Bank, the Supplier-paid identity theft protection services shall be provided through the Bank's designated identity theft protection service provider.
13. Audit. The Bank shall have the right to audit Supplier's overall privacy and information security program and its compliance with the requirements in this Attachment at the commencement of Services and on annual basis during the term of this Agreement; provided that following an Incident, the Bank shall have the right to conduct such audit upon reasonable request. During the performance of the Services, on an ongoing basis from time to time and with no less than ten days' notice, the Bank, at its own expense, shall be entitled to perform, or to have performed, an on-site audit of Supplier's privacy [and/or] information security program. In lieu of or in addition to an on-site audit, the Reserve Bank in its sole discretion may require the Supplier to complete an audit questionnaire provided by the Reserve Bank regarding Supplier's compliance. Supplier shall complete such audit questionnaire within 45 calendar days of receipt of the Reserve Bank's request. The Reserve Bank may conduct such audits using employees, agents, representatives, contractors, or designees of the Reserve Bank or of the Board of Governors of the Federal Reserve System.

Supplier agrees to work in good faith with the Reserve Bank to promptly address/remedy any areas of concern or of non-compliance identified by the Reserve Bank as a result of an audit in order for the Reserve Bank to satisfy its ongoing oversight of its relationship with Supplier. In the event that parties are unable to mutually agree on appropriate remedies, or Supplier does not adequately remediate, or agree to remediate, areas of concern or non-

compliance within 45 days of receipt of the audit, the Reserve Bank may terminate this Agreement for cause.

14. DSR Responses. Supplier shall also promptly respond to and implement any data subject request (DSRs) with respect to any Reserve Bank PII (but in any event, not longer than 5 business days after request by the Bank, unless such time period is extended in the sole direction of the Bank).

Supplier's activities pursuant to this Attachment shall be undertaken at no cost to the Reserve Bank.

ATTACHMENT G

Technology Platform Requirements

1. **Definitions.** Capitalized terms used but not defined in the Attachment have the meanings given them in the Agreement.

1.1 “Documentation” means descriptive and explanatory materials, such as product descriptions, data sheets, release notes, and ReadMe files, installation or operating instructions, owner or user manuals, diagnostics, or prompts, in any form or media, that are necessary or desirable to assist a user of the Workout Application to understand, operate, test, use, maintain, or support the Workout Application, including any updates to the materials issued by the Supplier from time to time.

1.2 “Harmful Code” means any code designed or created to perform, or that could be exploited to perform, any unauthorized process that has or could have an adverse impact on the confidentiality, integrity, or availability of information or an Information System. Harmful code includes, but is not limited to (a) code commonly called viruses, worms, or Trojan horses that are self-replicating or self-propagating and are designed to contaminate software, consume information resources, modify, corrupt, destroy, record, or transmit information, or damage, disable, disrupt, or otherwise harm or misappropriate any Information Technology, (b) backdoors or other devices that enable unauthorized access to information or Information Systems, (c) time bombs or other code or devices designed to disable software or Information Systems (automatically with the passage of time or under the control of any person) or otherwise deprive the Bank of its lawful right to use, or disrupt, disable, or usurp the normal operation of, information, software, or Information Systems, but not license keys disclosed in Documentation that can be used only for the limited purpose of making the Workout Application unavailable for continued use beyond the scheduled license term, and (d) any code that modifies, destroys, copies, publishes, or transmits information, or enables any of the foregoing, without action by the Bank to use the Workout Application for that purpose.

1.3 “Information System” means a discrete set of Information Technology organized for the collection, storage, processing, maintenance, use, sharing, dissemination, or disposition of information. Information Systems are not limited to computer networks but also include, without limitation, specialized systems such as telephone switching and private branch exchange systems, environmental control systems, security systems, and process control systems.

1.4 “Information Technology” means any equipment or interconnected system or subsystem of equipment used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of information. Information Technology includes, but is not limited to, computers, ancillary equipment, interconnected systems or networks, software, and firmware.

1.5 “Workout Application” means FTI Proprietary Loan Workflow Platform.

1.6 “Modifications” means any customization or change to the Workout Application made for the Bank by the Supplier or, with the Supplier’s consent, by the Bank or third-party engaged by the Bank. Configuration of the Workout Application in accordance with the applicable Documentation or other written Supplier instructions within any parameters designed to enable changes to the operation, functionality, or security posture of the Workout Applications not a Modification.

