

NCUA CENTRAL LIQUIDITY FACILITY REPAYMENT, SECURITY AND CREDIT REPORTING AGREEMENT
(Agent Member)

(Corporate Credit Union Name)

Charter /Insurance Certificate Number

City

State

PARTIES

(1) **Effective date.** This agreement is between the National Credit Union Central Liquidity Facility (hereinafter "the Facility") and a corporate credit union which is an Agent member of the Facility (hereinafter "the Agent"). This agreement becomes effective when signed by the Agent and the Facility. This agreement shall remain in effect as long as the Agent is a member of the Facility or there is any unpaid repayment obligation created hereunder between the Agent and the Facility.

(2) **Facility rules and regulations, etc.** All advances of Facility funds to the Agent are subject to this agreement and to all applicable terms and conditions in the National Credit Union Central Liquidity Facility Act, rules and regulations prescribed by the NCUA Board on behalf of the Facility, and operating circulars issued by the Facility, including all amendments and supplements thereto. The Agent shall perform each of the obligations imposed on it by any such term or condition.

REPAYMENT

(3) **Confirmation.** In connection with each advance of Facility funds to the Agent, the Facility shall issue a confirmation of credit (hereinafter the "confirmation") which shall be sent to the Agent. The confirmation may be issued before or after the date of the advance and shall be in such form and sent in such manner as may be determined by the Facility. The confirmation shall specify:

- (i) the date of the advance;
- (ii) the amount of the advance;
- (iii) the interest rate;
- (iv) the principal repayment date or dates, if any;
- (v) the principal amount due on each such principal repayment date (excluding principal interest);
- (vi) the interest payment date or dates, if any;
- (vii) the maturity date; and
- (viii) the pending and outstanding loans from the Agent to its member natural person credit unions which are the basis for the Facility advance (hereinafter "Agent loans"), including the principal amount or principal balance of each such loan, the name of the natural person credit union which has applied for or received the loan, and the type or types of liquidity needs that are being met by the loan (i.e., short-term

adjustment credit, seasonal credit, or protracted adjustment credit.)¹

The confirmation may also specify the method of payment that must be used by the Agent to pay the Facility on each principal payment date, each interest payment date, and the maturity date. A confirmation may be combined with other information, including other confirmations, in a listing or other form of communication. More than one advance of Facility funds may be included, with or without other funds, in a single transfer of funds from the Facility to the Agent. The principal repayment dates, the principal amount due on each such principal repayment date, and the interest payment dates may be specified in the confirmation by reference to other dates or amounts.²

(4) **Repayment obligation.** When the Agent receives an advance of Facility funds, a repayment obligation is created (herein a "repayment obligation created hereunder") whereby the Agent, for value received, agrees:

- (i) to pay to the Facility on each principal repayment date an amount equal to the principal amount due on such principal repayment date; and
- (ii) to pay the Facility on each interest payment date an amount equal to unpaid interest from the date of the advance through such interest payment date; and
- (iii) to pay the Facility on the maturity date an amount equal to the unpaid balance of the amount of the advance, if any, plus unpaid interest from the date of the advance through such maturity date; and
- (iv) if the principal amount due on any principal repayment date is not paid on or before such a date, to pay the Facility:

¹ An advance of Facility funds may be based on a single pending or outstanding loan. A pending or outstanding loan becomes an "Agent loan", as that term is used herein, when the Agent receives a Facility advance which is based in full or in part on such loan. It ceases to be an Agent loan, as that term is used herein, when the repayment obligation created hereunder by the advance is paid in full to the Facility.

² For example, a confirmation may specify dates and amounts as follows: "principal repayment dates" are eight business days after each date on which the Agent receives one or more principal payments on Agent loans listed in the confirmation; the "principal amount due on each such principal payment date" is the aggregate amount of such principal payments received by the Agent on the Agent loans; and "interest payment dates" are twelve business days after the end of each calendar month.

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- (a) reasonable expenses of collection, including the reasonable attorney's fees and expenses incurred, plus
 - (b) a late principal payment charge equal to 2% of such principal amount, plus
 - (c) interest after such date through the maturity date on the unpaid balance of such principal amount at the interest rate specified on the confirmation,³ and
- (v) if the unpaid interest due on any interest payment date or the maturity date is not paid on or before such date, to pay the corporate credit union:
- (a) reasonable expenses of collection, including the reasonable attorney's fees and expenses incurred, plus
 - (b) a late interest payment charge equal to 20% of such unpaid interest; and
- vi. if the amount due on the maturity date is not paid on or before the maturity date, to pay the Facility
- (a) reasonable expenses of collection, including the reasonable attorney's fees and expenses incurred, plus
 - (b) a late principal payment charge equal to 2% of the unpaid balance of the amount of the advance, as due on the maturity date, plus
 - (c) interest after the maturity date on the unpaid balance of the overdue principal amount at the overdue interest rate specified in this agreement.

