

## CLF Correspondent Agreement

This Correspondent Agreement (“Agreement”) is entered into as of \_\_\_\_\_ between [ABC] Corporate [Federal] Credit Union (“Correspondent”) and the Central Liquidity Facility (“CLF”) of the National Credit Union Administration (each a “Party” and, together, the “Parties”).

WHEREAS, CLF is available to provide loans to natural person credit unions (“NPCUs”) that are Regular members of CLF for liquidity needs; and

WHEREAS, Correspondent has the desire and capacity to provide correspondent services to CLF and/or to NPCUs that are Regular members of CLF so that the NPCUs may receive loans from CLF.

Now, therefore, in consideration of the foregoing, the Parties agree as follows:

**A. Duties of Correspondent.** Correspondent agrees to assume the following duties and obligations under this Agreement:

- 1) At the request of NPCUs and/or CLF, assist NPCUs with the documentation and other administrative tasks required for NPCUs to become Regular members of CLF.
- 2) Assume the roles and responsibilities associated with sound collateral management, including, but not be limited to, conducting lien searches and placements, perfecting security interests, and evaluating collateral on behalf of CLF. CLF may, at its discretion, pass reasonable fees and expenses associated with collateral management to the individual borrowers receiving loans from CLF (the “NPCU Borrowers”). CLF agrees to pay Correspondent a reasonable fee for the services provided pursuant to this Agreement, as set from time to time by CLF and as disclosed to Correspondent in writing or published on CLF’s Web site.
- 3) Ensure that any security interest of its own or of third parties in collateral securing CLF loans (the “CLF Collateral”) will be and will remain subordinate to the security interest of CLF in the CLF Collateral.
- 4) Assist NPCU Borrowers, at their option, with paperwork related to requesting an advance from CLF and processing any other documentation related to CLF loans.
- 5) Assist NPCU Borrowers, at their option, with the transfer of CLF loan funds and repayment amounts and with the general settlement of funds between CLF and the NPCU Borrowers’ accounts.
- 6) Correspondent agrees to provide the services contemplated in this Agreement under the same terms and conditions to any requesting NPCU Borrower to which

Correspondent is permitted to provide the services, regardless of the NPCU's membership status at a corporate credit union.

- 7) Perform other tasks related to facilitating and administering CLF loans to NPCU Borrowers as reasonably requested by CLF.

**B. Duties of CLF.** CLF agrees to assume the following duties under this Agreement:

- 1) Work cooperatively with Correspondent to, where an NPCU is not a Regular Member of the CLF and where circumstances permit, reasonably determine the immediate eligibility of the NPCU for CLF loans as soon as possible and prior to the NPCU's subscription to capital stock of CLF.
- 2) Work cooperatively with Correspondent to, where an NPCU is already a Regular member of CLF, determine in a timely manner the eligibility of the NPCU for CLF loans.
- 3) Minimize burden on Correspondent and NPCU Borrowers by promptly resolving any issues that arise in Correspondent's provision of services and performance of the duties and obligations in Section A of this Agreement.
- 4) Provide information and other documentation to Correspondent in a timely manner to facilitate Correspondent's provision of the services described in Section A of this Agreement.

**C. General.**

- 1) "Regular member" has the meaning ascribed to that term in 12 C.F.R. § 725.3.
- 2) Neither the execution of this Agreement nor any of its provisions will be construed as obligating CLF to make an advance or otherwise extend credit to NPCUs.
- 3) If at any time any CLF Collateral is in Correspondent's custody, Correspondent will exercise the same degree of care and custody of the CLF Collateral as it does in the care and custody of its own assets.
- 4) Each Party will execute such instruments and do acts as the other Party may reasonably request to carry out the terms of this Agreement.
- 5) Correspondent agrees that it will not refuse to perform the duties, obligations, and services described in this Agreement with respect to any NPCU that requests such services or on whose behalf CLF requests such services for reasons other than Correspondent's good faith determination that applicable law or its bylaws prevent the provision of such services.

- 6) This Agreement is intended solely for the benefit of CLF and Correspondent and no other person or party (including NPCUs or NPCU Borrowers) is an intended third-party beneficiary of this Agreement.