1.7 “Open Source Component” means software for which the human-readable source code is available and which is subject to a license that permits use, study, reuse, modification, enhancement, and redistribution by any users of the software, *i.e.*, attributes typical of an “open source” or “free software” license. Software may be an Open Source Component whether or not the Supplier provides a copy of the source code with the Workout Application.

1.8 “Order” means a purchase order or other document used to memorialize a purchase of copies of the Workout Application.

1.9 “Support and Maintenance Services” means the software maintenance and technical support services to be provided by the Supplier which are generally available to Supplier’s customers who use the Workout Application.

1.10 “Vulnerability” means any weakness or flaw in the design, construction, or configuration of the Workout Application that could be exploited or triggered, intentionally or accidentally, to compromise the integrity, availability, or confidentiality of the Bank’s information or otherwise adversely impact operations, transactions, Information Systems, or other assets of the Bank or any other Bank Affiliate. If the Supplier provides Workout Applications a service in a hosted environment supplied by the Supplier (directly or using third-party services, facilities, or Information Systems), Vulnerability also includes any weakness or flaw in the design, configuration, architecture, or operations of the hosted environment or the implementation, installation, configuration, or operation of the Workout Application in the hosted environment that could be exploited or triggered, intentionally or accidentally, to compromise the integrity, availability, or confidentiality of the Bank’s information or otherwise adversely impact operations, transactions, Information Systems, or other assets of the Bank or any other Bank Affiliate. Vulnerability does not include any weakness or flaw created by the Bank as a result of (a) any unauthorized modification of the Workout Application by the Bank, (b) the Bank’s design, configuration, architecture, or operation of Information Systems in which the Bank implements the Workout Application, or (c) the Bank’s implementation, installation, configuration, or operation of the Workout Application other than in accordance with the applicable Documentation or other written Supplier instructions.

2. **Permitted Use.**

2.1 **License.** The Supplier hereby grants to the Bank and the Company a fully paid up, nonexclusive license to install, access, use and display the Workout Application subject to the terms and conditions of the Agreement. The license the Supplier hereby grants to the Bank is for the term of the Agreement. The Supplier also grants to the Bank a fully paid up, nonexclusive license to use, copy, distribute, and display the Documentation as necessary and appropriate to make the Documentation available to the Bank and Company’s users of the Workout Application.

2.2 **Scope.** The Supplier agrees that the license granted to the Bank permits use by the Bank and Company’s employees, nonemployee temporary workers, and contractors (which may be a Bank Affiliate) engaged to perform services for the Bank or otherwise support the Main Street Facilities.

2.3 **No Self-Help Remedies.** In no event shall the Supplier remove, alter, change, or interfere with the Workout Application for purposes of preventing the Bank from using the Workout Application or any related software, information, or Information System as the result of any alleged breach of the Agreement by the Bank or any other dispute between the parties.

3. **Support and Maintenance Services.**

3.1 **Support and Maintenance.** The Supplier shall provide the Bank Support and Maintenance Services required to ensure the intended functionality of the Workout Application.

3.2 **Failure to Remediate.** Supplier shall use its best efforts to remediate any deficiency that substantially impairs the Bank's ability to use the Workout Application or to eliminate any Harmful Code or Vulnerability as quickly as commercially possible.

4. **Warranties.**

4.1 **Software and Services.** The Supplier further represents, warrants, and covenants to the Bank as of the date of the Agreement that:

- (a) it owns or has the all rights, licenses, and approvals necessary to grant the licenses in the Agreement and the Workout Application does not violate any right or licenses of any third party in materials (including Open Source Components) incorporated into or on which the Workout Application relies;
- (b) there is no claim, lawsuit, action, or proceeding pending or, to the knowledge of the Supplier, threatened by any third party that (i) is reasonably likely to prohibit or impair the Supplier's ability to enter into the Agreement, license the Workout Application, or perform Support and Maintenance Services as contemplated by the Agreement or (ii) alleges that the Workout Application infringes any third party's intellectual property rights;
- (c) the Supplier has a written set of secure coding standards and secure design features that meet industry standards, and the Supplier has followed its written secure coding standards in the development and maintenance of the Workout Application;
- (d) it is not aware of any security breach not disclosed in writing to the Bank that (i) resulted in a third party obtaining unauthorized access to any confidential information relating to the Workout Application or the Supplier's development environment that could compromise the security or integrity of the Workout Application and (ii) occurred (A) within two years prior to the Agreement or (B) more than two years prior to the Agreement or applicable Order but remains the subject of investigation or remediation activities;
- (e) as provided by the Supplier, no Workout Application does or will contain any:
 - (i) Harmful Code;
 - (ii) Vulnerability known to the Supplier that has not been disclosed to the Bank at the time the Agreement;
 - (iii) features not expressly disclosed to the Bank in writing that enable remote access to the Workout Application as installed on any Bank Information System or transmit information, including, but not limited to, information about the Bank's Information Systems, from the Bank without the express consent of the Bank to each instance of remote access or data collection and transmission;
 - (iv) Open Source Components other than Open-Source Components disclosed to the Bank in writing;

