

Professional Services Terms and Conditions

These Professional Services Terms and Conditions (“Terms”) will govern the provision of services by Deloitte Financial Advisory Services LLP (“Firm”) to the Federal Reserve Bank of Boston and MS Facilities, LLC (individually and collectively referred to herein as the “Bank”) as described in Exhibit 1 (“Services”). The Terms, Exhibit 1 and Exhibit 2 are collectively referred to herein as the “Agreement”.

1. Parties

- a. **Client.** Unless agreed otherwise in writing, the Bank will be the Firm’s sole client in this engagement. The Firm will not be representing in connection with this engagement any Bank director, officer, manager, or employee; any Bank affiliate or subsidiary; any other Federal Reserve Bank (a “Reserve Bank”); the Board of Governors of the Federal Reserve System (the “Federal Reserve Board”); or the United States or any of its agencies or other instrumentalities.
- b. **Firm.** The Firm may use the following affiliates to perform the Services as subcontractors pursuant to Section 17: Deloitte & Touche LLP and Deloitte Transactions and Business Analytics LLP. The Firm may use the following non-affiliated entities to perform the Services as subcontractors pursuant to Section 17:

2. **Engagement Term.** The Firm will provide the Services to the Bank starting on the date of the last signature below and ending on October 31, 2021, unless sooner terminated in accordance with these Terms (“Engagement Term”). The parties may agree in writing to renew this Agreement for like terms.

3. Prices and Payment

- a. The Bank shall pay the fees for the Services as defined in Exhibit 2. The Firm shall invoice the Bank in arrears. Each invoice shall: (1) include the relevant Bank purchase order number(s), (2) include the name of the Bank contact, (3) be accompanied by reasonable supporting documentation of all costs and calculations; (4) include a description of the Services it covers, and (5) be in a form reasonably acceptable to the Bank. Unless notified by the Bank otherwise in writing, the Supplier shall send invoices to the Bank by e-mail addressed to

The Bank shall make payments within forty-five (45) days of receipt of the Firm’s invoice, which meets the requirements of this Agreement. If payment of an invoice is not received within thirty (30) days of the above defined due date, the Firm may suspend the Services.

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

a reasonable time after receiving the forms to act on them.

- c. The Bank is exempt from all federal, state, and local taxation, except real estate taxes, under 12 U.S.C. § 531. Accordingly, the Firm shall not charge the Bank for any federal, state, or local taxes from which the Bank, as a Federal Reserve Bank, is exempt.
 - d. Notwithstanding any other provision this Agreement, the Bank may reduce the amount of any payment otherwise payable to, or on behalf of, the Firm by the amount of any obligation of the Firm to the Bank that is or becomes due and payable, and the Firm shall be deemed to have consented to such reduction.
4. **Insurance.** The Firm shall maintain all insurance as required by law. In addition, the Firm shall maintain 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, covering both the Firm and the professionals the Firm uses to provide the Services. Such policy shall provide coverage for all costs, expenses, and damages incurred by the Bank, a Reserve Bank or the Board of Governors as a result of the Firm'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.
5. **Service Contract Labor Standards Law.** The Firm represents and warrants to the Bank that the performance of the services required will be essentially performed by individuals who would qualify as being engaged by the Firm in a bona fide executive, administrative, or professional capacity as defined in 29 C.F.R. part 541 with only minor use of individuals who would be considered nonexempt from the requirements of 29 C.F.R. part 541.
6. **Workforce Inclusion.** The Firm agrees that it does not discriminate in employment or subcontracting on the basis of race, sex, color, religion, national origin, gender identity, sexual orientation, age, genetic information, or disability. Bank does not discriminate on the basis of race, sex, color, religion, national origin, gender identity, sexual orientation, age, genetic information, or disability in the solicitation, award, or administration of contracts. Bank also promotes the acquisition of goods and services from small businesses. Bank is committed to ensuring that all firms interested in doing business with Bank, including minority and women-owned businesses, have the maximum practicable opportunity to participate fairly in contracts awarded by Bank.

By entering into this letter, the Firm confirms its commitment to equal opportunity in employment and contracting. To implement this commitment, the Firm 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 Bank, the Firm shall provide reasonable documentation 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 Firm shall comply with this policy in the awarding of subcontracts under this Agreement and shall require its subcontractors, if applicable, to provide for the fair inclusion of women and minorities in each of their respective workforces. The Firm understands and agrees that a breach of this section constitutes a material breach of this Agreement.

The Firm's contact for notices from the Bank's Office of Diversity and Inclusion is _____, who may be reached at _____

7. **Points of Contact.** Each party shall designate an individual to act as the primary point of contact for managing the Services to be performed under these Terms. Other individuals may request and

schedule services as needed if the primary points of contact are unavailable.

