

# Axos Invest Client Account Agreements

These are the agreements and other documents that establish and govern the relationship between Axos Invest, Inc. (“Axos Invest”) and clients.

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## Investment Advisory Agreement

You (“Client”) and Axos Invest, Inc. (“Axos Invest”) do hereby enter into an investment management relationship on the terms provided herein (the “Agreement”) which allows Axos Invest to manage your investment account or accounts (the “Account”) on a discretionary basis. The Account will be established at such securities broker (the “Broker”) as Axos Invest may designate and which may be affiliated with Axos Invest, as described further below. Accounts established by the Broker will be maintained with such custodian as the Broker may appoint from time to time (“Qualified Custodian”). This Agreement is effective upon completion of the Axos Invest new account application opening process (the “Effective Date”) and the recommendation by Axos Invest to Client of an investment portfolio based on information provided by Client in the new account opening process on the Axos Invest online dashboard (“Dashboard”). In consideration of the mutual covenants herein, Client and Axos Invest agree as follows:

1. **Portfolio Management Services.** Through an automated online process, Axos Invest will assist Client in determining Client’s investment profile, including analysis of investment objectives and risk tolerance. Axos Invest will provide Client with a recommendation for investment portfolio or portfolios. All recommendations by Axos Invest are for portfolios of ETFs known as “Core Portfolios.” Client will either accept the recommended investment portfolio or portfolios or direct investment into a different portfolio or portfolios (whether single or multiple, recommended by Axos Invest or designated by client, the “Portfolio”). Axos Invest will, in its sole discretion, invest deposits, dividends, re-balance the Portfolio to maintain the desired allocation of the Portfolio, whether the Portfolio was recommended by Axos Invest or designated by Client.
  - a. Client recognizes that the value and usefulness of the recommendations provided by Axos Invest will depend upon information provided by Client and Client’s ongoing active participation in determining his or her financial situation and investment objectives through the Dashboard. Client agrees to promptly inform Axos Invest of any changes in Client’s financial situation, investment objectives, investment restrictions or any other factors that may be important to Axos Invest in the management of Client’s Account by updating the Client’s profile on the Dashboard.
  - b. This Agreement grants Axos Invest discretionary power in the management of the Account assets. Though Axos Invest shall work to recommend an investment portfolio to Client, and Client may specifically designate an investment portfolio not recommended by Axos Invest, Axos Invest may, in its sole discretion, buy or sell any securities or make changes to the Portfolio without first notifying Client and without having to obtain Client’s consent.
2. **Client Directed Use of Automated Trading System.** Axos Invest recommends investment portfolios to Clients. However, Clients are free to change their portfolios as necessary. Client acknowledges and agrees that when securities transactions, portfolio allocations, strategies, or orders are not recommended or solicited by Axos Invest, Client further understands that, when

Client selects or chooses an investment portfolio, including investment portfolios not recommended by Axos Invest, Client is explicitly directing Axos Invest to, through the use of its automated trading system, maintain the Portfolio allocation designated by Client, or to, in the case of a withdrawal, produce cash for withdrawal as directed by Client.

3. **Portfolio Monitoring** - Client acknowledges that Axos Invest will not notify or solicit approval for each trade to maintain the Portfolio allocation chosen by Client. Client understands that any trades to accomplish this objective are in fact trades made in order to maintain the Portfolio as directed by Client. Periodically, Axos Invest will monitor and review your account regarding the allocation and performance of the assets in light of your stated investment profile. At a minimum, on an annual basis, Axos Invest will contact Client to request for Client to confirm their investment profile is current, and if the Client wishes to impose any reasonable restrictions on their account. Client understands that Axos Invest may reject any restrictions imposed by Client if in Axos Invest's determines that the requested restrictions are inconsistent with the investment strategy, fundamentally inconsistent with the nature or operation of the Portfolio, or if Axos Invest has difficulty in complying with the restriction made by Client.
4. **Power of Attorney.** To enable Axos Invest to fully exercise its discretion and authority as described in the section titled "Portfolio Management Services," Client hereby constitutes and appoints Axos Invest as Client's agent and attorney-in-fact with full power and authority for Client and on Client's behalf to buy, sell and otherwise deal in securities and contracts relating to same for the Account. Client further grants to Axos Invest, as Client's agent and attorney-in-fact, full power and authority to do and perform every act necessary and proper to be done in the exercise of the foregoing powers as fully as Client might or could do personally, including, but not limited to, the following type matters as directed by Client: adding and withdrawing funds from checking or savings accounts; opening new accounts; adding joint account holders; granting additional users access to view Client's Account on Dashboard; and any other act as directed by Client.
  - a. Client further grants Axos Invest full administrative authority over the Account, including transfer of a Client Account between qualified custodians, which may include termination of existing Client Accounts held at the resigning qualified custodian to be replaced with Client Accounts to be established with a new qualified custodian under the same Client account name. This power of attorney shall not allow Axos Invest to transfer funds or securities between any account held in the name of Client and any account not held in the name of Client, with the exception of deduction of fees, which will be explicitly disclosed to Client. This power of attorney shall terminate only on termination of this Agreement by either party or on receipt by Axos Invest of written notice of the death, incapacity or dissolution of Client.

#### **1. Representations and Warranties.**

- a. Client represents and warrants to Axos Invest and agrees as follows:

- i. Client has the requisite legal capacity, authority and power to execute, deliver and perform his or her obligations under this Agreement. This Agreement has been duly authorized, executed and delivered by Client and is the legal, valid and binding agreement of Client, enforceable against Client in accordance with its terms. Client's entry into this Agreement and the performance of his or her obligations hereunder do not conflict with or violate any obligations by which Client is bound, whether arising by contract, operation of law or otherwise. If Client is an entity, the trustee, agent, representative or nominee (a "Client Representative") entering into to this Agreement on behalf of Client, hereby confirms that he or she has the requisite legal capacity, authority and power to enter into, deliver and perform the obligations under this Agreement as applicable. Specifically, if Client is a corporation or partnership, the individual entering into this Agreement confirms that he or she has been authorized to do so by appropriate corporate or partnership action, and if this Agreement is entered into by a trustee or fiduciary, the trustee or fiduciary confirms that he or she has authority to enter into this Agreement and that the services described herein are authorized under the applicable plan, trust or law. Client will deliver to Axos Invest evidence of Client's and Client Representative's authority on Axos Invest's request and will promptly notify Axos Invest of any change in such authority, including but not limited to an amendment to Client's organizational, delegation or formation documents that changes the information Client provides to Axos Invest on opening the Account.
- ii. For Entity Clients: If a Client Representative is entering into this Agreement, Client and Client Representative understand and agree that the representations, warranties and agreements made herein are made by Client both: (a) with respect to Client; and (b) with respect to Client Representative.
- iii. For Joint Account Clients: If one or more persons are entering into this Agreement on behalf of a joint account, each such person understand and agrees that the representations, warranties and agreements made herein are made on behalf of all of the joint account holders and further agree that each joint account holder (a) is a Client; (b) has the authority to act on behalf of the Account and Axos Invest will accept such instructions relating to the Account from any one joint account holder; (c) is jointly and severally liable per the terms of this Agreement; and (d) that in the case of death of any of the joint account holders, all right and interest in the Account shall vest in the surviving account holder(s) under the same terms and conditions of this Agreement and the surviving account holder(s) shall promptly provide Axos Invest with written notice thereof and provide any documentation reasonably requested by Axos Invest in its ongoing management of the Account.

- iv. Client is the owner or co-owner of all cash and securities in the Account, and there are no restrictions on the pledge, hypothecation, transfer, sale or public distribution of such cash or securities.

Client understands and acknowledges that there can be no exclusions or restrictions on the purchase or sale of ETFs in the Account which may be utilized as part of the Portfolio.

- v. Client will provide Axos Invest with accurate information about Client's identity, background, net worth, investing timeframe and other risk considerations through the Client's profile on the Dashboard and will promptly update that information as Client's circumstances change.
- vi. Client understands that while Axos Invest will generate a recommended investment portfolio for Client, Client retains the right to alter the Portfolio. In exercising such right, Client may incur additional risk leading to potential loss of capital.
- vii. Client acknowledges that Client has been provided, and has reviewed and understands, Form ADV Part 2A filed by Axos Invest with the U.S. Department of the Treasury, Securities and Exchange Commission.

- b. Client understands and agrees that (A) Axos Invest does not guarantee the performance of the Account, is not responsible for any investment losses, and the Account is not insured against loss of income or principal; (B) there are significant risks associated with investing in securities and in connection with any investment program, including, but not limited to, the risk that the Account could suffer substantial diminution in value or total loss, and this risk applies even when the Account is managed by an investment adviser; (C) the past performance of any benchmark, market index, ETF, or other security does not indicate its future performance, and future transactions will be made in different securities and different economic environments; and (D) Axos Invest will cause the Account to invest in securities in essentially the proportions set forth by the Portfolio, and provide only the specific reviews and be subject to any applicable restrictions as described in this Agreement, and will not otherwise review or control such Account. Additionally, client understands and agrees that:

- i. Axos Invest's sole obligation hereunder or otherwise is to manage the Account in accordance with the Portfolio either recommended by Axos Invest or designated by Client, and Client has not engaged Axos Invest to provide any individual financial planning services. Client understands and agrees that Axos Invest is not responsible for any losses in an Account, as provided in the section titled "Account Losses."

- ii. The Account will be managed solely by Axos Invest. Axos Invest will issue trading instructions to Broker in accordance with the Portfolio. Broker may execute Account transactions at approximately the same time as transactions are entered for other client accounts managed by Axos Invest in accordance with other Axos Invest Client Portfolios. Securities prices that the Account may receive in connection with transactions may differ with those for other accounts due to fluctuating trading volume and other market conditions outside Axos Invest's control.
- iii. Axos Invest is not responsible to Client for any failures, delays and/or interruptions in the timely or proper execution of trades or any other orders placed by Axos Invest on behalf of Client due to any or all of the following, which are likely to happen from time to time due to: (A) any kind of interruption of the services provided by Broker or by Qualified Custodian, or Axos Invest's inability to communicate with Broker and/or Qualified Custodian; (B) hardware or software malfunction, failure or unavailability, including any service disruption or failure by the Order Management System ("OMS"), to the extent the OMS is used in connection with servicing the Account; (C) Broker, Qualified Custodian, and/or OMS system outages; (D) internet service failure or unavailability to Axos Invest, Broker, Qualified Custodian, and/or OMS; (E) the actions of any governmental, judicial or regulatory body; and/or (F) force majeure.
- iv. An Account's composition and performance may be different for a variety of reasons from those of any initial Portfolio recommended to or designated by Client. These differences can arise each time, including, but not limited to, the following instances: (A) when the Account is established and the initial securities positions are established; (B) when Client contributes additional capital to the Account; (C) when Client revises his or her Investment Profile and causes Axos Invest to recommend a new investment portfolio; (D) each time the Advisory Fee (described in Section 14), if any, is charged and paid from the Account; (E) when Account Expenses (described in Section 5), if any, are charged and paid from the Account; (F) any time Axos Invest adjusts its algorithm by which the composition of the Portfolio in the Account is maintained, and (G) changes made by Client to the Portfolio.

**2. Establishment of Brokerage Account, Margin.** As mentioned previously, the Account will be established at such securities broker as Axos Invest may designate and which may be affiliated with Axos Invest. Accounts established by the Broker will be maintained with Apex Clearing as the Qualified Custodian, and Apex Clearing offers customers the ability to maintain margin accounts. The foregoing does not limit the Broker's ability to change or replace the Qualified Custodian from time to time as the Broker sees fit. Axos Invest may, whether now or at some future date, for any

reason, including but not limited to faster settlement of securities sales or more rapid availability of cash to facilitate faster withdrawals, open margin accounts on behalf of clients or direct Apex Clearing to convert an existing non-margin account to a margin account. For IRA accounts, Axos Invest may open limited margin accounts or direct Apex Clearing to convert non-margin IRAs to limited margin accounts.