As used herein, unless the context otherwise requires, the date and amount of the advance, the interest rate, the principal repayment dates, the principal amount due on each such principal repayment date, the interest payment dates, and the maturity date are the dates, amount and rate specified as such in the confirmation issued by the Facility in connection with the advance; the overdue principal amount used for determining interest after the maturity date is equal to the unpaid balance of the amount of the advance, as due on the maturity date, plus unpaid interest from the date of the advance through the maturity date plus the unpaid balance of any late principal and interest payment charges payable through the day after the maturity date; and the overdue interest rate is the higher of the following two rates, namely, the interest rate specified in the confirmation or the highest interest rate set by the Facility for Facility advances to any party on the maturity date. Interest from the date of the advance through the maturity date shall be determined hereunder as follows, using the interest rate specified in the confirmation: interest shall accrue each day on the unpaid balance of the amount of the advance, and the unpaid interest from the date of the advance through any date shall be equal

³ Under paragraph (11) of this agreement, the full amount owed to the Facility at maturity will become immediately due and payable, unless otherwise determined by the Facility, if the Agent fails to pay the amount due on any principal; repayment date or any interest payment date. In such case, the late payment charges and overdue interest rate specified in subparagraphs (4)(v) and (4)(vi) hereof would apply to the full amount owed to the Facility.

to all accrued interest through such date less the portion of such accrued interest that has been paid prior to such date.⁴

The Agent may make a prepayment in any amount at any time. When the unpaid balance of the amount of the advance is reduced as a result of a prepayment, the principal amount due on the next succeeding principal repayment shall be reduced by an amount equal to the reduction in the unpaid balance of the amount of the advance. If any amount due on any interest payment date or the maturity date includes an amount that has previously been subjected to a late principal payment charge or a late interest payment charge under subparagraphs (4)(iv) or (4)(v) hereof, the amount used for computing any late interest payment charge or late principal payment charge on the amount due on such date shall exclude the amount that has previously been subjected to such a charge under subparagraphs (4)(iv) or (4)(v) hereof. The Facility may waive any part or all of the interest, late principal payment charge, late interest payment charge or overdue interest. Each payment on a repayment obligation created hereunder, including a prepayment thereon, shall be applied as follows to the amounts payable under the repayment obligation: if the payment is made on or before the maturity date, it shall be applied first to the unpaid balance of any late principal and interest payment charges payable through the time of the payment, then to any unpaid interest that was not paid when due, then to the unpaid balance of any principal amount that was not paid when due, then to any unpaid interest that is due at the time of the payment, then to the unpaid balance of any principal amount that is due at the time of the payment, then to the remaining unpaid balance of the amount of the advance, and then to the remaining unpaid interest; if the payment is made after the maturity date, it shall be applied first to unpaid interest on the overdue principal amount and then to the unpaid balance of the overdue principal amount. If the amounts owed to the Facility on all repayment obligations created hereunder become immediately due and payable under the terms of paragraph (11) hereof, the maturity date of each such repayment obligation, as used herein, is the earlier of the following two dates, namely

- the date such amounts became immediately due and payable, or
- the date specified as the maturity date in the confirmation issued by the Facility in connection with the advance that created the repayment obligation.

The Agent member may make a prepayment in any amount at any time provided, however, that the Facility shall impose on any such prepayment, a prepayment penalty equivalent to any resultant prepayment penalty or cost incurred by the Facility.

RELENDING

(5) **Basis for Facility advance.** In connection with each advance of Facility funds to the Agent:

- (i) The Agent's application for the Facility advance must be filed on a Facility-approved application

⁴ The number of days used for computing accrued interest shall exclude the date of the advance and shall include the date through which the accrued interest is being computed.

form, or pursuant to any other method approved by the Facility, and must be based on the following:

- (a) one or more applications to the Agent by its member natural person credit unions for pending loans to meet liquidity needs; or
- (b) one or more outstanding loans previously made by the Agent to its member natural person credit unions to meet liquidity needs; or
- (c) such other demonstrable liquidity needs as the NCUA Board may specify; or
- (d) a combination of such applications, loans and other liquidity needs.⁵

Unless approved by the Facility, the Agent shall not file an application for a Facility advance based on any application, outstanding loan or liquidity need of any credit union which became a member natural person credit union of the Agent after February 23, 1980, until such credit union has been a member natural person credit union of the Agent for six months. The restriction in the preceding sentence does not apply to any credit union which was chartered within six months before becoming a natural person credit union of the Agent or which had access to the Facility either as a Regular member or through another Agent within six months before becoming a member natural person credit union of the Agent.