- a. For the Firm:
- b. For the Bank:
("Lead Bank Attorney")

8. Conflicts.

- a. The Firm shall provide the Bank with professionals to provide the Services (such professionals who provide the Services, "Firm Professionals") who may be asked to assist the Firm's clients as lenders ("Client Lenders") and as borrowers ("Client Borrowers") engaging with the MSLP through the origination of new loans. The Bank does not consider assistance of Client Lenders or Client Borrowers in the origination of new loans to create a conflict of interest, provided that: (i) the Firm Professionals or other Firm personnel otherwise having access to the Bank's Confidential Information in connection with this engagement are not involved in such assistance, (ii) the Firm establishes and maintains information barriers between its work for the Bank in connection with the MSLP, and any other such work; and (iii) the Firm Professionals do not assist Client Lenders or Client Borrowers in other matters or issues in connection with its participation in the MSLP, including but not limited to any restructuring or other work-out of such loan while the loan is in the MSLP.
- b. The Firm and its affiliates are not a law firm and do not have ethical/legal conflicts of interest as contemplated by the Model Rules of Professional Conduct for Attorneys. Each of the Firm's personnel engaged by the Firm to work on an assignment for the Bank will be required to confirm in writing that they have not assisted in the preparation or origination of loan documentation for the Main Street Lending Program. The Firm on occasion may provide services to other clients in matters involving the Federal Reserve Board, the Bank and the other Reserve Banks. The Firm's provision of Services to the Bank does not preclude continuing to provide services to other clients by the Firm as long as the Firm Professionals do not become involved personally in any new engagement that involves contact on behalf of other clients with any official or employee of the Federal Reserve Board, the Bank or the other Reserve Banks during the time the Firm is providing Services to the Bank.
- c. Occasionally, the Firm may be involved on behalf of other clients in engagements that would be, or might be, viewed as adverse to the Reserve Banks (including the Bank) or the Federal Reserve Board. Such an engagement could include assisting in litigation in which the Federal Reserve Board or a Reserve Bank is an adverse party or counseling where the position being pursued on behalf of the Firm's other client is adverse to a position of the Federal Reserve Board or a Reserve Bank. The Firm's provision of the Services to the Bank does not preclude the Firm from assisting in negotiating for, providing counseling to, or assisting in litigating on behalf of another client in a dispute or legal or arbitral proceeding adverse to one or more Reserve Banks or the Federal Reserve Board as long as:
 - i. such assistance is not substantially related to the subject matter of the Services being provided on the Bank's matter; and
 - ii. The Firm Professionals do not, while the Firm is providing the Services to the Bank, become involved personally in any representation adverse to the Federal Reserve Board or any of the Reserve Banks, regardless of whether that

representation is substantially related to matters on which the Firm is working for the Bank. The Bank may, in its sole discretion, waive the conflict restrictions in paragraphs (a) and (b) above.

- d. The Bank expects that the Firm and the Firm Professionals have conducted a conflicts evaluation prior to the engagement and has disclosed any conflicts to the Bank. The waivers in paragraphs (a), (b) and (c) above do not reach any and all conflicts, particularly where the existence of a conflict is a matter of judgment. The Bank and the Firm will seek to identify any potential or actual conflicts not clearly addressed by these provisions. The Bank and Firm will exercise common sense, good judgment, and sound discretion to neutralize or mitigate any potential or actual conflicts so identified in the best interests of the parties. The Bank may elect to waive a potential conflict. Measures to neutralize or mitigate conflicts may include creating effective information barriers screening professionals working on a matter for the Bank from other Firm professionals representing clients whose interests may be affected by the Bank matter, and *vice versa*; compliance with the rules of professional conduct and case law pertaining to conflicts; and removal of the conflicted professionals from the matter.

9. Ethical Standards and Background Investigations.

- a. The Bank believes corporate citizenship includes social responsibility and treating all people with dignity and respect. The Firm shall conduct itself in a manner consistent with these principles and exhibit ethical business and professional conduct in connection with the provision of the Services to the Bank. Each Firm Professional shall read the Bank's code of conduct, which is posted on the vendor information page of the Bank's website and shall conduct business with the Bank in a manner that would not, in any way, compromise the ability of a Bank employee to comply with the code.
- b. The Firm has screened the background and qualifications of individuals assigned by the Firm to provide the Services to the Bank. Any such individuals to whom the Bank gives physical access to Bank facilities or access to any information system or material nonpublic information may also be subject to background investigations by the Bank, including, without limitation, criminal background checks, drug testing, fingerprinting, credit history checks, and prior-employer reference checks. The Bank may perform background investigations at any time before and after the individual begins to perform the Services for the Bank. The Firm shall not assign to perform the Services for the Bank any individual who declines to complete a background investigation by the Bank. The Bank shall collect, use, disclose and retain Personal Data (as defined below) obtained from such background investigations solely for the purpose for which it was provided and in compliance with applicable laws. The Bank shall be responsible for limiting disclosure of and access to such Personal Data to only those of its personnel and any third party who have a need to access it. Upon termination or expiration of this Agreement, the Bank shall return or permanently and securely dispose of such Personal Data. The Bank shall maintain appropriate administrative, technical, physical and organizational security measures to protect such Personal Data. The Bank shall notify the Firm in writing without undue delay after becoming aware of any unauthorized access to, use or disclosure of such Personal Data ("**Security Incident**"). The Bank shall investigate, remediate, and mitigate the effects of the Security Incident, reasonably cooperate with the Firm's investigation and provide any information and access reasonably requested. In the event that the Bank can no longer meet these privacy obligations, it shall promptly notify the Firm and take reasonable and appropriate steps to stop and remediate such noncompliance. "**Personal Data**" means any information pertaining to the Firm's personnel or its subcontractors' personnel that can

reasonably be used to identify an individual, or that may otherwise be considered “personal data” or “personal information” under applicable law.