Client authorizes Axos Invest to open a margin account or limited margin account and to, whether now or at some future date, convert a non-margin account to a margin account or to convert a non-margin IRA to a limited margin account. Client acknowledges that such margin will be provided by Apex Clearing as the Qualified Custodian and not by the Broker. Client acknowledges and agrees to the Apex Customer Margin and Short Agreement, and, in the case of an IRA, the Apex IRA Agreement for Limited Margin and Options Capabilities, the Margin Disclosure within the Axos Invest LLC disclosures, and client acknowledges receipt of the Margin Disclosure Agreement, all contained herein. Finally, Client acknowledges that Axos Invest, depending on the evolution of its automated system and the date at which clients may have joined, may open margin accounts for one client but not for another even if both clients engage in the same behavior as Axos Invest clients.

- 3. Confidentiality.** Client agrees to permit Axos Invest to consult with and to obtain information from Client's attorney, accountant or other advisors to the extent necessary. Axos Invest will hold in strict confidence all non-public personal and financial information that Client furnishes to Axos Invest, except for information that either (i) Client explicitly agrees to share publicly, (ii) is requested by government and/or regulatory bodies, (iii) relates to a joint account holder and is shared with another joint account holder regarding Client's financial situation, or (iv) is required to be disclosed by applicable laws. Client agrees that all information, recommendations and advice provided by Axos Invest shall be regarded as confidential and shall not be disclosed to any other person or entity. Client acknowledges receipt of Axos Invest's privacy policy available at <https://axosinvest.com/legal-privacy>.
- 4. Responsibility for Additional Expenses.** The Account may be responsible for additional expenses by Axos Invest related to the management, exchange or trading, and transfer of the assets of such Account ("Account Expenses"), including, but not limited to ETF fees, transfer fees, and/or bank service fees charged by Client's bank. At its sole discretion, Axos Invest may elect to bear, either by direct payment or through reimbursement to the Account, any of the Account Expenses listed herein.

ETFs charge management fees, which are disclosed in the ETFs' prospectuses and included in the share price of the ETFs. Such charges, fees and commissions are exclusive of and in addition to any Axos Invest fee. Meaning, if Clients are paying a management fee to Axos Invest for any reason, Clients will be subject to two layers of fees. One fee is at the Axos Invest product level, and the second level of fees is at the ETF level, as communicated above. Axos Invest does not receive any portion of these commissions, fees, or costs from the ETF sponsors.



There may be additional fees imposed by the Clearing Firm including but not limited to exchange, regulatory, NSCC, OCC, cancellation, market center transaction, routing fees. Such fees are billed by the Clearing firm to the Broker, and the Broker may be reimbursed for such fees from the Client Account.

- 5. Broker.** All transactions shall be directed by Axos Invest to the Broker and cleared by the Qualified Custodian maintaining custody of the Account. Axos Invest may designate the same entity to act as both Broker and Qualified Custodian. Client understands and agrees that Axos Invest's brokerage practices shall be consistent with the disclosures in Axos Invest's Form ADV Part 2 (the "Brochure"), as amended from time to time. Client represents and warrants that Client is satisfied with the terms and conditions relating to all services to be provided by the Broker.
- 6. Account Losses.** Client understands and agrees that Client is responsible for all losses arising from or related to the Account. Except for gross negligence or malfeasance or violation of applicable law, Client agrees that Axos Invest and their respective officers, directors, shareholders, employees, affiliates and agents (together "Indemnified Persons") shall not be liable hereunder for any action performed or omitted to be performed or for any errors of judgment in managing the Account or providing additional services. Axos Invest and the Indemnified Persons are not responsible to any Client for losses unless caused by Axos Invest breaching its fiduciary duty. Client shall reimburse, indemnify, defend and hold harmless the Indemnified Persons and their affiliates from and against all losses, costs (including court costs), or damages, whether direct, indirect, special, incidental, consequential, punitive, or otherwise of any kind, claims, demands, proceedings, suits and actions, and all liabilities and expenses (collectively, "Losses") resulting from, in connection with, or out of this Agreement or Client's Account, or any actions taken or not taken by the Indemnified Persons or their affiliates in good faith reliance upon representations, covenants and agreements made by or on behalf of Client in connection with this Agreement or the subject matter hereof, except to the extent such Losses are exclusively and directly the result of Axos Invest's willful misfeasance, bad faith or gross negligence in the performance of its duties hereunder. Federal and state securities laws impose legal responsibility under certain circumstances on persons who act in good faith and therefore nothing herein shall in any way constitute a waiver or limitation of any rights which Client may have under federal or state securities laws.
- 7. Trading Windows.** Client understands that Axos Invest will aggregate client trades for execution. That is, Axos Invest will aggregate all buy orders in each security into one larger buy order or series of buy orders, and Axos Invest shall aggregate all sell orders in each security into one larger sell order or series of sell orders. Axos Invest generally submits these orders to the Broker each business day between 1:30 PM and 2:00 PM Eastern Time (10:30 AM and 11:00 AM Eastern Time on days which the market closes early), and any client orders or portfolio adjustments made prior to 1:15 PM Eastern (10:15 AM Eastern Time on days which the market closes early) are included within this trading window. However, Axos Invest may, in its sole discretion, on any given business



day, not submit orders to the Broker or submit orders to the Broker at a different time than normal. Client acknowledges that the existence of trading windows and aggregation of orders as well as Axos Invest's decision to submit orders at a different time or not at all on any given trading day may result in execution prices different than what the client would have received had an order been submitted as soon as Client had indicated that he or she would like to change a portfolio composition, buy securities, or sell securities.

- 8. Account Statements.** Client will receive account statements from the Qualified Custodian maintaining custody of the Account, which are the official records of the Account. Axos Invest may also provide to Client information about the Account from time to time, in Axos Invest's sole discretion.
- 9. Independent Contractor.** Axos Invest is and will hereafter act as an independent contractor and not as an employee of Client, and nothing in this Agreement may be interpreted or construed to create any employment, partnership, joint venture or other relationship between Axos Invest and Client.
- 10. Electronic Delivery of Information.** Client accepts and acknowledges that Axos Invest's Brochure, as required to be delivered under the Investment Advisers Act of 1940, and any updates thereto, shall be delivered and may be accessed electronically via the following link: <https://axosinvest.com/assets/docs/AxosInvestADVPart2.pdf>, and that Axos Invest may deliver other documents related to the Account electronically through the Dashboard.
- 11. Severability and Amendment.** The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any and all other provisions hereof. Client acknowledges that Axos Invest may amend this Agreement as well as any additional disclosures or agreements contained herein from time to time by notifying Client by email or through the Dashboard, which amendment will be effective immediately upon transmission or posting.
- 12. Governing Law.** This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Nevada, without reference to its choice of law rules.
- 13. Standard of Care.** Axos Invest will use its best judgment and its good faith efforts in rendering services to Client. Axos Invest does not warrant or guarantee any particular level of Account performance, or that the Account will be profitable over time. Client acknowledges that Client is assuming the market risk involved in the investment of Account assets in accordance with this Agreement. The sole standard of care imposed on Advisor, its members, principals, officers, employees and agents by this Agreement is to act with the care, prudence and diligence under the circumstances then prevailing that a prudent investor acting in a like capacity would use. Nothing contained in this Agreement shall constitute a waiver of any rights that a Client may have under federal or state securities laws.
- 14. Fees and Compensation.**

- a. **Core Portfolios in Taxable Accounts.** Axos Invest does not charge for portfolio management within taxable accounts so long as the portfolio is invested within one of Axos Invest's Core Portfolios.
- b. **"Premium Packages."** Axos Invest offers additional investment services in addition to Core Portfolios in taxable accounts, and such services bear an additional fee. Client shall be provided complete terms and conditions of such supplemental investment services, including applicable advisory fees and/or Account Expenses, at the time Client elects to use one of these services. Client acknowledges that the Terms and Conditions of these additional investment services may change from time to time and without notice. Axos Invest reserves the right, in its sole discretion, to reduce or waive fees for any Additional investment advisory services, for certain Client Accounts for any period of time determined by Axos Invest in its sole discretion.
- c. **Additional terms.** If for any reason there is insufficient cash available in the Account to cover any fees at the time they are charged and deducted from the Account, Axos Invest, in its sole discretion, may cause securities in the Account to be liquidated to cover its fees.

Client understands that the Qualified Custodian may charge a minimum custodial fee to the account. In the event that the Qualified Custodian charges this fee directly to the Account, Axos Invest may in its sole discretion, reimburse Client for all or for a portion of this fee by transferring moneys directly into the Account. Such reimbursements will be in an amount such that the total net effective fee paid by Client will be equal to the fee agreed upon between Axos Invest and Client and disclosed on the Dashboard.

Axos Invest reserves the right, in its sole discretion, to reduce or waive Account Expenses, if any, for certain Client Accounts for any period of time determined by Axos Invest in its sole discretion.

**15. Proxy Voting.** Axos Invest does not exercise proxy voting authority over securities held in Client's Account. Client retains proxy voting authority over securities held in Client's Account.

**16. Termination and Withdrawals.** This Agreement will stay in effect until terminated by either Client or Axos Invest. This Agreement may be terminated by either party with or without cause. There shall be a five business day grace period ("Grace Period") commencing at the signing of this Agreement during which Client may choose to terminate the Agreement and Axos Invest shall only charge for Account Expenses incurred prior to the termination, excluding administrative fees and account set-up fees.

Client may cancel this Agreement after the Grace Period by providing one day advance notice of cancellation to Axos Invest. Axos Invest may cancel this Agreement by providing notice through the primary email address or primary mailing address provided by Client in the Account profile, which Client shall update from time to time on the Dashboard. If, for any reason, Axos Invest shall

close and liquidate all positions held in the Account Client may receive the proceeds of the liquidated portion of the Account, and this Agreement shall terminate. Client understands and agrees that Axos Invest may determine to liquidate immediately all holdings in the Account. Client may withdraw all or part of the Account by notifying Axos Invest at any time or by initiating the withdrawal from the Dashboard. Client's withdrawal of all assets in the Account will terminate this Agreement, unless Axos Invest otherwise consents in advance.

- 17. Assignment.** This Agreement may not be assigned or otherwise transferred by Axos Invest without consent of Client. Such consent may be obtained via negative consent following full and fair disclosure of all material facts.

In connection with any account agreements entered into on or after November 14, 2018, you understand that your agreement may be assigned to Axos Securities RIA, LLC. By entering into an account agreement with notice of this assignment, you consent to such assignment without further notice to you. Thereafter, any further assignment of this agreement shall be governed by the notice and negative consent provisions set forth herein.

- 18. Dispute Resolution.** Client hereby agrees that all controversies between Client and Axos Invest arising out of any element of this Agreement that cannot be settled shall be submitted to arbitration in the dispute resolution forum of FINRA and pursuant to the FINRA Code of Arbitration. Arbitration must be initiated by service upon the other party of a written demand for arbitration or notice of intention to arbitrate. The parties hereby waive all rights to obtain punitive damages in connection with any dispute arising under this Agreement. The arbitrator's award in any such arbitration shall be final and binding, and judgment upon such award may be enforced by any court of competent jurisdiction, subject only to vacation or modification as permitted by law.

- 19. Certain Risks.** Client understands and agrees that:

- a. **Axos Invest does not guarantee the performance of the Account, is not responsible to Client for any investment losses and the Account is not insured against loss of income or principal.**
- b. That there are significant risks associated with investing in securities and the market, including, but not limited to, the risk that the Account could suffer substantial diminution in value, and this risk applies even when the Account is managed by an investment advisor including Axos Invest.
- c. The past performance of any benchmark, market index, ETF, or other securities does not indicate its future performance, future performance may vary, and the future transactions can be made in different securities and during different economic environments.

**20. Notices.** All notices and communications under this Agreement must be made electronically through the Dashboard and/or by email. Client must include support@axosinvest.com on all email communications to Axos Invest. Client's contact information for email communications from Axos Invest shall be the email address provided by Client on the Client's profile on the Dashboard. Communications may be transmitted electronically between Axos Invest and Client directly through the Dashboard.

**21. Entire Agreement, Severability and Other Terms.** With the exception of any Terms and Conditions agreed to by Client, this Agreement embodies all understandings and agreements between the parties hereto and supersedes all prior or contemporaneous written or oral negotiations, correspondence, agreements and understandings (including any and all preexisting Client Account Agreements, which are hereby cancelled). For clarity, any Terms and Conditions for any Premium Packages are not cancelled and are still in effect. If any provision hereof shall be held or made unenforceable by a statute, rule, regulation, decision of a tribunal or otherwise, such provision shall be automatically reformed and construed so as to be valid, operative and enforceable to the maximum extent by law or equity while most nearly preserving its original intent. The invalidity of any part of this Agreement shall not render invalid the remainder of the Agreement and, to that extent, the provisions of this Agreement shall be deemed to be severable. Section headings are provided for convenience only and shall not affect the interpretation of this Agreement.