- (ii) Each such application to the Agent by a member natural person credit union for a pending loan (hereinafter a “pending loan”) must have been submitted to the Agent on a Facility-approved application form, or pursuant to any other method approved by the Facility, and must have been approved by the Agent, provided that the Agent’s approval may be conditioned on the Facility’s approval of the Agent’s application to the Facility.
- (iii) Each such outstanding loan previously made by the Agent to a member natural person credit union (hereinafter an “outstanding loan”) must have been applied for on a Facility-approved application form, or pursuant to any other method approved by the Facility, and must have been approved by the Agent.
- (iv) In determining whether to approve each such pending or outstanding loan, the Agent must have given due consideration to the creditworthiness of the member natural person credit union in accordance with the requirements prescribed in the regulations and operating circulars of the Facility.
- (v) The aggregate principal amount of such pending loans plus the aggregate principal balance of such outstanding loans must be equal or exceed the amount of the Facility advance requested in the Agent’s application to the Facility.
- (vi) Except as otherwise approved by the Facility, the Agent’s application for the Facility advance

⁵ Each such pending or outstanding loan must be a “qualified liquidity loan” subject to the repayment, security and credit reporting terms prescribed by the Facility for Agent loans. See subparagraph (5)(vii) of this agreement.

must contain the following information with respect to each pending or outstanding loan:

- (a) the name of the member natural person credit union which has applied for or received the pending or outstanding loan;
- (b) the type or types of liquidity needs that are being met by the pending or outstanding loan (i.e., short-term adjustment credit, seasonal credit, or protracted adjustment credit);
- (c) the principal amount if the pending loan, or the principal balance of the outstanding loan;
- (d) if a pending loan, the date or dates the pending loan is expected to be advanced to the member natural person credit union, and the amount that is expected to be advanced on each such date;⁶
- (e) the interest rate on the pending loan or outstanding loan;
- (f) the type of repayment requirement that applies to the pending or outstanding loan (i.e., fixed term or scheduled repayment), and the date and amount of each principal payment that is required to be paid to the Agent on the pending or outstanding loan;
- (g) a description of any security interest which the Agent has granted in the pending or outstanding loan to any party other than the Facility, including the name of the party, the amount secured, the other types of assets, if any, that are also subject to the security interest, and a statement as to whether the security interest is perfected or unperfected; and
- (h) such additional information as may be required by the Facility or in the Facility-approved application form.

The information required with respect to each such pending or outstanding loan may be combined with other information, including information relating to other loans, in copies of the Agent’s records, in a listing, or in such other form as may be approved by the Facility.

- (vii) Each such pending or outstanding loan must be subject to an agreement between the Agent and the member natural person credit union whereby the member natural person credit union agrees to the repayment, security and credit reporting terms prescribed by the Facility for Agent loans.⁷
- (viii) If the amount of any advance on any such pending loan is not advanced to the member

⁶ Ordinarily, a pending loan should be fully advanced to the member natural person credit union within ten (10) business days after the Agent receives the Facility advance.

⁷ A copy of such terms is attached to this agreement. A pending or outstanding loan is subject to such terms if the credit union has signed or agreed to such terms and if the loan was made solely to meet liquidity needs and was specified by the Agent as a “qualified liquidity loan” at the time the loan was made. “Agent loans” are defined as subparagraph (3)(viii) of this agreement.

natural person credit union on or before the date the amount was expected to be advanced, as stated in the Agent's application for the Facility advance or in any subsequent report to the Facility, the Agent shall submit a report to the Facility not later than five business days after such date. The report shall state the reason the amount was not advanced on such date and shall specify the date the amount was advanced or is expected to be advanced.

Within eight business days after the Agent receives any principal payment on an Agent loan, the Agent shall report such principal payment to the Facility. The report shall identify the Agent loan and shall show the date and amount of the principal payment.

- (ix) The Agent shall promptly notify the Facility of any default on any Agent loan.
- (x) All Agent loans shall have the status of general intangibles under the Uniform Commercial Code, and no promissory note or similar writing shall be signed or apply with respect to any such loan.⁸
- (xi) Except as otherwise permitted by the Facility, the principal amounts owed to the Agent on all Agent loans shall, at all times, equal or exceed the principal amounts owed by the Agent to the Facility on all repayment obligations created hereunder. If the principal amounts owed to the Agent on Agent loans to any one natural person credit union at any time exceed 10% of the subscribed capital stock and surplus of the Facility, the security interests granted to the Agent as security for such Agent loans shall be perfected by the Agent to the extent necessary to maintain a perfected security interest in collateral having a value equal to or greater than such excess.