- c. The Bank may conduct background investigations of the Firm. The background investigation of the Firm may include, without limitation, researching the Firm’s ownership, credit history, business history, and record of ethical conduct. If (i) the Firm fails to cooperate promptly with any such background investigation or (ii) the Bank determines, in its sole discretion, that the results of any background investigation are not satisfactory to the Bank, the Bank may, at its sole option, terminate the engagement immediately and without any liability to the Bank other than to pay the Firm for any services that have been properly rendered through the date of termination. If the Bank terminates the engagement due to an unsatisfactory background investigation, the Bank has no obligation to inform the Firm of the specific results of the background investigation or why the Bank determined the results to be unsatisfactory.

10. **Publication and Media Relations.** The Firm is not authorized to comment publicly on the Bank’s legal or business matters. All media inquiries regarding the Bank’s legal matters must be directed to the Lead Bank Attorney as soon as received. The Firm may not use the Bank’s name, any variation of the Bank’s name, or any Bank or Federal Reserve trademark or logo in client lists or advertising or promotional materials or otherwise publicize or communicate the Firm’s relationship with the Bank, except for Permitted Disclosures (as defined in Section 11.b. below), unless the Firm first obtains written consent from the Bank’s general counsel. The Firm shall not suggest or imply in any publication or presentation that the Bank endorses the Firm or any of its services.

11. **Confidentiality and Information Security.**

a. *Definitions.*

- i. “Confidential Information” means any nonpublic information disclosed to the Firm, its personnel, subcontractors, affiliates, and any other agents of the Firm, in connection with the performance of the Services, in whatever form obtained from or through the Bank or developed by or otherwise obtained by the Firm in connection with the performance of the Agreement including the following: (a) any nonpublic, proprietary, or confidential information, in oral, visual, written, electronic, or other tangible or intangible form, whether or not marked or otherwise designated as “confidential,” provided to or received by the Firm or to which the Firm has access or may observe in connection with the Agreement or any potential engagement under the Agreement; (b) the client file compiled by the Firm in connection with any engagement under the Agreement, including any information about the Bank’s request for services and any potential engagement under the Agreement (each, a “Client File”); (c) material created by the Firm in the performance of the Services; (d) any personally identifiable information that may be provided to the Firm in connection with any engagement under the Agreement and (e) the Agreement, including the Terms and Conditions, Exhibits, and Engagement Forms and related documents until such time as, and only to the extent that, the Agreement is published on the Bank’s public website. Confidential Information does not include information that (i) is or becomes generally available to the public through no breach of confidentiality obligations under this Agreement by the Firm or by any person to which the Firm provides the Confidential Information; (ii) is previously known by the Firm and not subject to another confidentiality obligation to any person; (iii) is independently developed by employees or agents of the Firm who do not have access to such Confidential

Information; (iv) acquired by the Firm from a third party which is not under an obligation of confidence with respect to such information; or (v) is information the Bank expressly agrees in writing with the Firm is not confidential.

- ii. “Personally identifiable information” means any information linked or linkable to an individual by name or other identifying information except name, title, business contact information (e.g., telephone number and email address), and business activities of the individual. Personally identifiable information shall not be considered “generally available to the public” merely because any part of it is available from other sources with or without charge or other consideration.
- b. *Permitted Use and Disclosure.* Confidential Information may be used by the Firm and Firm personnel solely for the benefit of the Bank and for administration of the engagement and the Firm’s operations as they relate to the Bank and its matters. The Firm shall handle Confidential Information in a manner consistent with this Agreement and applicable professional standards. The Firm shall not duplicate or disclose Confidential Information to any person without the Bank’s prior written consent other than as required by applicable law or professional standards or in connection with litigation relating to the Services (collectively, “Legal Disclosures”), or to the Firm’s personnel, subcontractors (if approved by the Bank), contractors and officers, in each case, who have a need to know the Confidential Information to perform the Services, administer the Agreement, or conduct the Firm’s operations as they relate to the Bank and its matters (such disclosures, together with the Legal Disclosures, “Permitted Disclosures”). The Firm shall not process or store Confidential Information or allow Confidential Information to be accessed outside the United States without the express written consent of the Bank. In the event the Firm is required to respond to a subpoena or other formal request for records or other information relating to the Services for the Bank, including testimony at a deposition, the Firm, unless legally prohibited, shall consult the Bank before responding to determine if the Bank wants to supply the information demanded and/or assert the attorney-client or other privilege that may apply.
- c. *Notice of Restrictions.* The Firm shall inform each person to whom it discloses Confidential Information as permitted by the Agreement, of the confidential nature of the information and the restrictions and conditions on its use and disclosure, and the Firm shall require each such person, other than with respect to Legal Disclosures, to abide by those restrictions and conditions. In addition, other than any Legal Disclosures, if the Firm provides any Confidential Information to any person who is not an employee, partner or principal of the Firm or one of its affiliates, the Firm shall require that person to agree in writing to substantially similar restrictions and conditions on use and disclosure of the Confidential Information as are imposed on the Firm under the Agreement.
- d. *Standard of Care.* The Firm shall protect the Confidential Information in its possession or control according to commercially reasonable standards and no less diligently than the care it exercises to prevent unauthorized use or disclosure of its own sensitive confidential information. (Confidential Information in the Firm’s possession or control includes, in all circumstances, Confidential Information placed by the Firm, directly or indirectly, into the possession or control of any contractor or agent of the Firm.) The Firm shall implement, maintain, and use reasonable administrative, technical, and physical security measures to preserve the confidentiality, integrity, and availability of Confidential Information.
- e. *Security Events.* “Security Event” means any event that jeopardizes the confidentiality, integrity, or availability of Bank Confidential Information. Security Events include an