## Axos Invest Electronic Agreement and Disclosure Statement

BY CONTINUING WITH THIS ONLINE APPLICATION, YOU AGREE THAT UNLESS INDICATED OTHERWISE THE AGREEMENT AND THE DISCLOSURES REQUIRED TO BE PROVIDED AT THE TIME OF APPLICATION FOR A CLIENT ACCOUNT AND ALL FUTURE ACCOUNTS WILL BE PROVIDED ELECTRONICALLY. READ THE INFORMATION BELOW CAREFULLY BEFORE CONSENTING TO RECEIVE INFORMATION ELECTRONICALLY AT THIS WEBSITE, OUR MOBILE APPLICATION, AND/OR VIA ELECTRONIC MAIL ("EMAIL"). YOU SHOULD PRINT OR SAVE THIS STATEMENT BY USING THE "PRINT" OR "FILE SAVE" OPTIONS ON YOUR INTERNET BROWSER.

In this Electronic Agreement and Disclosure Statement ("Statement"), please remember that "you" and "your" refer to the person who is establishing a Client Account, as well as any future accounts, and "we", "us" and "our" refer to Axos Invest, Inc., Axos Invest LLC (collectively known as "Axos Invest") and/or Apex Clearing Corporation ("Apex"). Agreements and other information will be provided to you electronically, via this website, our mobile application, and/or by email, unless indicated otherwise. Included in those agreements and other information will be disclosures required by the Investment Advisers Act of 1940, as amended (the "Act") and other laws ("disclosures"). The agreements and other disclosures to be provided to you electronically include:

- Axos Invest Investment Advisory Agreement and all amendments, notices and other agreements which supplement the Axos Invest Investment Advisory Agreement;
- Any other Axos Invest agreements pertaining to future accounts that you may establish and all amendments, notices and other agreements which supplement those agreements;
- Axos Invest's Form ADV Part 2, Notice of Privacy Policy, Terms of Use and other required and permitted legal disclosures;
- Margin Agreement and Margin Disclosure Statement; and
- Account statements, fee calculation statements and/or performance reports. By opening an Account, and then accessing your Account, you are accepting this Statement and you are agreeing to receive electronically the agreements and other information pertaining to your Account, including the disclosures. Information regarding your Account, including the disclosures, will be available on the Axos Invest website, [www.axosinvest.com](http://www.axosinvest.com) (the "Site") through your Axos Invest online Dashboard as an Axos Invest Client. After that, the information will be available upon request by contacting us at [support@axosinvest.com](mailto:support@axosinvest.com). You are responsible for maintaining a valid email address and software and hardware to receive, read and send email. You must provide us with your current email address and promptly notify us of any changes to your email address in your online Axos Invest Dashboard on the Site. To receive electronically the agreements and other information pertaining to your Account, including the disclosures, you will need a compatible operating system and web browser, and you will need access to a printer or the ability to



download information in order to keep copies for your records. By establishing and then accessing an Account, you are indicating that you have the capability to access the agreements and other information, including the disclosures, and download or print copies for your records.

For client support or technical assistance regarding your Account, including the disclosures, you may send an email to [support@axosinvest.com](mailto:support@axosinvest.com). This consent will apply on an ongoing basis while you remain an Axos Invest client.

By opening an Account, and then accessing your Account, you are indicating that you have reviewed our privacy and security policies on the Site. You are also acknowledging that your initial use of an Account will constitute your agreement to be bound by the terms and conditions of the agreements contained herein and other information listed in the first and second bulleted paragraphs above, including the disclosures.

You acknowledge that you have read, understand, and agree to be bound by the terms above. If you do not agree to be bound by the terms above but would like to establish an Account, DO NOT continue with the online process. Instead, please email us at [support@axosinvest.com](mailto:support@axosinvest.com). Axos Invest reserves the right to refuse to establish a Client Account that is not subject to this Statement. **You agree that the agreement and disclosures required to be provided at the time of application and any supplemental agreements or subsequent notices will be provided electronically, and you confirm that you will download or otherwise maintain all electronically-provided documents for your records.** You acknowledge that you can access the disclosures, agreements and information that are provided electronically on the Site and via email. Should you use our mobile application, you acknowledge you are able to access the full functionality of our mobile application, including any disclosures we may provide.

## Axos Invest LLC Disclosures

This section discloses various you, the customer (“you” or “your) and Axos Invest LLC (“Axos Invest”) the introducing broker.

### Business Continuity Plan Disclosure

Axos Invest LLC (“Axos Invest”) has developed a Business Continuity Plan to address how we will respond to events that may significantly disrupt our business. Since the timing and impact of disasters and disruptions is inherently unpredictable, our response needs to be flexible to address actual events as they occur. Below please find more information about the Axos Invest Business Continuity Plan (“BCP”).

**Contacting Us.** If after a significant business disruption, you cannot contact us as you usually do by email at support@axosinvest.com or by telephone at (888) 585-4965, you should contact, Apex Clearing Corporation (“Clearing Firm”), at (888) 268-6220.

**Our Business Continuity Plan.** Axos Invest’s policy is to respond to a Significant Business Disruption (“SBD”) by safeguarding employees’ lives and firm property, making a financial and operational assessment, quickly recovering and resuming operations, protecting all of the firm’s books and records, and allowing our customers to transact business. In the event that we determine we are unable to continue our business, we will assure customers prompt access to their funds and securities.

Our Business Continuity Plan addresses: data backup and recovery; all mission critical systems; financial and operational assessments; alternative communications with clients, employees, and regulators; alternate physical location of employees; critical supplier, contractor, bank and counterparty impact; regulatory reporting; and assuring our clients prompt access to their funds and securities if we are unable to continue our business.

Our Clearing Firm represents that it backs up our records at a remote site. Our clearing firm represents that it operates a back-up operating facility in a geographically separate area with the capability to conduct the same volume of business as its primary site. Our Clearing Firm has also confirmed the effectiveness of its back-up arrangements to recover from a wide scale disruption by testing and it has confirmed that it tests its back-up arrangements regularly.

Recovery-time objectives provide concrete goals to plan for and test against. They are not, however, hard and fast deadlines that must be met in every emergency situation, and various external factors surrounding a disruption, such as time of day, scope of disruption and status of critical infrastructure—particularly telecommunications—can affect actual recovery times. Recovery refers to the restoration of clearing and settlement activities after a wide-scale disruption; resumption refers to the capacity to accept and process new transactions and payments after a wide-scale disruption. Our clearing firm has reasonable SBD recovery times and resumption objectives: recovery time is typically within one day.



Important Disclaimers - Axos Invest will adhere to the procedures set forth in its Business Continuity Plan and described in this disclosure to the extent commercially reasonable and practicable under prevailing circumstances. However, there are innumerable potential causes of a business disruption. In addition, disruptions (and the events that caused them) may vary significantly in nature, size, scope, severity, duration and geographic location and will result in distinct degrees of harm to human life; firm assets; the national banking system, securities exchanges, clearing houses and depositories with which Axos Invest conducts business; and local, regional and national systems infrastructure (e.g., telecommunications, Internet connectivity, power generation and transportation) that could affect Axos Invest's recovery in vastly disparate ways. In recognition of this, Axos Invest reserves the right to flexibly respond to particular emergencies and business disruptions in a manner appropriate to the disruption that it deems prudent under the circumstances, in its sole discretion. Nothing in this document is intended to provide a guarantee or warranty regarding the actions or performance of Axos Invest, Apex Clearing Corp., its computer systems, or its personnel in the event of a significant disruption.

Axos Invest may modify its Business Continuity Plan and this disclosure at any time. Should you wish to receive a copy of an updated disclosure by mail or by email, please contact Axos Invest at [support@axosinvest.com](mailto:support@axosinvest.com).

### Privacy Policy

The Privacy Policy may change from time to time. We will post any updates to the Privacy Policy on the Axos Invest website at <https://axosinvest.com/legal-privacy>. The Privacy Policy is the policy of both Axos Invest, Inc. and Axos Invest.

If you have questions or comments about the Privacy Policy, please email us at [privacy@axosinvest.com](mailto:privacy@axosinvest.com).

### SIPC and FINRA Disclosures

1. SIPC Disclosure. Please note that you can obtain information about SIPC, including the SIPC brochure, by visiting the website [www.sipc.org](http://www.sipc.org) or by calling (202) 371-8300.
2. Investor Education and Protection Notice FINRA Rule 2267. We are required by FINRA Rule 2267 to provide you with resources about the availability of information through FINRA's BrokerCheck Program. Also, please be advised that FINRA offers an investor brochure describing the FINRA BrokerCheck.
3. FINRA BrokerCheck Hotline Telephone Number: (800) 289-9999. This number may be reached Monday – Friday from 8:00 am – 8:00 pm Eastern Time (ET).
4. FINRA BrokerCheck: P.O. Box 9495, Gaithersburg, Maryland 20898-9495 Fax: (240) 386-4750
5. FINRA Web Site: FINRA BrokerCheck is available at [www.finra.org](http://www.finra.org).

6. The “FINRA’s BrokerCheck Brochure” investor brochure is available by calling the FINRA BrokerCheck Hotline Telephone number or through the FINRA website at [www.finra.org](http://www.finra.org).

### Important Information for Seniors

If you are over the age of 65, Axos Invest, in accordance with FINRA Rule 2165, requests that you provide the name and contact information of a trusted contact person. The trusted contact person is intended to be a resource for Axos Invest in administering your account, protecting your assets and responding to possible financial exploitation of you.

If you do provide the name of a trusted contact person, Axos Invest or an associated person is authorized to contact the trusted contact person and disclose information about your account to address possible financial exploitation, to confirm the specifics of your current contact information, your health status, or the identity of any legal guardian, executor, trustee or holder of a power of attorney, or as otherwise permitted Rule 2165.

You are under no obligation to provide us with the name and contact information of a trusted contact person, and we will still keep your account open and provide you with all of the excellent Axos Invest service if you do not do so. To provide us with the name of a trusted contact person, please email us at [support@axosinvest.com](mailto:support@axosinvest.com), or call us at (646) 593-8359.

### Other Disclosures

1. **Security.** Axos Invest, Inc. and Axos Invest takes reasonable steps to protect your Personal Data from loss, misuse, and unauthorized access, alteration, disclosure, or destruction. No Internet, email, or electronic operating system that enables the transmission of data is ever fully secure or error free so, please take special care in deciding what information you send to us in this manner.
2. **Advertising.** We do not allow third party advertising on our website or our mobile application.
3. **Referral Program.** Axos Invest, Inc. manages a referral program allows our clients to invite their friends to use Axos Invest services. Participation in our referral program is free and voluntary for our clients. By participating, you may provide us with certain information about the person to whom you refer our service, such as name and e-mail address. We treat this information like all our other Personal Data.
4. **Social Media and Links to Other Web Sites and Apps: “Third Parties.”** This Privacy Policy and these terms apply only to Axos Invest, Inc. and Axos Invest operated services. The Axos Invest website and/or mobile application may contain links that access other web sites and apps that are not operated or controlled by Axos Invest. The policies described herein do not apply to Third Party websites or applications.

5. **Identity Verification.** To help the government fight money laundering activities and the funding of terrorism, federal law requires financial institutions to obtain, verify and record information that identifies each person who opens an account. In order for Axos Invest to verify your identity, we may ask for your:
- a. Name
  - b. Date of Birth
  - c. Address
  - d. Taxpayer identification number (Social Security number or employer identification number)
  - e. You may also need to provide your driver's license or other identifying documents. A corporation, partnership, trust or other legal entity may need to provide other information, such as its principal place of business, local office, employer identification number, certified articles of incorporation, government-issued business license, a partnership agreement or a trust agreement.

U.S. Department of the Treasury, Securities and Exchange Commission and FINRA rules already require you to provide most of this identifying information. These rules also may require you to provide additional information, such as your net worth, annual income, occupation, employment information, investment experience and objectives and risk tolerance.

If your identity can't be verified, Axos Invest may not be able to open an account or carry out transactions for you. If we have already opened an account for you, we may have to close it.