(6) **Records.** The Agent shall maintain a separate account or record for each member natural person credit union to which Agent loans have been made. The separate account or record shall identify each Agent loan and show all amounts advanced and repaid on such loan. If records maintained by the Facility for Agent loans are used by the Agent as its record of such loans, no additional account or record needs to be maintained by the Agent with respect to such loans.

(7) **Agent loan agreement.** The Agent shall comply with all terms and conditions imposed on the Agent in the repayment, security and credit reporting terms prescribed by the Facility for Agent loans.

SECURITY

(8) **Collateral.** As security for all repayment obligations created hereunder, whenever created, the Agent grants a security interest in favor of the Facility in the

following property, whenever acquired (hereinafter "the collateral"):

- (i) All repayment obligations from member natural person credit unions to the Agent, whenever created, arising out of loans that constitute Agent loans to such credit unions; and
- (ii) the security interests granted to the Agent by such credit unions as security for such repayment obligations.

(9) **Perfection.** The Facility shall have the right at any time to perfect the security interest granted hereunder with respect to any part or all of the collateral. Perfection shall be by filing in accordance with the filing requirements for general intangibles under the Uniform Commercial Code and other applicable laws. The Agent shall sign a financing statement and such other papers as may be appropriate for filing and shall pay all necessary filing fees. To the extent requested by the Facility, the Agent shall perfect the security interests granted to the Agent by natural person credit unions as security for Agent loans.

(10) **Transfer Restriction.** Except as approved or permitted by the Facility, the Agent shall not sell or otherwise transfer the collateral or grant a security interest in the collateral to any party other than the Facility. The Facility may subordinate or terminate its security interest in any part or all of the collateral subject to such terms and conditions as the Facility may impose.

(11) **Acceleration and default.** Except as otherwise determined by the Facility, the amounts owed to the Facility on all repayment obligations created hereunder shall become immediately due and payable to the Facility, without any demand or notice, upon:

- (i) the failure of the Agent to perform any of its obligations under this agreement, including failure to pay the amount due on any principal repayment date, interest payment date or maturity date under any repayment obligation created hereunder; or
- (ii) the failure of the Agent to pay any other obligation to the Facility when due; or
- (iii) the failure of the Agent to comply with the terms of any undertaking, statement or representation made by the Agent to the Facility in any application, certification or other communication; or
- (iv) the insolvency of, or appointment of a trustee or receiver for, the Agent; or
- (v) an assignment for the benefit of creditors of the Agent, or
- (vi) the closing or suspension or revocation of the charter of the Agent, or the taking possession of its business, by any governmental authority; or
- (vii) the withdrawal of the Agent from membership in the Facility.

The occurrence of any of the events described in subparagraphs (11)(i) through (11)(vii) hereof shall constitute a default under this agreement. The term "insolvency" in subparagraph (11)(iv) hereof has the same meaning as in 12 CFR 700.1(j)(1). The facility may waive a default under this agreement and may reinstate the maturity date or any principal payment date, or interest payment date on any

⁸ Under subparagraph (5)(vii) of this agreement, the repayment, security and credit reporting terms prescribed by the Facility for Agent loans must apply to all Agent loans, and they do not constitute a "promissory note or similar writing", as those terms are used herein.

repayment obligation created hereunder which becomes immediately due and payable as a result of any such default.

(12) **Enforcement.** Upon the occurrence of a default under this agreement, or at any time thereafter, the Facility shall have all the rights and remedies provided under the Uniform Commercial Code and under this agreement, including but not limited to any one or more of the following: the Facility may, in its own name, or in the name of the Agent.

- (i) notify member natural person credit unions to make payments to the Facility on any one or more of the repayment obligations of such credit unions which constitute the collateral under this agreement;
- (ii) collect the amounts due on any one or more of such repayments obligations of such credit unions by any available judicial procedure;
- (iii) enforce the security interests granted by any such credit unions as security for such repayment obligations;
- (iv) exercise all the rights and remedies of the Agent with respect to such security interests, including enforcement of such security interests by any available judicial procedure; and
- (v) sell or otherwise dispose of any one or more of such repayment obligations of such credit unions, together with the security interests securing such repayment obligations, at public or private proceedings.