actual or reasonably suspected loss, theft, misuse, unauthorized disclosure or acquisition of, or unauthorized access to Bank Confidential Information, regardless of whether it creates a likelihood of harm. The Firm must notify the Bank as soon as practically possible, but in no event more than one day from when the Firm, its personnel, subcontractors, contractors or affiliates become aware of a Security Event. This notification must occur without delay on account of business hours, holiday or otherwise even if it means notifying the Bank before the Firm has commenced or completed its own investigation into the cause or extent of the Security Event. Notice should be given to the Bank pursuant to section 7 of this Agreement. The Firm agrees to promptly: (i) investigate the Security Event; (ii) act on the Bank's reasonable request for investigative steps; (iii) regularly report detailed findings as to the cause and impact of the Security Event; (iv) reasonably cooperate with the Bank in its efforts to remediate and make proper notifications to individuals or entities effected; and (v) upon the Bank's request, promptly provide progress reports regarding any investigation or remediation efforts.

If the Bank provides notice to any individual, entity, or government agency as a result of a Security Event attributable to the Firm's breach of the terms of this Section 11(e), the Firm shall: (i) reimburse the Bank for its reasonable, out-of-pocket costs in notifying any such affected individual, entity, and/or agency and for the costs in notifying any other affected individual (regardless of whether the Bank has a legal obligation to provide such notification to such individual) whose Bank Confidential Information of the same type was also the subject of such Security Event; and (ii) and, if credit monitoring is reasonably determined to be an appropriate remedy by the Bank in light of the risks posed by the Security Event and the nature of the personally identifiable information compromised, the Firm shall reimburse the Bank for its reasonable, out-of-pocket cost of providing to each such affected individual one (1) year (or longer if required by law) of credit monitoring services from a nationally-recognized supplier of such services; provided, however, that the Firm's liability for the provision of such credit monitoring services shall not exceed an aggregate amount of one million five hundred thousand dollars (\$1,500,000). For the avoidance of doubt, the parties agree that the liability limit set forth in this Section shall be in addition to the liability limit set forth in Section 18 of this Agreement.

- f. *Equitable Remedies.* The Firm acknowledges that damages may not be an adequate remedy for the Firm's violation of any terms of this article. If the Firm violates or threatens to violate any terms of this article, the Bank may seek injunctive relief to restrain any breach or threatened breach or the Bank may seek specific performance of this article. The Bank may seek injunctive relief or specific performance of this section 10 in addition to any other remedies that it may have under applicable law.
- g. *Return or Destruction.* Subject to paragraph (h), upon the expiration or other termination of the Agreement, or at any other time requested by the Bank, the Firm shall deliver to the Bank all records, data, information, and other material provided to the Firm by the Bank or by any other person at the Bank's request and all work product (including work in process) created, in each case, in connection with the performance of the Services. The Bank agrees that the Firm will not have any responsibility or liability for the accuracy or completeness of any such work product delivered to the Bank. All records, data, information, and other material to which the Firm may be given access in connection with the Services are and will remain the property of the Bank or third parties from which the Bank obtained such material. Subject to paragraph (h), the Firm shall also deliver to the Bank, or with the Bank's prior consent, destroy, all copies of other Confidential Information in the Firm's possession or control within 30 days of the expiration or termination of the Agreement, or

after Bank request prior to the expiration or termination of the Agreement. Delivery shall be conducted using secure methods of delivery approved by the Bank. If the Firm destroys materials containing Confidential Information, the Firm shall use destruction techniques reasonably appropriate for the format of the materials (i.e., paper will be cross-shredded and electronic files will be deleted as soon as possible but in no event more than 30 days after the termination or expiration of the Agreement or request from the Bank, and hard drives and other media are wiped or destroyed as soon as practicable and in no event later than the end of lease or life), and the Firm shall confirm the destruction to the Bank in writing. The Firm shall retain no copies of Confidential Information, including any compilations derived from and allowing identification of Confidential Information, except to the extent permitted under paragraph (h). The Bank acknowledges and agrees that before the Firm delivers Client Files to the Bank, the Firm will remove administrative documents, internal correspondence, and drafts of documents or memoranda that the Firm may prepare but did not transmit to the Bank.