6. **Notice Regarding Phishing Scams.** Due to the increasing risk of identity theft, we are providing you with this notice regarding phishing scams. Phishing is a fraudulent activity in which one attempts to obtain sensitive information by masquerading as a trustworthy institution. These attempts are typically carried out by an email containing a link to what appears to be an authentic website. These counterfeit sites prompt you to enter your personal information, which the thieves can then use to access your accounts. Note that Axos Invest will NEVER send an email requesting sensitive information such as your password. If you receive a suspicious email request purporting to be Axos Invest, DO NOT RESPOND and notify us immediately by emailing [support@axosinvest.com](mailto:support@axosinvest.com).
7. **Hypothecation and Securities Lending.** In accordance with Apex Clearing Customer Margin and Short Account Agreement, securities held within your account may be hypothecated, pledged, or otherwise lent. Axos Invest may earn interest on such securities lending, and such interest may or may not be shared with you.

- 8. Payment for Order Flow.** Axos Invest directs all trades in your account to our brokerage partner, Apex Clearing, for execution and clearing. Axos Invest may receive payment for directing orders to certain exchanges. Axos Invest periodically reviews trade routing decisions to ensure your orders meet best execution standards. When we effect trades for your Account, we may aggregate these trades with trades for other clients when, in our judgment, aggregation is in the best interest of all clients involved. Orders are aggregated to facilitate seeking best execution, to negotiate more favorable commission rates, or to allocate equitably among clients the effects of any market fluctuations that might have otherwise occurred had these orders been placed independently. The transactions are averaged as to price and allocated as to amount according to the daily purchase and sale orders actually placed for each client account.

## Apex Clearing Customer Account Agreement

This Customer Account Agreement (the “Agreement”) sets forth the respective rights and obligations of Apex Clearing Corporation (“you” or “your”, the “Clearing Firm” or “Apex”) and the Customer’s (as defined below) brokerage firm (“my Broker” or the “Introducing Broker”), and the customer(s) identified on the New Account Application (the “Customer”) in connection with the Customer’s brokerage account with the Introducing Broker (“the Account”). The Customer hereby agrees as follows with respect to the Account, which the Customer has established with the Introducing Broker for the purchase, sale or carrying of securities or contracts relating thereto and/or the borrowing of funds, which transactions are cleared through you. To help the government fight the funding of terrorism and money laundering, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. In order to open an account, the Customer will provide information that will allow you to identify the Customer including, but not limited to, the Customer’s name, address, date of birth, and the Customer’s driver’s license or other identifying documents.

- 1. Applicable Rules and Regulations.** All transactions for the Account shall be subject to the constitution, rules, regulations, customs and usages of the exchange or market and its clearing house, if any, upon which such transactions are executed, except as otherwise specifically provided in this Agreement.
- 2. Definitions.** "Obligations" means all indebtedness, debit balances, liabilities or other obligations of any kind of the Customer to you, whether now existing or hereafter arising. "Securities and other property" shall include, but shall not be limited to, money, securities, commodities or other property of every kind and nature and all contracts and options relating thereto, whether for present or future delivery.

Investment Objective Definitions. “Capital Preservation” - a conservative investment strategy characterized by a desire to avoid risk of loss; “Income” - strategy focused on current income rather than capital appreciation; “Growth” - investing in stocks with strong earnings and/or revenue growth or potential; “Speculation” - taking larger risks, usually by frequent trading, with hope of higher than-average gain. All strategies involve various types and levels of risk, the most common of which are market, credit, inflation, business and interest rate.

- 3. Breach; Security Interest.** Whenever in your discretion you consider it necessary for your protection, or for the protection of the Customer’s Introducing Broker or in the event of, but not limited to; (i) any breach by the Customer of this or any other agreement with you or (ii) the Customer's failure to pay for securities and other property purchased or to deliver securities and other property sold, you may sell any or all securities and other property held in any of the Customer's accounts (either individually or jointly with others), cancel or complete any open orders for the purchase or sale of any securities and other property, and/or borrow or buy-in any securities and other property required to make delivery against any sale, including a short sale, effected for the Customer, all without notice or demand for deposit of collateral, other notice of

sale or purchase, or other notice or advertisement, each of which is expressly waived by the Customer, and/or you may require the Customer to deposit cash or adequate collateral to the Customer's account prior to any settlement date in order to assure the performance or payment of any open contractual commitments and/or unsettled transactions. You have the right to refuse to execute securities transactions for the Customer at any time and for any reason. Any and all securities and other property belonging to the Customer or in which the Customer may have an interest held by you or carried in any of the Customer's accounts with you (either individually or jointly with others) shall be subject to a first and prior security interest and lien for the discharge of the Customer's obligations to you, wherever or however arising and without regard to whether or not you have made advances with respect to such securities and other property, and you are hereby authorized to sell and/or purchase any and all securities and other property in any of the Customer's accounts, and/or to transfer any such securities and other property among any of the Customer's accounts to the fullest extent of the law and without notice where allowed. The losses, costs and expenses, including but not limited to reasonable attorneys' fees and expenses, incurred and payable or paid by you in the (i) collection of a debit balance and/or any unpaid deficiency in the accounts of the Customer with you or (ii) defense of any matter arising out of the Customer's securities transactions, shall be payable to you by the Customer. The Customer understands that because of circumstances beyond broker-dealers control, its customers' voting rights may be impaired. For example, if the stock of a company that another customer has purchased has not yet been received from the seller(s), then other customers' abilities to vote that company's stock could be impaired until those shares are received. In addition, if the stock of a company that the Customer has purchased has not yet been received from the seller(s), then payments received by the Customer from the Introducing Broker, in lieu of the dividends on that stock not yet received, may receive tax treatment less favorable than that accorded to dividends.

- 4. Cancellation.** You are authorized, in your discretion, should you for any reason whatsoever deem it necessary for your protection, without notice, to cancel any outstanding order, to close out the accounts of the Customer, in whole or in part, or to close out any commitment made on behalf of the Customer.
- 5. Payment of Indebtedness Upon Demand.** The Customer shall at all times be liable for the payment upon demand of any obligations owing from the Customer to you, and the Customer shall be liable to you for any deficiency remaining in any such accounts in the event of the liquidation thereof (as contemplated in Paragraph 3 of this Agreement or otherwise), in whole or in part, by you or by the Customer; and the Customer shall make payment of such obligations upon demand.
- 6. Accounts Carried as Clearing Broker.** The Customer understands that you are carrying the accounts of the Customer as clearing broker by arrangement with the Customer's Introducing Broker through whose courtesy the account of the Customer has been introduced to you. Until receipt from the Customer of written notice to the contrary, you may accept from and rely upon

the Customer's Introducing Broker for (a) orders for the purchase or sale in said account of securities and other property, and (b) any other instructions concerning the Customer's accounts. The Customer represents that the Customer understands that you act only to clear trades introduced by the Customer's Introducing Broker and to effect other back office functions for the Customer's introducing broker. The Customer confirms to you that the Customer is relying for any advice concerning the Customer's accounts solely on the Customer's Introducing Broker. The Customer understands that all representatives, employees and other agents with whom the Customer communicates concerning the Customer's account are agents of the Introducing Broker, and not your representatives, employees or other agents and the Customer will in no way hold you liable for any trading losses that the Customer may incur. The Customer understands that you are not a principal of or partner with, and do not control in any way, the Introducing Broker or its representatives, employees or other agents. The Customer understands that you will not review the Customer's accounts and will have no responsibility for trades made in the Customer's accounts. You shall not be responsible or liable for any acts or omissions of the Introducing Broker or its representatives, employees or other agents. Notwithstanding the foregoing, in the event that the Customer initiates a claim against you in your capacity as clearing broker and does not prevail, the Customer shall be responsible for the costs and expenses associated with your defense of such claim. The Customer understands you shall be entitled to exercise and enforce directly against the Customer all rights granted to the Introducing Broker.

- a. **Accounts Carried as Custodian.** In some cases the Customer's account is being carried by arrangement with the Customer's Investment Advisor or Investment Manager, who uses you as their Broker-Dealer custodian. The Customer acknowledges that your role as custodian is to hold or custody account assets, distribute or collect funds on behalf of the Customer's account, execute and clear trades under instruction of the Customer's Investment Advisor or Investment Manager, generate account statements and provide other custodial services as may be mandated by various regulatory standards and requirements. The Customer understands that in the capacity as custodian, you will not offer investment advice, review the Customer's accounts, and will have no responsibility for trades made in the Customer's accounts. Additionally, in your capacity as custodian, you will not verify the accuracy of management fees that the Customer pays to Investment Advisors or Investment Managers pursuant to the terms of the Investment Management Agreement executed between the Customer and the Investment Advisor or Investment Manager. Notwithstanding the foregoing, in the event that the Customer initiates a claim against you in your capacity as custodial broker and does not prevail, the Customer shall be responsible for the costs and expenses associated with your defense of such claim.

- 7. Communications.** You may send communications to the Customer at the Customer's address on the New Account Application or at such other address as the Customer may hereafter give you in writing, and all communications so sent, whether by mail, telegraph, or otherwise, shall be



deemed given to the Customer personally, whether actually received or not. Reports of execution of orders and statements of accounts of the Customer shall be conclusive if not objected to in writing to you, the former within five (5) days and the latter within ten (10) days, after forwarding by you by mail or otherwise. In consideration of your sending any mail to me in care of a Post Office Box Address or a third party, I hereby agree that "all correspondence of any nature whatsoever" sent to me in such address will have the same force and effect as if it had been delivered to me personally.

**8. ARBITRATION AGREEMENT.** THIS AGREEMENT CONTAINS A PREDISPUTE ARBITRATION CLAUSE. BY SIGNING AN ARBITRATION AGREEMENT THE PARTIES AGREE AS FOLLOWS:

- a. ALL PARTIES TO THIS AGREEMENT ARE GIVING UP THE RIGHT TO SUE EACH OTHER IN COURT, INCLUDING THE RIGHT TO A TRIAL BY JURY EXCEPT AS PROVIDED BY THE RULES OF THE ARBITRATION FORM IN WHICH A CLAIM IS FILED;
- b. ARBITRATION AWARDS ARE GENERALLY FINAL AND BINDING; A PARTY'S ABILITY TO HAVE A COURT REVERSE OR MODIFY AN ARBITRATION AWARD IS VERY LIMITED.
- c. THE ABILITY OF THE PARTIES TO OBTAIN DOCUMENTS, WITNESS STATEMENTS AND OTHER DISCOVERY IS GENERALLY MORE LIMITED IN ARBITRATION THAN IN COURT PROCEEDINGS;
- d. THE ARBITRATORS DO NOT HAVE TO EXPLAIN THE REASON(S) FOR THEIR AWARD UNLESS, IN AN ELIGIBLE CASE, A JOINT REQUEST FOR AN EXPLAINED DECISION HAS BEEN SUBMITTED BY ALL PARTIES TO THE PANEL AT LEAST 20 DAYS PRIOR TO THE FIRST SCHEDULED HEARING DATE.
- e. THE PANEL OF ARBITRATORS WILL TYPICALLY INCLUDE A MINORITY OF ARBITRATORS WHO WERE OR ARE AFFILIATED WITH THE SECURITIES INDUSTRY.
- f. THE RULES OF SOME ARBITRATION FORUMS MAY IMPOSE TIME LIMITS FOR BRINGING A CLAIM IN ARBITRATION. IN SOME CASES, A CLAIM THAT IS INELIGIBLE FOR ARBITRATION MAY BE BROUGHT IN COURT.
- g. THE RULES OF THE ARBITRATION FORUM IN WHICH THE CLAIM IS FILED, AND ANY AMENDMENTS THERETO, SHALL BE INCORPORATED INTO THIS AGREEMENT.