**D. Notices.**

Any notice given pursuant to this Agreement shall be in writing. Any such written notice will be delivered by facsimile; by recognized overnight delivery service; secure electronic mail; or mailed by certified mail, return receipt requested, in each case with all charges prepaid, to the following addresses or to such addresses otherwise provided by the Parties in writing from time to time:

Correspondent: Corporate [Federal] Credit Union, Attention Legal Department, 200 Main St., Anywhere USA, Fax: \_\_\_\_\_, e-mail:

CLF: Central Liquidity Facility, Attention President, 1775 Duke Street, Alexandria, VA 22314, Fax: \_\_\_\_\_, e-mail: clfmail@ncua.gov

Any notice provided under this Agreement is presumed to be received, effective and duly given to a Party on the date set forth on the return receipt, if by certified mail; on the day of confirmation of delivery if by overnight courier; on the day of confirmation of transmission, if by facsimile; on the day of effective transmission, if by electronic mail.

**E. Termination and Representations.**

- 1) Termination: Either Party may terminate this Agreement by giving 30 days' advance written notice to the other Party. Immediately on notice of termination from CLF or on its own notice of termination, Correspondent agrees to cooperate in the timely transition of its services, duties, and obligations under this Agreement to any other party identified by CLF. Provisions of this Agreement governing confidentiality and indemnification shall survive its termination.
- 2) Representations: Each Party hereto represents and warrants to the other Parties as follows:
  - a) *Status.* It is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing.
  - b) *Powers.* It has the power to execute and deliver this Agreement and to perform its obligations under this Agreement and has taken all necessary action to authorize such execution, delivery and performance.
  - c) *No Violation or Conflict.* Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other

agency of government applicable to it or any of its assets, or any contractual restriction binding on or affecting it or any of its assets.

- d) *Consents*. All governmental and other consents that are required to have been obtained by it with respect to this Agreement have been obtained and are in full force and effect and all conditions of any such consents have been complied with.
- e) *Obligations Binding*. Its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms.
- f) *Authority*. The persons executing this Agreement on behalf of the Parties are authorized to do so.

**F. Miscellaneous.**

- 1) *Entire Agreement*. This Agreement and all matters incorporated into this Agreement by reference embody the entire agreement and understanding between the Parties relating to the subject matter hereof and supersede all prior agreements, whether written or oral that relate to such subject matter.
- 2) *Amendments*. The provisions of this Agreement may be amended only by a written agreement signed by the Parties.
- 3) *Limitation of Liability*. CLF agrees to indemnify and hold Correspondent harmless for losses and legal costs in connection with all claims, suits, demands, or judgments against Correspondent (whether held by CLF or a third party, including an NPCU) that arise out of this Agreement, except for those that arise out of the gross negligence, bad faith, or wrongful acts of Correspondent or its officers, directors, agents, employees, or representatives. Only CLF resources are available for payment of any indemnification obligations under this paragraph.
- 4) *Successors and Assigns; Assignment*. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties. No Party may assign this Agreement or its rights, duties, or obligations under this Agreement to any third party without the prior written consent of the other Party.
- 5) *Governing Law*. This Agreement shall be subject to, governed by, and construed in accordance with federal law of the United States and, to the extent federal law incorporates or defers to state law, or is not applicable, the laws of the Commonwealth of Virginia (without reference to its choice-of-law or conflict-of-laws provisions).
- 6) *Confidentiality*. The Parties agree to keep this Agreement and all information exchanged pursuant to this Agreement, including any personally identifiable information (if applicable), confidential and shall follow all laws and regulations that apply to such information, including the Gramm-Leach-Bliley Act, Pub. L.

106-102, and the Right to Financial Privacy Act, 12 U.S.C. § 3401 *et seq.*, as amended.

- 7) *Severability*. If any part of this Agreement is found unenforceable for any reason, each Party agrees that all other portions shall remain valid and enforceable.
- 8) *Force Majeure*. Neither Party shall be liable for any failure to perform or any delay in performance when such failure to perform or delay in performance is caused by fire, flood, earthquakes, power failure, war, accident, explosion, equipment or machinery breakdown, sabotage, civil commotion, riots, regulation of a governmental authority, voluntary or mandatory compliance with any request of any governmental authority, or any act of God or other catastrophes.
- 9) *Counterparts*. This Agreement may be executed in any number of counterparts by the Parties on separate counterparts, each of which when executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

In Witness Whereof, the Parties have executed this Agreement as of the date first written above.

Central Liquidity Facility

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

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

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

[ABC] Corporate [Federal] Credit Union

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

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

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

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CCU Correspondent role Back to OGC for revisions.doc