- h. *Delivery or Destruction Infeasible.* If the Firm 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 Firm to delete the Confidential Information), or if the Firm is required by applicable law, accounting rules, or other professional rules to retain a record copy of any Confidential Information for some period, the Firm shall notify the Bank in writing of the conditions that make delivery or destruction of the Confidential Information infeasible or that require retention of the Confidential Information. The Bank hereby consents to the Firm's retention, consistent with an established record retention program, of the Client Files and other Confidential Information for an engagement for a period of up to seven years following the completion of the engagement. The Firm shall handle all Confidential Information it retains subject to the restrictions of this section 11.
- i. *Duration.* The terms of this section survive the expiration or other termination of the Agreement as to any Confidential Information that remains in the Firm's possession or control until the Confidential Information becomes public or otherwise ceases to be Confidential Information as defined in paragraph (a).
- j. *Information Security.* The Firm shall maintain a comprehensive information security program during the period of the engagement and thereafter as long as the Firm retains any Confidential Information of the Bank. As a condition to the Bank's providing Confidential Information for the Firm to store or process in the Firm's information systems, the Bank may require the Firm to respond to the Bank's Information Security Review Questionnaire. The Firm's initial response and any attachments and information provided as a follow-up to the initial response constitute, together, the "Questionnaire Response." The Bank will conduct its information security review of the Firm, if required, with reference to the Questionnaire Response. Thereafter, during the term of any engagement under this Agreement, if and when the Firm makes any material changes to its information security policies or to systems adversely affecting its information security program such that the Questionnaire Response would no longer be materially accurate and complete, the Firm shall promptly notify the Bank in writing that such change has been made and indicate the nature of the change. The Firm shall provide any information the Bank may reasonably request so that the Bank may assess the impact of the Firm's change on the performance of services. At the Bank's request, the Firm shall also update the Questionnaire Response and respond to any new or supplemental information security questions the Bank may require of its service providers from time to time. The Firm shall provide any updated

Questionnaire Response and responses to any new or supplemental information security questions to the Bank promptly after the request (within not more than 10 business days). The Bank may suspend the Firm's provision of Services until the Bank assesses the effect on the Bank of any additional information or changes to the Firm's information security policies or systems affecting information security. The Bank may terminate the Agreement or any engagement under this Agreement for its convenience and without cost (except payment for services properly rendered through the termination date) upon notice if the Firm fails to provide a timely response to any request for new or supplemental information security information or if the Bank determines that the Firm's changes to its policies or systems increase risk to the Bank in a manner unacceptable to the Bank.

- k. *Internal Use.* All Services and deliverables shall be solely for the Bank's benefit, and are not intended to be relied upon by any person or entity other than the Bank. This Agreement shall not create privity between the Firm and any third party.

12. Warranties

- a. The Firm will comply in its performance of the Services with any and all laws, regulations, ordinances, or legally binding rules, to the extent applicable to the Firm in its performance of the Services, including, but not limited to, to the extent applicable, the Americans with Disabilities Act and the Massachusetts Data Privacy Act.
- b. The Firm shall render the Service(s) in material accordance with the timetable, delivery schedules, and/or milestones as may be set by the parties in this Agreement prior to the performance of Services.
- c. The Firm shall provide and make available to the Bank such resources as are necessary to perform the Services. The Firm shall assign only qualified, experienced personnel to perform the Services. All Firm 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 all security procedures, which may include background screenings, fingerprinting, and drug testing of Firm Personnel and as further defined in Section 9 (collectively, the "Policies"); provided that the Policies (i) do not expand the scope of Services (absent a corresponding change order agreed to by the Parties reflecting such expansion), (ii) shall not apply to security controls on the Firm's computers, equipment, information systems or networks that are not connected to the Bank networks or systems and are not previously agreed to by the Firm in writing, (iii) are applicable to the Firm in performance of the Services, (iv) do not conflict with the terms of this Agreement, and (v) except as otherwise set forth herein, shall not be deemed to permit the Bank to conduct an audit, inspection or testing of the Firm's systems, equipment or facilities, without the Firm's prior written permission. In the event that Firm Personnel fail to comply with any of the Policies, and such non-compliance does not otherwise constitute a breach of any term of this Agreement (other than any term that requires compliance with the Policies), the Bank's sole remedy with respect to such non-compliance shall be the termination of this Agreement, if such non-compliance is not promptly cured after the Firm's receipt of written notice describing such non-compliance from the Bank.
- d. Except for reasons beyond the Firm's reasonable control, including illness, death, or termination of employment without prior notice, the Firm shall not remove, transfer, or reassign Firm personnel who are filling positions identified as "key positions" in Exhibit 1 ("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 Firm's reasonable control, the Firm 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 reasonably finds unacceptable for the tasks to be performed. Subject to Section 15 of this Agreement, the Firm acknowledges and agrees that the loss of Key Personnel does not excuse the Firm's performance of the Services and completion of the deliverables as described in this Agreement.