THE FOLLOWING ARBITRATION AGREEMENT SHOULD BE READ IN CONJUNCTION WITH THE DISCLOSURES ABOVE. ANY AND ALL CONTROVERSIES, DISPUTES OR CLAIMS BETWEEN THE CUSTOMER AND YOU, OR THE INTRODUCING BROKER, OR THE AGENTS, REPRESENTATIVES, EMPLOYEES, DIRECTORS, OFFICERS OR CONTROL PERSONS OF YOU OR THE INTRODUCING BROKER, ARISING OUT OF, IN CONNECTION WITH, FROM OR WITH RESPECT TO (a) ANY PROVISIONS OF OR THE VALIDITY OF THIS AGREEMENT OR ANY RELATED AGREEMENTS, (b) THE RELATIONSHIP OF THE PARTIES HERETO, OR (c) ANY CONTROVERSY ARISING OUT OF YOUR

BUSINESS, THE INTRODUCING BROKER'S BUSINESS OR THE CUSTOMER'S ACCOUNTS, SHALL BE CONDUCTED PURSUANT TO THE CODE OF ARBITRATION PROCEDURE OF THE FINANCIAL INDUSTRY REGULATORY AUTHORITY ("FINRA"). ARBITRATION MUST BE COMMENCED BY SERVICE OF A WRITTEN DEMAND FOR ARBITRATION OR A WRITTEN NOTICE OF INTENTION TO ARBITRATE. THE DECISION AND AWARD OF THE ARBITRATOR(S) SHALL BE CONCLUSIVE AND BINDING UPON ALL PARTIES, AND ANY JUDGMENT UPON ANY AWARD RENDERED MAY BE ENTERED IN A COURT HAVING JURISDICTION THEREOF, AND NEITHER PARTY SHALL OPPOSE SUCH ENTRY.

No person shall bring a putative or certified class action to arbitration, nor seek to enforce any pre-dispute arbitration agreement against any person who has initiated in court a putative class action; or who is a member of a putative class who has not opted out of the class with respect to any claims encompassed by the putative class action until: (i) the class certification is denied; or (ii) the class is de-certified; or (iii) the customer is excluded from the class by the court. Such forbearance to enforce an agreement to arbitrate shall not constitute a waiver of any rights under this agreement except to the extent stated herein.

- 9. Representations.** The Customer represents that the Customer is of majority age, that the Customer is not an employee of any exchange, or of any corporation of which any exchange owns a majority of the capital stock, or of a member of any exchange, or of a member firm or member corporation registered on any exchange or of a bank, trust company, insurance company or of any corporation, firm or individual engaged in the business dealing either as broker or as principal in securities, bills of exchange, acceptances or other forms of commercial paper. If the Customer is a corporation, partnership, trust or other entity, the Customer represents that its governing instruments permit this Agreement, that this Agreement has been authorized by all applicable persons and that the signatory on the New Account Application is authorized to bind the Customer. The Customer represents that the Customer shall comply with all applicable laws, rules and regulations in connection with the Customer's account. The Customer further represents that no one except the Customer has an interest in the account or accounts of the Customer with you.
- 10. Joint Accounts.** If the New Account Application indicates that the Account shall consist of more than one person, the Customer's obligations under this Agreement shall be joint and several. References to the "Customer" shall include each of the customers identified on the New Account Application. You may rely on transfer or other instructions from any one of the Customers in a joint account, and such instructions shall be binding on each of the Customers. You may deliver securities or other property to, and send confirmations; notices, statements and communications of every kind, to any one of the Customers, and such action shall be binding on each of the Customers. Notwithstanding the foregoing, you are authorized in your discretion to require joint action by the joint tenants with respect to any matter concerning the joint account, including but not limited to the giving or cancellation of orders and the withdrawal of money or securities. In the case of Tenants by the Entirety accounts, joint action will be required for all matters

concerning the joint account. Tenants by Entirety is not recognized in certain jurisdictions, and, where not expressly allowed, will not be a permitted designation of the account.

- 11. Other Agreements.** If the Customer trades any options, the Customer agrees to be bound by the terms of your Customer Option Agreement. The Customer understands that copies of these agreements are available from you and, to the extent applicable, are incorporated by reference herein. The terms of these other agreements are in addition to the provisions of this Agreement and any other written agreements between you and the Customer.
- 12. Data Not Guaranteed.** The Customer expressly agrees that any data or online reports is provided to the Customer without warranties of any kind, express or implied, including but not limited to, the implied warranties of merchantability, fitness of a particular purpose or non-infringement. The Customer acknowledges that the information contained in any reports provided by you is obtained from sources believed to be reliable but is not guaranteed as to its accuracy of completeness. Such information could include technical or other inaccuracies, errors or omissions. In no event shall you or any of your affiliates be liable to the Customer or any third party for the accuracy, timeliness, or completeness of any information made available to the Customer or for any decision made or taken by the Customer in reliance upon such information. In no event shall you or your affiliated entities be liable for any special incidental, indirect or consequential damages whatsoever, including, without limitation, those resulting from loss of use, data or profits, whether or not advised of the possibility of damages, and on any theory of liability, arising out of or in connection with the use of any reports provided by you or with the delay or inability to use such reports.
- 13. Payment for Order Flow Disclosure.** Depending on the security traded and absent specific direction from the Customer, equity and option orders are routed to market centers (i.e., broker-dealers, primary exchanges or electronic communication networks) for execution. Routing decisions are based on a number of factors including the size of the order, the opportunity for price improvement and the quality of order executions, and decisions are regularly reviewed to ensure the duty of best execution is met. You or the Introducing Broker may receive compensation or other consideration for the placing of orders with market centers for execution. The amount of the compensation depends on the agreement reached with each venue. The source and nature of compensation relating to the Customer's transactions will be furnished upon written request.
- 14. Credit Check.** You are authorized, in your discretion, should you for any reason deem it necessary for your protection to request and obtain a consumer credit report for the Customer.
- 15. Miscellaneous.** If any provision of this Agreement is held to be invalid or unenforceable, it shall not affect any other provision of this Agreement. The headings of each section of this Agreement are descriptive only and do not modify or qualify any provision of this Agreement. This Agreement and its enforcement shall be governed by the laws of the state of Texas and shall cover individually and collectively all accounts which the Customer has previously opened, now has open or may

open or reopen with you, or any introducing broker, and any and all previous, current and future transactions in such accounts. Except as provided in this Agreement, no provision of this Agreement may be altered, modified or amended unless in writing signed by your authorized representative. This Agreement and all provisions shall inure to the benefit of you and your successors, whether by merger, consolidation or otherwise, your assigns, the Introducing Broker, and all other persons specified in Paragraph 8. You shall not be liable for losses caused directly or indirectly by any events beyond your reasonable control, including without limitation, government restrictions, exchange or market rulings, suspension of trading or unusually heavy trading in securities, a general change in economic, political or financial conditions, war or strikes. You may transfer the accounts of the Customer to your successors and assigns. This Agreement shall be binding upon the Customer and the heirs, executors, administrators, successors and assigns of the Customer. Failure to insist on strict compliance with this Agreement is not considered a waiver of your rights under this Agreement. At your discretion, you may terminate this Agreement at anytime on notice to the Customer, the Customer will continue to be responsible for any obligation incurred by the Customer prior to termination. The Customer may not assign the Customer's rights or delegate the Customer's obligations under this Agreement, in whole or in part, without your prior consent.

**16. Account Protection.** As a member of the Securities Investor Protection Corporation (SIPC), funds are available to meet customer claims up to a ceiling of \$500,000, including a maximum of \$250,000 for cash claims. For additional information regarding SIPC coverage, including a brochure, please contact SIPC at (202) 371-8300 or visit [www.sipc.org](http://www.sipc.org). Apex has purchased an additional insurance policy through a group of London Underwriters (with Lloyd's of London Syndicates as the Lead Underwriter) to supplement SIPC protection. This additional insurance policy becomes available to customers in the event that SIPC limits are exhausted and provides protection for securities and cash up to an aggregate of \$600 million. This is provided to pay amounts in addition to those returned in SIPC liquidation. This additional insurance policy is limited to a combined return to any customer from a Trustee, SIPC and London Underwriters of \$150 million, including cash of up to \$2.15 million. Similar to SIPC protection, this additional insurance does not protect against a loss in the market value of securities.

**17. Sweep Program.** If the Customer elects to participate in one of your FDIC or money market sweep programs, the Customer acknowledges and agrees that:

- a. The Customer has read and understands the sweep program terms and conditions and/or prospectuses available at <https://www.apexclearing.com/wp-content/uploads/2015/07/Apex-FDIC-Sweep-Program-Terms-and-Conditions.pdf> and is aware of the products available in such sweep programs;
- b. You may make changes to your FDIC and/or money market sweep programs and products at any time, in your sole discretion and with or without notice to Customer;

- c. The free credit balances in the Customer's Account may begin being included in the sweep program upon Account opening; and
- d. You have no obligation to monitor the applicable sweep program elected for the Customer's Account or to make recommendations about, or changes to, the sweep program that might be beneficial to the Customer.

**18. Trusted Contact.** Under FINRA Rule 4512 Apex Clearing Corporation is required to disclose to you (the customer) that Apex Clearing Corporation, an associated person of Apex Clearing Corporation, the Introducing Broker, or an associated person of the Introducing Broker is authorized to contact the trusted contact person and disclose information about the customer's account to address possible financial exploitation, to confirm the specifics of the customer's current contact information, health status, or the identity of any legal guardian, executor, trustee or holder of a power of attorney, or as otherwise permitted by FINRA Rule 2165.

**19. ACH Agreement.** If I request Automated Clearinghouse ("ACH") transactions from my Account at Clearing Firm, I authorize Clearing Firm to originate or facilitate transfer credits/debits to/from my eligible bank account. Transactions sent through the NACHA network will be subject to all applicable rules of NACHA and all rules set forth in Federal Reserve Operating circulars or other applicable laws and regulations. ACH deposits to my brokerage account are provisional. If the beneficiary bank does not receive final and complete payment for a payment order transferred through ACH, the beneficiary bank is entitled to recover from the beneficiary any provisional credit and Clearing Firm may charge my account for the transaction amount. I understand Clearing Firm or my Broker may not notify me of any returned or rejected ACH transfers. I agree to hold Clearing Firm and Clearing Firm's agents free of liability for compliance with these instructions. I hereby agree to hold harmless Clearing Firm and each of its affiliates, offices, directors, employees, and agents against, any claims, judgments, expenses, liabilities or costs of defense or settlement relating to: (a) any refusal or failure to initiate or honor any credit or debit request, by Clearing Firm or my Broker, whether (i) due to a lack of funds necessary to credit my account; (ii) due to inadvertence, error caused by similarity of account holder names or (iii) otherwise provided Clearing Firm has not acted in bad faith; (b) if the routing number is incorrect or the routing number or other information changes at another U.S. financial institution or (c) any loss, damage, liability or claim arising, directly or indirectly, from any error, delay or failure which is caused by circumstances beyond Clearing Firm's direct control. To the extent permitted by applicable law or regulation, Clearing Firm hereby disclaims all warranties, express or implied, and in no event shall Clearing Firm be liable for any special indirect, incidental, or consequential damages whatsoever resulting from the ACH electronic service or any ACH transactions. Nothing in this herein shall constitute a commitment or undertaking by Clearing Firm or my Broker to affect any ACH transaction or otherwise act upon my instructions or those of my Broker with respect to any account at Clearing Firm. This authorization shall remain in full force and effect until I revoke authorization by written notification to my Broker that is forwarded to Clearing Firm. I understand



that Clearing Firm has the right to terminate or suspend the ACH agreement at any time and without notice.

## Apex Clearing Customer Margin and Short Account Agreement

This Customer Margin and Short Account Agreement (the “Agreement”) sets forth the respective rights and obligations of Apex, the Introducing Broker and the Customer (all as defined below) in connection with the Customer’s margin account opened with the Introducing Broker for the purchase and sale of securities and/or the borrowing of funds. The Customer understands that Apex has been designated as the clearing firm on the account and the Customer hereby acknowledges and agrees that the margin extended to the Customer hereunder is provided by Apex.