- (v) components subject to export control laws except as expressly disclosed to the in writing;
- (f) it will perform all Support and Maintenance Services in a timely, skillful, professional and workmanlike manner in accordance with industry standards and practices for similar services, using personnel with the requisite skill, experience and qualifications, and it will devote adequate resources to meet its obligations under this Agreement.

5. **Harmful Code and Vulnerabilities.**

5.1 **Bank Discovery.** The Supplier agrees that Support and Maintenance Services, including, but not limited to technical support, response, and remediation activities, cover Harmful Code and Vulnerabilities whether or not the Bank has experienced any adverse impact. The Bank may report and obtain Supplier support for suspected Harmful Code and Vulnerabilities in the same manner as the Bank reports and obtains support for problems, issues, or defects under the Supplier's support and maintenance procedures. The Bank shall determine and indicate to the Supplier the severity of the issue reported based on the Bank's assessment of risk to Bank operations, transactions, information, assets, and Information Systems rather than impairment of the Workout Application's performance. The Supplier shall respond in the same timeframes and with at least the same level of effort to remediate Harmful Code and Vulnerabilities as the Supplier responds to performance issues with a corresponding severity.

5.2 **Vulnerability Management.** The Supplier maintains a program of continuous monitoring for Vulnerabilities in the Workout Application and conditions that could compromise the security or integrity of the Supplier's development environment or other Information Systems where Vulnerabilities could be introduced into the Workout Application, including any hosted environment where the Workout Application operates. The Supplier funds and routinely performs activities consistent with its continuous monitoring program, including, for example and without limitation, scanning and other vulnerability assessments and intelligence gathering.

5.3 **Notice.** If the Supplier discovers or becomes aware of any Harmful Code or any Vulnerability, the Supplier shall immediately notify the Bank by email addressed to . The notices are to describe the Harmful Code or the Vulnerability and the effects being observed in the Workout Application or its operation in sufficient detail (accounting for the information then available the Supplier) that the Bank may assess the risk to the Bank.

5.4 **Obligation to Remediate.** When the Supplier becomes aware of any Harmful Code or Vulnerability, the Supplier shall promptly undertake all commercially reasonable measures to investigate and eliminate the Harmful Code or the Vulnerability. The Supplier shall devote adequate resources and proceed diligently, continuing its efforts until the Harmful Code or Vulnerability is eliminated or the risk is otherwise mitigated. The Supplier shall also cooperate with the Bank to remediate any resulting risk or harm that has occurred to the Bank. The Supplier shall keep the Bank informed as soon as practicable of developments regarding the Harmful Code or Vulnerability, including, without limitation, effects being observed in the Workout Application and its operation, the Supplier's investigation of the Harmful Code or Vulnerability and its effects, the root cause, short-term and long-term remediation action plans, and periodic progress made toward completion of the proposed action plans. Information about developments shall be sent by email to the address above or as otherwise directed by the Bank. The Bank may share information about any Harmful Code or Vulnerability with any Bank

Affiliate and any other third party the Bank reasonably believes may be adversely impacted by the Harmful Code or Vulnerability.

5.5 Penetration Testing. The Bank or any agent of the Bank may conduct penetration testing or other security tests of the Workout Application, and may translate, reverse engineer, decompile or disassemble any software or any portion thereof for such purposes. The Bank or the Company shall give the Supplier at least 2 weeks prior notice before penetration testing date. The Bank or the Company shall report any concerns resulting from such penetration testing or other security tests to Supplier. In the event that any of the audits or testing set forth in the Agreement demonstrate that the Workout Application does not comply with security standards which are consistent with the purpose of the Workout Application or is vulnerable to penetration testing or other security tests, Supplier shall take prompt actions at its cost and expense to comply with such standards or remedy such vulnerability, in respect of the Workout Application.