- e. The Firm warrants and covenants that the Services provided under this Agreement shall meet in all material respects the requirements set forth in Exhibit 1 and all agreed-upon Service specifications. The Firm warrants that the Services shall be performed in a professional manner, in accordance with the generally recognized standards of the Firm'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.
- f. If the Firm fails to meet in any material respects applicable professional standards or the requirements of the Service, the Firm shall use its commercially reasonable effort, without additional compensation, to promptly correct or revise any error or deficiency. The Firm further warrants that the Service provided hereunder will not infringe upon or constitute an unauthorized use of any patent, trade secret, trademark, copyright, or other intellectual property right of another party upon their delivery to the Bank, provided that the sole and exclusive obligation of the Firm and the sole and exclusive remedy of the Bank for a breach of this warranty shall be the as set forth in Section 13.b hereof.
- g. If the Service fails to meet any warranties in this Agreement, the Firm agrees to use its commercially reasonable efforts to correct such failure at no cost to the Bank. The foregoing warranties survive delivery and are not waived by the Bank's acceptance of, or payment for, said Service.
- h. **EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE FIRM DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

13. Indemnity

- a. The Firm shall indemnify, defend and hold harmless the Bank, and all Reserve Banks and the Board of Governors, and all of their respective directors, agents, employees, direct and indirect officers, and each of their successors and assigns (each, a "Bank Indemnified Party") from all claims attributable to claims of third parties for bodily injury, death or damage to real or tangible personal property, to the extent directly and proximately caused by the negligence or intentional misconduct of the Firm while engaged in the performance of the Services, provided, however, that if there also is fault on the part of any entity or individual indemnified hereunder or any entity or individual acting on the Bank's behalf, the foregoing indemnification shall be on a comparative fault basis.
- b. The Firm shall indemnify, defend and hold harmless the Bank Indemnified Parties from all suits, costs, liabilities, claims, damages, judgments, awards, losses, penalties, and/or

expenses (including attorneys' fees) attributable to claims of third parties for infringement of any U.S. patent or copyright, or any unauthorized use of any trade secret, by a deliverable except to the extent that such infringement or unauthorized use arises from, or could have been avoided except for (i) modification of the deliverable other than by the Firm or its subcontractors, or use thereof in a manner not contemplated by this Agreement, (ii) the failure of a Bank Indemnified Party to use any corrections or modifications made available by the Firm, (iii) information, materials, instructions, specifications, requirements or designs provided by or on behalf of a Bank Indemnified Party, or (iv) the use of the deliverable in combination with any platform, product, network or data not provided by the Firm or not otherwise specifically described in the Agreement. If the Bank Indemnified Party's use of any such deliverable, or any portion thereof, is or is likely to be enjoined by order of a court of competent jurisdiction as such an infringement or unauthorized use, the Firm, at its option and expense, shall have the right to (x) procure for the Bank Indemnified Party the continued use of such deliverable, (y) replace such deliverable with a non-infringing deliverable, or (z) modify such deliverable so it becomes non-infringing; provided that, if (y) or (z) is the option chosen by the Firm, the replacement or modified deliverable is capable of performing substantially the same function. In the event the Firm cannot reasonably procure, replace or modify such deliverable in accordance with the immediately preceding sentence, the Firm may require the Bank Indemnified Parties to cease use of such deliverable and refund the professional fees paid to the Firm with respect to the Services giving rise to such deliverable. The foregoing provisions of this Section 13.b constitute the sole and exclusive remedy of the Indemnified Parties, and the sole and exclusive obligation of the Firm, relating to a claim that any of the Firm's deliverables infringes or constitutes an unauthorized use of any patent, copyright or other intellectual property right of a third party. The Bank Indemnified Party shall notify the Firm promptly of the claim for which indemnification is sought, provided that any failure or delay in giving such notice shall not relieve the Firm of its indemnification obligations except, and then only to the extent, the Firm is prejudiced by the failure or delay. The Firm shall keep attorneys representing the Bank Indemnified Party informed and shall promptly provide them with copies of all documents filed or served in connection with any such claim. The Firm shall defend at the Firm's own expense any such suit, claim, proceeding, or investigation and the Bank Indemnified Party will cooperate with the Firm in the defense of any claim. The Bank Indemnified Party shall be entitled, at its option, to participate in the investigation and defense of any such suit, claim, or proceeding and shall have final approval of any settlement that imposes liability that is not indemnified by the Indemnifying Party or obligations on the Bank Indemnified Party. Notwithstanding the foregoing, the Firm shall not settle, compromise, or in any other manner dispose of any claim for which the Bank Indemnified Party is entitled to be indemnified by Firm unless the settlement includes a full and final release of all claims against the Bank Indemnified Party, and imposes no liability or obligation on the Bank Indemnified Party not expressly accepted by the Bank Indemnified Party in writing. The indemnification obligations set forth in this Section 13 are not limited in any way by any limitation on compensation or benefits payable by or for the Firm or any subcontractor under workers' compensation statutes, disability benefit acts, or other employee benefit acts.

14. **Termination.** The Bank may at any time terminate this Agreement upon notice to the Firm; provided that the event of any termination for material breach, the Firm shall have not less than 30 days' notice of the breach and the right to cure the breach within the notice period. The Firm may terminate this engagement upon reasonable notice, in circumstances where it is ethically permitted to do so.