- 1. Applicable Rules and Regulations.** All transactions shall be subject to the constitution, rules, regulations, customs and usages of the exchange or market and its clearing house, if any, upon which such transactions are executed, except as otherwise specifically provided in this Agreement.
- 2. Definitions.** “Introducing Broker” means any brokerage firm, which introduces securities transactions on behalf of the Customer, which transactions are cleared through you, whether one or more. “Obligations” means all indebtedness, debit balances, liabilities or other obligations of any kind of the Customer to you, whether now existing or hereafter arising. “Securities and other property” shall include, but shall not be limited to, money, securities, commodities or other property of every kind and nature and all contracts and options relating thereto, whether for present or future delivery. “You”, “your” or “Apex” refers to Apex Clearing Corporation. “Customer” refers to the party or parties signing this agreement.
- 3. Breach; Security Interest.** Whenever in your discretion you consider it necessary for your protection, or for the protection of the Customer’s Introducing Broker or in the event of, but not limited to; any breach by the Customer of this or any other agreement with you or (ii) the Customer's failure to pay for securities and other property purchased or to deliver securities and other property sold, you may sell any or all securities and other property held in any of the Customer's accounts (either individually or jointly with others), cancel or complete any open orders for the purchase or sale of any securities and other property, and/or borrow or buy in any securities and other property required to make delivery against any sale, including a short sale, effected for the Customer, all without notice or demand for deposit of collateral, other notice of sale or purchase, or other notice or advertisement, each of which is expressly waived by the Customer, and/or you may require the Customer to deposit cash or adequate collateral to the Customer's account prior to any settlement date in order to assure the performance or payment of any open contractual commitments and/or unsettled transactions. You have the right to refuse to execute securities transactions for the Customer at any time and for any reason. Any and all securities and other property now or hereafter held, carried or maintained by you in or for any of the accounts of the Customer (either individually or jointly with others), now or hereafter opened, including any accounts in which the Customer may have an interest, shall be subject to a first and prior lien and security interest for the discharge of all of the obligations of the Customer to you,



whenever or however arising and without regard to whether or not you have made advances with respect to such securities and other property, and you are hereby authorized to sell and/or purchase any and all securities and other property in any of the Customer's accounts, and/or to transfer any such securities and other property among any of the Customer's accounts, to the fullest extent allowed by law and without notice where allowed. You shall have the right to transfer securities and other property so held by you from or to any other of the accounts of the Customer whenever you so determine.

- 4. Liquidation.** In the event of the death of the Customer, or in the event the margin in any account in which the Customer has an interest shall in either your or the Introducing Broker's discretion become unsatisfactory to either you or the introducing broker, or be deemed insufficient by either you or the introducing broker, you are hereby authorized; (a) to sell any or all securities or other property which you may hold for the Customer (either individually or jointly with others); (b) to buy any or all securities and other property which may be short in such accounts; and/or (c) to cancel any open orders and to close any or all outstanding contracts; all without demand for margin or additional margin, notice of sale or purchase, or other notice or advertisement, and that any prior demand or notice shall not be a waiver of your rights provided herein. You may likewise accept and rely upon instructions which you receive from the introducing broker to affect any of the aforementioned transactions (as noted in (a), (b), and (c)). You shall have the discretion to determine which securities and other property are to be sold and which contracts are to be closed. Any such sales or purchases may be made at your discretion on any exchange, the over-the-counter market or any other market where such business is usually transacted, or at public auction or private sale, and you may be the purchaser for your own account.
- 5. Cancellation.** You are authorized, in your discretion, should you for any reason whatsoever deem it necessary for your protection, without notice, to cancel any outstanding order, to close out the accounts of the Customer, in whole or in part, or to close out any commitment made on behalf of the Customer.
- 6. Payment of Indebtedness Upon Demand.** The Customer shall at all times be liable for the payment upon demand of any obligations owing from the Customer to you, and the Customer shall be liable to you for any deficiency remaining in any such accounts in the event of the liquidation thereof (as contemplated in Paragraph 4 of this Agreement or otherwise), in whole or in part, by you or by the Customer; and the Customer shall make payment of such obligations upon demand.
- 7. Liability for Costs of Collection.** The losses, costs and expenses, including but not limited to reasonable attorneys' fees and expenses, incurred and payable or paid by you in the (i) collection of a debit balance and/or any unpaid deficiency in the accounts of the Customer with you or (ii) defense of any matter arising out of the Customer's securities transactions, shall be payable to you by the Customer.

- 8. Accounts Carried as Clearing Broker.** The Customer understands that you are carrying the accounts of the Customer as clearing broker by arrangement with the Customer's Introducing Broker through whose courtesy the account of the Customer has been introduced to you. Until receipt from the Customer of written notice to the contrary, you may accept from and rely upon the Customer's Introducing Broker (a) orders for the purchase or sale of securities and other property, and (b) any other instructions concerning the Customer's accounts. The Customer represents that the Customer understands that you act only to clear trades introduced by the Customer's Introducing Broker and to effect other back office functions for the Customer's Introducing Broker. The Customer confirms to you that the Customer is relying for any advice concerning the Customer's accounts solely on the Customer's Introducing Broker. The Customer understands that all representatives, employees and other agents with whom the Customer communicates concerning the Customer's account are agents of the Introducing Broker and not your representatives, employees or other agents. The Customer understands that you are not a principal of or partner with, and do not control in any way, the Introducing Broker or its representatives, employees or other agents. The Customer understands that you will not review the Customer's accounts and will have no responsibility for trades made in the Customer's accounts. You shall not be responsible or liable for any acts or omissions of the Introducing Broker or its representatives, employees or other agents. Notwithstanding the foregoing, in the event that the Customer initiates a claim against you in your capacity as clearing broker and does not prevail, the Customer shall be responsible for the costs and expenses associated with your defense of such claim. The Customer understands you shall be entitled to exercise and enforce directly against the Customer all rights granted to the Introducing Broker.
- 9. Communications.** You may send communications to the Customer at the Customer's address on the New Account Application or at such other address as the Customer may hereafter give you in writing, and all communications so sent, whether by mail, telegraph, messenger or otherwise, shall be deemed given to the Customer personally, whether actually received or not. Reports of execution of orders and statements of accounts of the Customer shall be conclusive if not objected to in writing to you, the former within five (5) days and the latter within ten (10) days, after forwarding by you to the Customer by mail or otherwise.
- 10. ARBITRATION AGREEMENT.** THIS AGREEMENT CONTAINS A PREDISPUTE ARBITRATION CLAUSE. BY SIGNING AN ARBITRATION AGREEMENT THE PARTIES AGREE AS FOLLOWS:
- a. ALL PARTIES TO THIS AGREEMENT ARE GIVING UP THE RIGHT TO SUE EACH OTHER IN COURT, INCLUDING THE RIGHT TO A TRIAL BY JURY, EXCEPT AS PROVIDED BY THE RULES OF THE ARBITRATION FORM IN WHICH A CLAIM IS FILED;
  - b. ARBITRATION AWARDS ARE GENERALLY FINAL AND BINDING; A PARTY'S ABILITY TO HAVE A COURT REVERSE OR MODIFY AN ARBITRATION AWARD IS VERY LIMITED.

- c. THE ABILITY OF THE PARTIES TO OBTAIN DOCUMENTS, WITNESS STATEMENTS AND OTHER DISCOVERY IS GENERALLY MORE LIMITED IN ARBITRATION THAN IN COURT PROCEEDINGS;
- d. THE ARBITRATORS DO NOT HAVE TO EXPLAIN THE REASON(S) FOR THEIR AWARD UNLESS, IN AN ELIGIBLE CASE, A JOINT REQUEST FOR AN EXPLAINED DECISION HAS BEEN SUBMITTED BY ALL PARTIES TO THE PANEL AT LEAST 20 DAYS PRIOR TO THE FIRST SCHEDULED HEARING DATE.
- e. THE PANEL OF ARBITRATORS MAY INCLUDE A MINORITY OF ARBITRATORS WHO WERE OR ARE AFFILIATED WITH THE SECURITIES INDUSTRY.
- f. THE RULES OF SOME ARBITRATION FORUMS MAY IMPOSE TIME LIMITS FOR BRINGING A CLAIM IN ARBITRATION. IN SOME CASES, A CLAIM THAT IS INELIGIBLE FOR ARBITRATION MAY BE BROUGHT IN COURT.
- g. THE RULES OF THE ARBITRATION FORUM IN WHICH THE CLAIM IS FILED, AND ANY AMENDMENTS THERETO, SHALL BE INCORPORATED INTO THIS AGREEMENT.

THE FOLLOWING ARBITRATION AGREEMENT SHOULD BE READ IN CONJUNCTION WITH THE DISCLOSURES ABOVE. ANY AND ALL CONTROVERSIES, DISPUTES OR CLAIMS BETWEEN THE CUSTOMER AND YOU, OR THE INTRODUCING BROKER, OR THE AGENTS, REPRESENTATIVES, EMPLOYEES, DIRECTORS, OFFICERS OR CONTROL PERSONS OF YOU OR THE INTRODUCING BROKER, ARISING OUT OF, IN CONNECTION WITH, FROM OR WITH RESPECT TO (a) ANY PROVISIONS OF OR THE VALIDITY OF THIS AGREEMENT OR ANY RELATED AGREEMENTS, (b) THE RELATIONSHIP OF THE PARTIES HERETO, OR (c) ANY CONTROVERSY ARISING OUT OF YOUR BUSINESS, THE INTRODUCING BROKER'S BUSINESS OR THE CUSTOMER'S ACCOUNTS, SHALL BE CONDUCTED PURSUANT TO THE CODE OF ARBITRATION PROCEDURE OF THE FINANCIAL INDUSTRY REGULATORY AUTHORITY ("FINRA"). THE DECISION AND AWARD OF THE ARBITRATOR(S) SHALL BE CONCLUSIVE AND BINDING UPON ALL PARTIES, AND ANY JUDGMENT UPON ANY AWARD RENDERED MAY BE ENTERED IN A COURT HAVING JURISDICTION THEREOF, AND NEITHER PARTY SHALL OPPOSE SUCH ENTRY.

No person shall bring a putative or certified class action to arbitration, nor seek to enforce any pre-dispute arbitration agreement against any person who has initiated in court a putative class action; or who is a member of a putative class who has not opted out of the class with respect to any claims encompassed by the putative class action until: (i) the class certification is denied; or (ii) the class is decertified; or (iii) the customer is excluded from the class by the court. Such forbearance to enforce an agreement to arbitrate shall not constitute a waiver of any rights under this agreement except to the extent stated herein.

**11. Hypothecation.** Within the limitations imposed by applicable laws, rules and regulations, all securities now or hereafter held by you, or carried by you in any account for the Customer (either individually or jointly with others), or deposited to secure same, may from time to time, without any notice, be carried in your general loans and may be pledged, repledged, hypothecated or re-hypothecated,

separately or in common with other securities for the sum due to you thereon or for a greater sum and without retaining in your possession or control for delivery a like amount of similar securities. The IRS requires Broker Dealers to treat dividend payments on loaned securities positions as payments received in lieu of dividends for 1099 tax reporting purposes. Taxation of substitute dividend payments may be greater than ordinary on qualified dividends. It is understood, however, that you agree to deliver to the Customer upon demand and upon payment of the full amount due thereon, all securities in such accounts, but without obligation to deliver the same certificates or securities deposited by the Customer originally. Any securities in the Customer's margin or short account may be borrowed by you, or lent to others.

- 12. Interest.** Debit balances in all the accounts of the Customer shall be charged with interest in accordance with your established custom, as disclosed to the Customer in the Customer Information Brochure pursuant to the provisions of Rule 10b016 of the Securities Exchange Act.
- 13. Margin.** The Customer agrees to maintain in all accounts with you such positions and margins as required by all applicable statutes, rules, regulations, procedures and custom, or as you deem necessary or advisable. The Customer agrees to promptly satisfy all margin and maintenance calls.
- 14. Sales.** The Customer agrees to specifically designate any order to sell a security, which the Customer does not own as a short sale, and understands that you will mark such order as a short sale. The Customer agrees that any order which is not specifically designated as a short sale is a sale of securities owned by the Customer, and that the Customer will deliver the securities on or before settlement date, if not already in the account. If the Customer should fail to make such delivery in the time required, you are authorized to borrow such securities as necessary to make delivery for the Customer's sale, and the Customer agrees to be responsible for any loss you may thereby sustain, or which you may sustain as a result of your inability to borrow such securities.
- 15. Representations.** The Customer represents that the Customer is of majority age, that the Customer is not an employee of any exchange, or of any corporation of which any exchange owns a majority of the capital stock, or of a member of any exchange, or of a member firm or a member corporation registered on any exchange or of a bank, trust company, insurance company or of any corporation, firm or individual engaged in the business dealing either as broker or as principal in securities, bills of exchange, acceptances or other forms of commercial paper. If the Customer is a corporation, partnership, trust or other entity, the Customer represents that its governing instruments permit this Agreement, that all applicable persons have authorized this Agreement and that the Customer's signatory is authorized to bind the Customer. The Customer represents that the Customer shall comply with all applicable laws, rules and regulations in connection with the Customer's account. The Customer further represents that no one except the Customer has an interest in the account or accounts of the Customer with you.
- 16. Joint Account.** If the Customer shall consist of more than one person, the Customer's obligations under this Agreement shall be joint and several. You may rely on transfer or other instructions from

any one of the Customers in a joint account, and such instructions shall be binding on each of the Customers. You may deliver securities or other property to, and send confirmations; notices, statements and communications of every kind, to any one of the Customers, and such action shall be binding on each of the Customers. Notwithstanding the foregoing, you are authorized in your discretion to require joint action by the joint tenants with respect to any matter concerning the joint account, including but not limited to the giving or cancellation of orders and the withdrawal of money, securities, futures or commodities. In the case of Tenants by the Entirety accounts, joint action will be required for all matters concerning the joint account. Tenants by Entirety is not recognized in certain jurisdictions, and, where not expressly allowed, will not be a permitted designation of the account.