The proceeds of such repayment obligations of such credit unions, including the proceeds of the sale or other disposition thereof, shall be applied by the Facility first to the reasonable expenses of collecting such proceeds and of selling such repayment obligations of such credit unions, including the reasonable attorneys' fees and legal expenses incurred, and then to the payment of amounts due on all repayment obligations created hereunder. Any surplus then remaining shall be paid or returned to the Agent. If there is a deficiency, the Agent shall be liable for the deficiency. If the Facility is indebted to the Agent, the Facility shall have the right to set-off such indebtedness against all amounts due the Facility on all repayment obligations created hereunder, without regard to when such indebtedness may be due and payable.

CREDIT REPORTING

(13) **Required reports.** The Agent shall file such reports and provide such information as may be required by the Facility from time to time.

CONSTRUCTION, MODIFICATION AND MISCELLANEOUS

(14) **Governing law.** This agreement shall be construed under and governed by the law of the Commonwealth of Virginia, including the Uniform Commercial Code as adopted and amended from time to time by the Commonwealth of Virginia. All references to the Uniform Commercial Code in this agreement are to such Code as adopted and amended from time to time by the Commonwealth of Virginia. Unless the context of this agreement requires otherwise, the terms used in such Code

shall have the same meaning when used in this agreement. Unless the Uniform Commercial Code or the context of this agreement requires otherwise, the terms defined in the rules and regulations prescribed by the NCUA Board on behalf of the Facility shall have the same meanings when used in this agreement.

(15) **Modification procedures.** This agreement may be modified from time to time by the NCUA Board. Any such modifications shall be published in the Federal Register and shall be mailed to the Agent at the address shown for the Agent in the records of the Facility. The modification shall become a part of this agreement as of the effective date specified in the Federal Register, provided that the effective date specified in the Federal register shall not be less than 30 days after the required publication and mailing unless

- (i) the modification is limited to the reduction or elimination of any one or more of the obligations imposed on the Agent by any term or condition of this agreement, or
- (ii) the NCUA Board makes a finding that an earlier effective date is necessary, and the finding is included in the require publication and mailing.

Written data, views or arguments concerning the modification may be submitted by the Agent to the Facility at any time up to five days before the effective date specified in the Federal Register. The modification shall apply to all advances of Facility funds after such effective date. All such modifications are a part of this agreement, including modifications that occurred prior to the signing of this agreement. Operating circulars issued by the Facility may include interpretive rules and statements of policy with respect to the terms and conditions of this agreement but may not modify any such terms or condition. Without modification of this agreement, the Facility may waive any part or all of any obligation imposed on the Agent by any term or condition of this agreement, and the Facility may reinstate any part of all of any such obligation previously waived by the Facility.

(16) **Filing Location.** Unless otherwise directed by the Facility, all applications, reports, notifications and other communications from the Agent to the Facility shall be filed with a Facility lending officer.

(17) **Disclaimer of agency relationship.** Except as specifically authorized by the Facility, no agency relationship exists between the Facility and the Agent, and the term "Agent" is not intended to imply any such relationship.

(18) **Agent compensation.** The Facility shall compensate the Agent for the services it performs for the Facility as a result of the obligations imposed on the Agent by this agreement. Compensation shall be determined and provided by the Facility in accordance with any rules and regulations prescribed by the NCUA Board on behalf of the Facility and in accordance with operating circulars issued by the Facility. Subject to such rules and regulations and operating circulars, the following factors shall be taken into account by the Facility in determining and providing compensation to the Agent:

- (i) the additional expenses that are incurred by the Agent as a result of the obligations imposed on the Agent by this;

- (ii) the income that is earned by the Agent on Agent loans; and
- (iii) such other factors, if any, as the NCUA Board may deem relevant.

(19) **Delegation restriction.** Except as authorized or permitted in this agreement by the Facility, the rights and obligations of the Agent under this agreement may not be transferred or delegated by the Agent. The Agent is permitted to use the data processing services of other parties to process the accounts and records that they are required to maintain under this agreement.

(20) **Severability.** This agreement shall be severable. The invalidity of any term or condition of this

agreement shall not invalidate the remainder of this agreement, and each term and condition of this agreement shall be fully enforceable regardless of the validity of any other term or condition of this agreement.

**NATIONAL CREDIT UNION ADMINISTRATION
CENTRAL LIQUIDITY FACILITY**

Accepted by:

(Signature)

Date Accepted:

Print or Type Corporate Credit Union Name

by*

(Signature) Chief Elected Official

(Print or Type Official's Name and Title)

*

(Signature) Treasurer

(Print or Type Treasurer's Name)

(Date of Execution of this Agreement)

*Must be signed by both the Chief Elected Official and the Treasurer