15. **Force Majeure.** Neither party shall be responsible or liable for delays or failure in performance resulting from acts beyond the reasonable control of, and without the fault or negligence of, such party. Such acts shall include, but shall not be limited to, acts of God, sabotage, strikes or labor disputes, war or other violence, riot, epidemic, earthquake, flood, fire, lightning, change in law or applicable regulation subsequent to the date hereof, and action or inaction by federal, state, or local legislative, executive, administrative or judicial agency or body. Economic hardship of either party shall not alone constitute a Force Majeure event. Either party rendered wholly or partly unable to perform its obligations by reason of Force Majeure shall exercise due diligence to remove the effects of such Force Majeure with all reasonable dispatch.
16. **Applicable Law.** The Agreement and any claims arising out of or in connection with the Agreement are governed by the laws of the United States and, in the absence of controlling federal law, the laws of the Commonwealth of Massachusetts even if applicable conflict-of-law rules indicate the laws of a different jurisdiction should govern. All claims litigated under the Agreement must be initiated in the U.S. District Court for District of Massachusetts in the county of Suffolk County, Massachusetts, and each party consents to the personal jurisdiction of that court.
17. **Subcontracting; Services.**
- a. Notwithstanding any provision of the Agreement to the contrary, the Firm may not subcontract the performance of any Services without the prior written consent of the Bank. An assignment by the Firm of an individual who is a contractor to the Firm, 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.
 - b. Per subsection (a), Bank hereby consents to the Firm subcontracting any portion of the Services to its affiliates, located within United States that are identified in Section 1.b of this Agreement. In addition, the Bank hereby consents to the Firm using staffing agencies to provide attorneys that supplement the Firm's project staff as identified in Section 1.b of this Agreement.
 - c. The Firm is fully responsible for all acts and omissions in connection with the performance of the Services of its employees, personnel, agents, representatives, and subcontractors, including its subcontractors employees, personnel, agents, representatives, subcontractors, and any other persons directly or indirectly employed by a subcontractor of the Firm, and any other persons who perform work associated with the Services provided to the Bank on behalf of Firm (collectively, the "Firm Personnel"), in each case, as if such acts and omissions were those of the Firm.
 - d. The Firm will remain liable for compliance with this Agreement (to the same extent that the Firm is liable for its own compliance with this Agreement) in all respects by all Firm Personnel, whether consented to by Bank or not, including enforcing this Agreement with all Firm Personnel and to take such action, legal or otherwise, to the extent necessary to cause them to comply with this Agreement, including, without limitation, as applicable, the confidentiality, audit, insurance, and indemnification obligations of the Firm in this Agreement and the policies and procedures defined in Section 12(b).
 - e. Nothing in this Agreement creates any contractual relationship between any Firm 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 Firm Personnel.
 - f. The Services may include advice and recommendations, but the Firm will not make any

decisions on behalf of the Bank in connection with the implementation of such advice and recommendations.

18. Limitation on Damages.

- a. In no event shall either party, its affiliates, subcontractors nor its personnel be liable hereunder for any incidental, indirect, special, consequential, punitive or exemplary damages, lost revenues or profits, lost sales or anticipated orders, or damages for loss of use or goodwill.
- b. Except as provided in the next sentence, each party, together with its affiliates and subcontractors and their respective personnel, shall not be liable in connection with or arising out of this Agreement or the Services ("Claims"), regardless of the damages theory, for an aggregate amount in excess of two million dollars (\$2,000,000), except (i) to the extent resulting from their recklessness, bad faith or intentional misconduct, (ii) for payment for Services performed or (iii) to the extent resulting from the Firm's disclosures of Confidential Information in breach of Section 11, in which event the Firm, its affiliates and subcontractors, and their respective personnel shall not be liable to the Bank for any Claims resulting from such disclosures for an aggregate amount in excess of five million dollars (\$5,000,000). The foregoing limitations shall not limit a party's express indemnification obligation set forth herein with respect to a third-party claim.
- c. In circumstances where any limitations or exculpations set forth herein are unavailable, the aggregate liability of a party, its affiliates and subcontractors, and their respective personnel for any Claim shall not exceed an amount that is proportional to the relative fault that their conduct bears to all other conduct giving rise to such Claim.

19. Bank Responsibilities. In addition to the Bank's responsibilities as set forth in this Agreement, the Bank shall cooperate with the Firm hereunder, including (i) providing the Firm with reasonable working space, equipment and facilities if relevant to the Services and timely access to data, information and personnel of the Bank; (ii) providing experienced and qualified personnel having appropriate skills to perform their assigned tasks and duties in a competent and timely fashion; (iii) providing a stable, fully functional system infrastructure environment which will support the Services and allow the Firm and the Bank to work productively; and (iv) promptly notifying the Firm of any issues, concerns or disputes with respect to the Services. With respect to the data and information provided by the Bank to the Firm or its subcontractors for the performance of Services, the Bank shall have the rights required to provide such data and information, and shall do so only in accordance with the applicable law and with any procedures agreed upon in writing. The Bank shall be solely responsible for, among other things (a) the performance of its personnel and agents; (b) the accuracy and completeness of data and information provided to the Firm for purposes of the performance of the Services; (c) making all management decisions, performing all management functions and assuming all management responsibilities; (d) designating a competent management member to oversee the Services; (e) evaluating the adequacy and results of the Services; (f) accepting responsibility for the results of the Services; and (g) establishing and maintaining internal controls, including monitoring ongoing activities. The Firm's performance is dependent upon the timely and effective satisfaction of the Bank's responsibilities hereunder and timely decisions and approvals of the Bank in connection with the Services. The Firm shall be entitled to rely on all decisions and approvals of the Bank.