**17. Other Agreements.** The Customer agrees to be bound by the terms of your New Account Application/Customer Account Agreement. If the Customer trades any options, the Customer agrees to be bound by the terms of your Option Agreement. The Customer understands that copies of these agreements are available from you and, to the extent applicable, are incorporated by reference herein. The terms of these other agreements are in addition to the provisions of this Agreement and any other written agreements between you and the Customer.

**18. Data Not Guaranteed.** The Customer expressly agrees that any data or online reports is provided to the Customer without warranties of any kind, express or implied, including but not limited to, the implied warranties of merchantability, fitness of a particular purpose or non-infringement. The Customer acknowledges that the information contained in any reports provided by you is obtained from sources believed to be reliable but is not guaranteed as to its accuracy or completeness. Such information could include technical or other inaccuracies, errors or omissions. In no event shall you or any of your affiliates be liable to the Customer or any third party for the accuracy, timeliness, or completeness of any information made available to the Customer or for any decision made or taken by the Customer in reliance upon such information. In no event shall you or your affiliated entities be liable for any special incidental, indirect or consequential damages whatsoever, including, without limitation, those resulting from loss of use, data or profits, whether or not advised of the possibility of damages, and on any theory of liability, arising out of or in connection with the use of any reports provided by you or with the delay or inability to use such reports.

**19. Credit Check.** You are authorized, in your discretion, should you for any reason deem it necessary for your protection to request and obtain a consumer credit report for the Customer.

**20. Miscellaneous.** If any provision of this Agreement is held to be unenforceable; it shall not affect any other provision of this Agreement. The headings of each section of this Agreement are descriptive only and do not modify or qualify any provision of this Agreement. This Agreement and its enforcement shall be governed by the laws of the state of Texas and shall cover individually and collectively all accounts which the Customer has previously opened, now has open or may reopen with you, or any introducing broker, and any and all previous, current and future transactions in such accounts. Except as provided in this Agreement, no provision of this Agreement may be altered, modified or amended unless in writing signed by your authorized representative. This Agreement and

all provisions shall inure to the benefit of your successors, whether by merger, consolidation or otherwise, your assigns, the Customer's Introducing Broker, and all other persons specified in Paragraph 10. You shall not be liable for losses caused directly or indirectly by any events beyond your reasonable control, including without limitation, government restrictions, exchange or market rulings, suspension of trading or unusually heavy trading in securities, a general change in economic, political or financial conditions, war or strikes. You may transfer the accounts of the Customer to your successors and assigns. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Customer.

**21. Account Protection.** As a member of the Securities Investor Protection Corporation (SIPC), funds are available to meet customer claims up to a ceiling of \$500,000, including a maximum of \$250,000 for cash claims. For additional information regarding SIPC coverage, including a brochure, please contact SIPC at (202) 37108300 or visit [www.sipc.org](http://www.sipc.org). Apex has purchased an additional insurance policy through a group of London Underwriters (with Lloyd's of London Syndicates as the Lead Underwriter) to supplement SIPC protection. This additional insurance policy becomes available to customers in the event that SIPC limits are exhausted and provides protection for securities and cash up to an aggregate of \$600 million. This is provided to pay amounts in addition to those returned in a SIPC liquidation. This additional insurance policy is limited to a combined return to any customer from a Trustee, SIPC and London Underwriters of \$150 million, including cash of up to \$2.15 million. Similar to SIPC protection, this additional insurance does not protect against a loss in the market value of securities.

THE CUSTOMER AGREES TO ALL TERMS OF THIS CUSTOMER MARGIN AND SHORT ACCOUNT AGREEMENT AND ACKNOWLEDGES THE FOLLOWING: (1) THAT THE CUSTOMER'S MARGIN ACCOUNT SECURITIES MAY BE BORROWED BY YOU OR LOANED TO OTHERS; (2) RECEIPT OF A COPY OF THIS AGREEMENT AND A COPY OF THE MARGIN DISCLOSURE STATEMENT; AND (3) THAT THIS AGREEMENT CONTAINS A PREADISPUTE ARBITRATION CLAUSE ON PAGE 1, PARAGRAPH 10 AND IN ACCORDANCE WITH THIS AGREEMENT THE CUSTOMER AGREES IN ADVANCE TO ARBITRATE ANY CONTROVERSIES WHICH MAY ARISE BETWEEN THE CUSTOMER, INTRODUCING BROKER AND/OR YOU.

## Apex IRA Agreement for Limited Margin & Options Capabilities

This Agreement for Limited Margin And Option Privileges (“Limited Margin Agreement”) sets forth the terms and conditions under which your broker (“Introducing Broker”) engages Apex Clearing Corporation (“Apex”) to provide limited margin services and options trading to the undersigned customer (“Customer”) in its individual retirement account at Apex. If you are a direct customer of Apex, “Introducing Broker” may also be Apex, in which instance “Introducing Broker” and “Apex” shall be read as the same entity. This Limited Margin Agreement shall be in addition to, and read in conjunction with, the new account application, the IRA Agreement, and all other agreements (individually and collectively, the “Customer Agreement”) governing Customer’s individual retirement account(s) (“IRA”) at Apex. In the event of any inconsistency between this Limited Margin Agreement and the Customer Agreement, the Limited Margin Agreement shall control.

### MARGIN

1. Customer acknowledges and agrees that no extension of credit or margin borrowing will be made available in the IRA. Customer shall not have debit balances, short sell, borrow funds, or sell naked options in their IRA. To the extent any short or debit position occurs in Customer’s IRA, Customer authorizes Apex to immediately cover such short or debit position with other assets from the IRA or from another of Customer’s IRAs at Apex, including to, where reasonably necessary in Apex’s discretion, liquidate positions in the IRA or another IRA at Apex. Customer understands that deposits used to cover debits are bound by IRS limits for annual contributions, unless rolled over or transferred from another like registered IRA.
2. Customer agrees that, in their sole discretion, Apex or Introducing Broker may require a limited minimum equity or asset value in Customer’s IRA in order for it to be granted limited margin privileges. Customer understands it is solely responsible for ensuring that sufficient assets are maintained in the IRA to cover all possible obligations, including limited minimum equity. Apex may refuse or disable limited margin or options privileges in any IRA at any time, in its sole discretion and without notice to Customer or Introducing Broker. Customer understands that available cash for purchases in the IRA may be limited due to amounts needed to satisfy minimum equity requirements at Apex’s and/or Introducing Broker’s sole discretion. Customer shall be subject to all obligations and restrictions in the Customer Agreement and nothing in this Limited Margin Agreement shall be construed as in any way reducing or restricting such obligations and restrictions.
3. It shall be Customer’s, and not Apex’s or Introducing Broker’s, responsibility to ensure transactions do not result in excess obligations in the IRA. Customer understands and agrees that if Customer fails to hold sufficient assets in the IRA to cover its obligations that it may result in a taxable distribution from the IRA and cause tax consequences to Customer. Customer holds harmless Apex and Introducing Broker from any such distributions caused by Customer’s failure



to hold sufficient assets in the IRA and agrees Apex and Introducing Broker shall not be responsible for Customer's failure to hold sufficient assets in the IRA.

4. Customer acknowledges and agrees that investing using limited margin in Customer's IRA entails extreme risk. Customer acknowledges that its decision to utilize limited margin and options privileges are solely Customer's decision and Apex has in no way solicited Customer to use limited margin in any way. Customer acknowledges and agrees Apex is in no way responsible for determining the suitability or appropriateness of limited margin or of any trades utilizing limited margin in the IRA. Customer acknowledges and agrees Apex is not a fiduciary and does not make recommendations of any securities, investments, investment or portfolio strategy, trades, or trade activity.

## OPTIONS

5. Customer has requested Apex to allow Customer to trade options in the IRA. Apex may allow such transactions in Apex's sole discretion. "Options", as used herein, shall mean all types of options and option contracts, including puts, calls, equity, debt, index or otherwise. Customer shall not act alone or in concert with others exceed the position/exercise limits set forth by any exchange or market or by any other regulatory authority having jurisdiction.
6. Customer is aware of the high degree of risk involved in options transactions and has given its Introducing Broker information to demonstrate that the IRA and the anticipated trading therein is not unsuitable for Customer in light of Customer's investment objectives, financial situation and needs, experience, and knowledge. Customer agrees to immediately advise its Introducing Broker of any changes in Customer's circumstances that may materially affect the suitability of executing options transactions in its IRA or that may affect any of the representations it has made to Introducing Broker. Customer acknowledges it has provided an opportunity to consult with its tax advisor concerning the advisability and suitability of holding options or conducting options strategies in the IRA and that Customer has not and will not rely on Apex for legal or tax advice in connection with the same. Customer will not hold Apex responsible for any penalties or adverse tax consequences the IRA or Customer may incur in connection with transacting in or holding options in the IRA.
7. Customer represents, warrants, and covenants that the IRA is not subject to the Employee Retirement Income Security Act of 1974, as it may be amended, and it will not engage in any transactions in the IRA that involves any extension of credit. Customer understands and agrees that uncovered options are not permitted in IRAs, and Customer agrees to undertake no action to enter into an uncovered option position.
8. Customer hereby authorizes Apex in its discretion, should Apex deem it necessary for Apex's protection for any reason, including death of the undersigned, to buy, sell, or sell short for Customer's IRA any risk, puts, calls or other forms of option and/or to buy, sell or sell short any part or all of Customer's shares represented by options endorsed by Apex for the IRA. Any and all

expenses incurred by Apex in connection with such transactions shall be reimbursed by Customer to Apex. Customer understands and acknowledges that when transactions on Customer's behalf are to be executed and the options are traded in more than one marketplace Apex may use its discretion in selecting the market in which to enter the order unless Customer instructs otherwise. All monies, securities, or other property which Apex may hold in any account of Customer shall be held subject to a general lien for the discharge of Customer's obligations to Apex under this Limited Margin Agreement, the Customer Agreement or otherwise. The decision to enter into options transactions was made entirely by the undersigned without any investment advice from Apex or the Introducing Broker.

9. Customer is aware of Apex's requirements and time limitations for accepting an exercise notice and expiration date and agrees it may not receive actual notice of exercise until the week following exercise. Customer bears full responsibility for taking action to exercise or sell valuable options; however, in the absence of notifying its Introducing Broker to exercise an options contract by 3 p.m. Central Standard Time on the last business day prior to the expiration date of the options contract, and the Introducing Broker in turn instructing Apex to sell options on Customer's behalf within such time, Apex may exercise the options contract on Customer's behalf. In the event of such exercise, the profit in excess of commission costs created thereby will be credited to Customer's account. In the event that the commissions to be charged for such an expiration transaction exceeds the proceeds to be realized, Customer agrees and hereby relinquishes its ownership in said option to Apex, and Apex may exercise such option for its own account. If Customer does not instruct its Introducing Broker to exercise the valuable option by the time stated above, and Apex for whatever reason, does not exercise such option on, Customer hereby waives any and all claims for damage or loss which it might at the time or any time thereafter have against allocation for all option(s) assignments received from the Option Clearing Corporation.
10. Exercise assignment notices for options contracts are allocated among all of Apex's customers' short positions within that series. This is accomplished by a manual procedure, which randomly selects from among all customer short positions, including positions established on the day of assignment, those contracts which are subject to exercise. All American short positions are liable for assignment at any time. The undersigned understands that a more detailed description of this procedure is available upon request by the undersigned.
11. Customer understands it is solely responsible for ensuring that sufficient assets are maintained in the IRA to cover all potential obligations arising from the holding of options and conducting any options strategies, including any potential assignment and exercise. Customer acknowledges its responsibility to not conduct options transactions that can result in liabilities or obligations in excess of the undersigned's IRA account balance. Apex shall not be responsible for the dishonor of any transaction due to an insufficient balance in the undersigned IRA. If an assignment creates

a short position or debit balance, Apex is authorized to immediately cover deficit in the undersigned's IRA with other assets in the undersigned IRA account.