20. Survival and Interpretation. All provisions of these Terms that are intended by their nature to survive performance of the Services shall survive such performance, or the expiration or termination of this Agreement. No affiliate or related entity of the Firm, or such entity's personnel, shall have any liability hereunder to the Bank and the Bank will not bring any action against any such entity or such entity's personnel in connection with this Agreement **Each of the provisions of these Terms shall apply to the fullest extent of the law, whether in contract, statute, tort**

(such as *negligence*), or otherwise, notwithstanding the failure of the essential purpose of any remedy.

21. **Amendment.** No amendment or modification of the Agreement will be effective unless it is in writing and signed by each party. An exchange of email is not effective to amend or modify the Agreement.
22. **No Exclusivity.** Nothing contained in these Terms and Conditions will be construed as creating an exclusive relationship between the parties. The Bank may purchase the same or similar Services from another company at its discretion.
23. **Definitions.** The following terms are used in the Agreement, these Terms and Conditions, and the exhibits with the meanings given them in this section.
 - a. The “Bank” refers to the Federal Reserve Bank of Boston.
 - b. “Client File” has the meaning given it in paragraph 11(a) of these Terms and Conditions.
 - c. “Confidential Information” has the meaning given it in paragraph 11(a) of these Terms and Conditions.
 - d. “Engagement Form” refers to the template that the Lead Outside Attorney must complete in order to receive a Bank Matter ID, which is required when the Firm submits an invoice for services.
 - e. The “Firm” refers to the firm signing the Agreement.
 - f. “Lead Bank Attorney” is the in-house Bank attorney who is responsible for a matter for which the Bank has retained the Firm under the Agreement.
 - g. “Lead Outside Professional” refers to the professional within the Firm who is primarily responsible for the Firm’s work on a particular matter for the Bank.
 - h. “Principal Partner” is the business or professional partner or principal at the Firm responsible for the Firm’s overall relationship with the Bank relating to this Agreement and who signs the Agreement on behalf of the Firm.

Signature page to follow.

IN WITNESS WHEREOF, the Firm and the Bank have caused this Agreement to be executed by their duly authorized representatives.

AGREED:

Deloitte Financial Advisory Services LLP

555 12th Street NW, Suite 400

Washington, DC 20004

By:

Name:

Title: Principal

Date: October 22, 2020

AGREED:

FEDERAL RESERVE BANK OF BOSTON

600 Atlantic Avenue,

Boston, MA 02210

By:



Name:

Title: Senior Vice President and General Counsel

Date: October 22, 2020

Exhibit 1
Service Description

Firm is prepared to support the Bank, through its Office of General Counsel, with the services described herein related to the Bank's implementation and operationalization of the Main Street Lending Program ("MSLP").

Firm understands that it is Counsel's intention and the position of Counsel that the Services to be performed by Firm will be covered by the attorney work-product privilege and other applicable privileges. Accordingly, it would be expected that all working papers and other documents prepared or received by Firm will be maintained by Firm as confidential material in accordance with the attached Professional Services Terms and Conditions ("Terms").

Specifically, Firm will support the Bank in the following workstreams:

Bank Responsibilities and Acknowledgements

In addition to the responsibilities set forth in the Terms or elsewhere in this Exhibit 1, the Bank acknowledges and agrees:

Assumptions

1. Firm is not responsible for providing or administering technology for either Workstream.
 2. Firm is not responsible for the processing and hosting of documents for Workstream 2.
 3. Bank agrees to provide supervision by qualified, and appropriately licensed, legal counsel
-
4. Due to the current COVID-19 situation, the Services will be performed remotely. Remote access to documentation and systems will be made available to Firm's resources. Virtual conferencing will be utilized, and Bank personnel will be actively engaged in such meetings.

Key Positions:

The overall engagement will be led by the Executive Sponsor, _____, and the Engagement Leader, _____ as well as support from Subject Matter Advisors, _____. They will work with Bank's key leaders to develop strategy around the overall program delivery.

Operationally, the engagement will be led by _____, who will work with the Bank internal and external teams, to apply the loan participation review checklist and the document review playbook under a baseline methodology.

The Delivery leader, _____, will be the day to day contact for the engagement providing a singular point of contact for both workstreams, aligning resources and managing updates or edits to the documentation.

The Pods will be led by Pod Leaders, _____. These Pod leads will manage the teams directly, support reporting, document loading and batching and work alongside the Bank review teams as needed.

Exhibit 2
Pricing

The Services will be billed on a time and expense basis, with Firm's fees determined by the tasks required and the related time spent. Firm's per-hour billing rates for this engagement are set forth in the table below.

RESOURCE TYPE	STANDARD RATE	FRBB DISCOUNT	FRBB DISCOUNTED RATE
PARTNER/DIRECTOR	\$1190.00	56%	\$520.00
SENIOR MANAGER	\$1065.00	67%	\$345.00
MANAGER	\$1000.00	76%	\$239.00
SENIOR CONSULTANT	\$895.00	79%	\$185.00
CONTRACT ATTORNEY (1-25 RESOURCES)	\$395.00	68%	\$125.00
CONTRACT ATTORNEY (26+ RESOURCES)	\$395.00	74%	\$100.00