12. Customer understands that under Section 408(e)(4) of the Internal Revenue Code of 1986, as amended, if Customer pledges any portion of the IRA as collateral for a loan, the amount so pledged will be treated as a distribution, and may be included in the undersigned's gross income for the taxable year and may be subject to excise taxes.

## OPTION LEVELS

The following are the Option Levels offered by Apex, in Apex's discretion, and subject to change at any time without notice:

- Level 1 Covered calls, including:
  - Covered calls sold against stocks held long in your brokerage account
  - Buy-writes (simultaneously buying a stock and writing a covered call)
  - Covered call roll-ups/roll-downs
- Level 2 All Level 1 strategies, plus:
  - Married puts
  - Long calls
  - Long puts
  - Long straddles
  - Long strangles
  - Covered puts (short stock and short put position)
- Level 3 All Levels 1 and 2 strategies, plus:
  - Equity debit spreads
  - Equity credit spreads
  - Equity calendar/diagonal spreads
  - Index debit spreads
  - Index credit spreads
  - Index calendar/diagonal spreads

## MISCELLANEOUS

13. All transactions shall be subject to the constitution, rules, regulations, customers, and usages of the exchange or market and its clearing house, if any, upon which such transactions are executed, except as otherwise specifically provided in this Agreement. Customer agrees and authorizes Apex to act upon any instruction from the Introducing Broker relating to the IRA, including limited margin capabilities.
14. Apex advises Customer to consult with a tax and legal advisor prior to opening the IRA and prior to requesting or utilizing limited margin in the IRA or any other account at Apex. Customer acknowledges having been advised by Apex and having had the opportunity to undertake such consultation with tax and legal advisors. Apex shall have no responsibility regarding the suitability or propriety of Customer opening an IRA or utilizing limited margin.
15. Customer represents and warrants to Apex and Introducing Broker that (i) that Apex has not provided any sort of investment advice or recommendations pertaining to the IRA or use of limited margin; (ii) that Customer has determined limited margin is suitable for Customer and for the IRA; (ii) that Customer will not conduct any transaction that would create a debit balance or result in an extension of credit to Customer by Apex.
16. If any provision of this Agreement is held to be invalid or unenforceable, it shall not affect any other provision of this Agreement. The headings of each section of this Agreement are descriptive only and do not modify or qualify any provision of this Agreement. This Agreement shall inure to the benefit of Apex's successors and assigns, shall be binding on Customer, its heirs, executors, administrators and assigns and the Agreement and its enforcement shall be governed by the laws of the state of Texas and shall cover individually and collectively all accounts which the Customer has previously opened, now has open or may open or reopen with Apex and any and all previous, current and future transactions in such accounts. Except as provided in this Agreement, no provision of this Agreement may be altered, modified or amended unless in writing signed by Apex's authorized representative. This Agreement and all provisions shall inure to the benefit of Apex and its successors, whether by merger, consolidation or otherwise, its assigns, the Introducing Broker, and all other persons specified in Paragraph 8. Apex shall not be liable for losses caused directly or indirectly by any events beyond its reasonable control, including without limitation, government restrictions, exchange or market rulings, suspension of trading or unusually heavy trading in securities, a general change in economic, political or financial conditions, war or strikes. Apex may transfer the accounts of the Customer to its successors and assigns. This Agreement shall be binding upon the Customer and the heirs, executors, administrators, successors and assigns of the Customer. Failure to insist on strict compliance with this Agreement is not considered a waiver of Apex's rights under this Agreement. At Apex's discretion, it may terminate this Agreement at any time on notice to the Customer and the Customer will continue to be responsible for any obligation incurred by the Customer prior to

termination. The Customer may not assign the Customer's rights or delegate the Customer's obligations under this Agreement, in whole or in part, without Apex's prior consent.

17. Customer acknowledges and agrees it understands and agrees to be bound by the terms of this Agreement and of the Customer Agreement.
18. Customer shall indemnify and hold Apex harmless for any and all claims, actions, proceedings, damages, judgments, liabilities, costs, and expenses, including attorney's fees, arising from or in connection with this Limited Margin Agreement in accordance with the Customer Agreement.
19. This Limited Margin Agreement shall be subject to the Arbitration provisions specified in the Customer Agreement and Customer acknowledges the Customer Agreement shall control in such respect.
20. Customer authorizes Apex, in Apex's discretion, should Apex for any reason deem it necessary for Apex's or the Introducing Broker's protection, to request and obtain a consumer credit report for Customer.

## Margin Disclosure Statement from Apex Clearing

We are furnishing this document to you to provide some basic facts about purchasing securities on margin, and to alert you to the risks involved with trading securities in a margin account. Before trading stocks in a margin account, you should carefully review the margin agreement provided by your broker. Consult your broker regarding any questions or concerns you may have with your margin accounts.

When you purchase securities, you may pay for the securities in full or you may borrow part of the purchase price from your brokerage firm. If you choose to borrow funds from your firm, you will open a margin account with the firm. The securities purchased are the firm's collateral for the loan to you. If the securities in your account decline in value, so does the value of the collateral supporting your loan, and as a result, the firm can take action, such as issue a margin call and/or sell securities in your account, in order to maintain the required equity in the account.

It is important that you fully understand the risks involved in trading securities on margin. These risks include the following:

- **You can lose more funds than you deposit in the margin account.** A decline in the value of securities that are purchased on margin may require you to provide additional funds to the firm that has made the loan to avoid forced sale of those securities or other securities in your account.
- **The firm can force the sale of securities in your account.** If the equity in your account falls below the maintenance margin requirements under the law, or the firm's higher house requirements, the firm can sell the securities in your account to cover the margin deficiency. You also will be responsible for any short fall in the account after such a sale.
- **The firm can sell your securities without contacting you.** Some investors mistakenly believe that a firm must contact them for a margin call to be valid, and that the firm cannot liquidate securities in their accounts to meet the call unless the firm has contacted them first. This is not the case. Most firms will attempt to notify their customers of margin calls, but they are not required to do so. However, even if a firm has contacted a customer and provided a specific date by which the customer can meet a margin call, the firm can still take necessary steps to protect its financial interest, including immediately selling the securities without notice to the customer.
- **You are not entitled to choose which security in your margin account is liquidated or sold to meet a margin call.** Because the securities are collateral for the margin loan, the firm has the right to decide which security to sell in order to protect its interests.
- **The firm can increase its house maintenance margin requirement at any time and is not required to provide you advance written notice.** These changes in firm policy often take effect

immediately and may result in the issuance of a maintenance margin call. Your failure to satisfy the call may cause the member to liquidate or sell securities in your account.

- **You are not entitled to an extension of time on a margin call.** While an extension of time to meet margin requirements may be available to customers under certain conditions, a customer does not have a right to the extension.
- **The IRS requires Broker Dealers to treat dividend payments on loaned securities positions as a substitute payment in lieu of a dividend.** A substitute payment is not a qualified dividend and is taxed as ordinary income.
- **Industry regulations may limit, in whole or in part, your ability to exercise voting rights of securities that have been lent or pledged to others.** You may receive proxy materials indicating voting rights for a fewer number of shares than are in your account, or you may not receive any proxy materials.

### Apex Credit Terms & Policies

The following Disclosure of Credit Terms and Policies is required by the Securities and Exchange Commission and is part of your Apex Account Customer Account Agreement. It describes the terms under which we extend credit and charge interest and how your obligations are secured by property in your Account.

**Interest Charges.** We will charge interest on a daily basis on the credit we extend to you. The daily interest charges are calculated by multiplying your "daily adjusted debit balance" by the "daily margin interest rate." Generally speaking, your daily adjusted debit balance is the actual settled debit balance in your Margin and Short Account, increased by the value of securities held short and reduced by the amount of any settled credit balance carried in your Cash Account.

We calculate your daily-adjusted debit balance each day by adjusting your previous day's balance by any debits and credits to your account and by changes in the value of short positions. If your daily-adjusted debit balance is reduced because you deposit a check or other item that is later returned to us unpaid, we may adjust your account to reflect interest charges you have incurred.

We reserve the right to charge interest on debit balances in the Cash Account. Periodically, we will send you a comprehensive statement showing the activity in your account, including applicable interest charges, interest rates and adjusted daily debit balances.

**Daily Margin Interest Rate.** The "daily margin interest rate" is based on a 360-day year. It is calculated for each day by dividing the base margin interest rate by 360. Note that the use of a 360-day year results in a higher effective rate of interest than if a year of 365 days were used.

The applicable margin interest rate is the base rate for all daily adjusted debit balances. Your margin interest rate will be adjusted automatically and without notice to reflect any change in the Base Rate. If



your interest rate increases for any reason other than a change in the Base Rate, we will give you written notice at least 30 days prior to that change.

**Compounding Interest Charges.** We compound interest on a daily basis. Interest charges will accrue to your account each day. We will include the charges in the next day's opening debit balance and charge interest accordingly. The interest rates described above do not reflect compounding of unpaid interest charges; the effective interest rate, taking into effect such compounding, will be higher.

**Initial Margin Requirements.** The Federal Reserve Board and various stock exchanges determine margin loan rules and regulations. When you purchase securities on margin, you agree to deposit the required initial equity by the settlement date and to maintain your equity at the required levels. The maximum amount we currently may loan for common stock (equity) securities is 50% of the value of marginable securities purchased in your Margin and Short Account; different requirements apply to non-equity securities, such as bonds or options. If the market value of stock held as collateral increases after you have met the initial margin requirements, your available credit may increase proportionately. Conversely, if the market value decreases, your available credit may proportionately decrease.

Initial margin requirements may change without prior notice. We may impose anytime and without prior notice more stringent requirements on positions that in our sole discretion involve higher levels of risk; for example, higher limits may apply for thinly traded, speculative or volatile securities, or concentrated positions of securities.

You may purchase only certain securities on margin or use them as collateral in your Margin and Short Account. Most stocks traded on national securities exchanges, and some over-the-counter (OTC) securities are marginable. At our discretion, we reserve the right not to extend credit on any security.

Equity securities with a market value of less than \$3 per share may not be purchased on margin or deposited as margin collateral. If the market value of a security drops below \$3 per share, the security will not be assigned any value as collateral to secure your margin obligations.

**Margin Maintenance Requirements.** You must maintain a minimum amount of equity in your account to collateralize your outstanding loans and other obligations. Margin maintenance requirements are set:

- By the rules and regulations of the New York Stock Exchange, the American Stock Exchange, and other regulatory agencies to the jurisdiction of which we are subject; **and**
- According to our sole discretion and judgement.

You agree to maintain in your Margin and Short Account collateral of the type and amount required by:

- Applicable exchange rules and federal regulations; **and**
- Our Disclosure of Credit Terms and Policies; **or**
- As required by us, at our discretion.

Margin maintenance requirements may change without prior notice.

We may issue a "margin call" (that is, a notification to deposit additional collateral) if your account equity falls below the margin maintenance requirement. This can happen for various reasons. The most common reasons are a decrease in the value of long securities held as collateral or an increase in the value of securities held short.

As a general guideline and when it is practicable to do so, we may (but are not required to) issue a margin call when the equity in your Margin and Short Account falls below a predetermined percentage of the market value of assets at risk (that is, the sum of the market values of the long and short equity security positions) in your Margin and Short Account. The amount of additional collateral we require usually is an amount sufficient to raise your equity to minimum standards. For information on the current equity requirements, please contact your broker.

We retain absolute discretion to determine whether, when and in what amounts we will require additional collateral. In some situations, we may find it necessary to require a higher level of equity in your account. For example, we may require additional collateral if an account contains:

- Only one security or a large concentration of one or more securities; **or**
- Low-priced, thinly traded or volatile securities; **or if**
- Some of your collateral is or becomes restricted or non-negotiable or non-marginable. We may also consider market conditions and your financial resources.