

**FINANCIAL AGENCY AGREEMENT**  
**for**  
**INDEPENDENT FINANCIAL ADVICE**  
**on**  
**PROGRAMS FOR CARGO AIR CARRIERS AND AVIATION SUPPORT FIRMS**  
**under the**  
**CORONAVIRUS AID, RELIEF, AND ECONOMIC STABILITY ACT**

This Financial Agency Agreement (FAA) is entered into as of April 1, 2020 (Effective Date), by and between the U.S. Department of the Treasury (Treasury), and Moelis & Company LLC (Financial Agent).

**Recitals**

Pursuant to Section 4003(g) of the Coronavirus Aid, Relief, and Economic Stability Act (the Act), the Treasury is authorized to designate financial agents of the United States to perform all reasonable duties in a fiduciary capacity the Secretary of the Treasury determines necessary to respond to the coronavirus.

The Treasury has determined that it is in the interests of the United States to designate the Financial Agent to provide independent financial advisory services, as described herein, related to applications submitted by cargo air carriers and aviation support firms under programs authorized in Section 4003 (and related sections) and Section 4112 (and related sections) of the Act. Aviation support firms are contractors (as defined in Section 4111 of the Act); businesses that are certified under 14 C.F.R. part 145 and approved to perform inspection, repair, replace, or overhaul services; and ticket agents, as defined in 49 U.S.C. 40102.

The Financial Agent desires to serve as a financial agent of the United States under the terms and conditions contained herein.

Accordingly, in consideration of the representations, warranties, and mutual agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Treasury and the Financial Agent agree as follows.

**1. Designation and authorization**

Pursuant to the authority of the Secretary of the Treasury under Section 4003(g) of the Act, the Treasury hereby designates and authorizes the Financial Agent to act as a financial agent of the United States under the terms and conditions of this FAA to perform certain services as more fully described in Exhibit A.

**2. Term**

A. The initial term of this FAA is for 1 month from the Effective Date and shall expire on May 1, 2020, unless terminated earlier by the Treasury pursuant to the provisions hereof.

B. The Treasury shall have the right and option to extend the term of this FAA beyond the initial expiration date to cover specific, incremental periods that do not cumulatively exceed 4 months. The Treasury may exercise any such extension option by using reasonable efforts to give written notice to the Financial Agent at least 5 days prior to the end of the then-current term. In the event the Treasury exercises any such extension options, this FAA shall be in full force and effect during the stated extension period.

C. The Financial Agent acknowledges that the services provided under this FAA are vital to the Federal Government and must continue without interruption during any transition period if the Treasury decides to use a different entity to perform such services in the future, if the Treasury decides to perform such services itself, or if termination requires an orderly shutdown of services. To provide for such a transition, the Treasury shall have the right to extend the term of this FAA beyond any expiration date for a period not to exceed 1 month. The Treasury may exercise such option by giving written notice of such extension to the Financial Agent prior to the end of the then-current term. The Treasury will use reasonable efforts to provide such written notice at least 5 days prior to the end of the then-current term. The Treasury may reduce the number or extent of services to be provided by the Financial Agent during any such transition period. In such event, the Treasury agrees that it will work diligently to transfer or shut down the services performed hereunder as soon as reasonably possible.

D. The Financial Agent agrees to cooperate with the Treasury and/or any successor entity and to provide such services as are necessary to ensure an effective and orderly transfer or shutdown of services, functions, records, and data during any transition period described in the preceding paragraph.

### **3. Services to be provided by Financial Agent**

A. The Financial Agent shall perform the services required under this FAA, as more fully described in Exhibit A, in accordance with the highest practices and professional standards of care, with a degree of attention used in a well-managed operation and no less than that which the Financial Agent exercises for itself and others receiving comparable services. The Financial Agent shall use qualified individuals with suitable training, education, experience and skills to perform the services.

B. The Financial Agent shall ensure that all employees of the Financial Agent and its affiliates or contractors providing services under this FAA are United States citizens performing their work in the United States and the operation and maintenance of all systems and databases used in providing services under this FAA are in the United States, unless specifically authorized by the Treasury in writing. The Financial Agent shall certify to the Treasury that the Financial Agent is in compliance with the Treasury-approved employment eligibility requirements, in the form set forth in Exhibit F.

C. The Treasury may, in its sole discretion, modify, add to, or reduce the specific services required under the general scope of this FAA by providing written notice to the Financial Agent. If any such modification, addition or reduction causes an increase or decrease in the cost of, or the time required for, performance of any service required by this FAA, the Treasury and the

Financial Agent will negotiate an equitable adjustment in the price of the service or other terms of performance.

D. The Treasury may periodically issue instructions through bulletins, letters, or other communications, consistent with this FAA, which will further describe or clarify the scope of the duties and services of the Financial Agent under this FAA. To the extent that any such instructions are inconsistent with the terms of this FAA, or would constitute a material change in the terms or scope of services under this FAA, the terms of this FAA shall govern unless otherwise specified by the Treasury.

#### **4. Compensation**

A. The Financial Agent shall be compensated for services by the Treasury in accordance with Exhibit B, as amended from time to time.

B. The Treasury does not guarantee any set quantity of assignments or transactions, or minimum volume of assets or business.

C. The Financial Agent shall maintain complete and accurate records of and supporting documentation for the amounts billable to the Treasury, and payments made by the Treasury. The Financial Agent shall follow generally accepted accounting principles when recording or reporting any such administrative accounting of the services provided under this FAA. The Financial Agent agrees to provide the Treasury with documentation and other information with respect to any amounts billed to the Treasury as may be reasonably requested by the Treasury.

D. The Treasury may deduct from any amount to be paid to the Financial Agent any amount that the Financial Agent is obligated to reimburse or pay to the Treasury.

E. Except as set forth in Exhibit B, the Financial Agent shall perform all of the services and obligations required to be performed, pursuant to this FAA, at its sole expense.

#### **5. Financial Agent's fiduciary duty**

The Financial Agent acknowledges and agrees that it owes a fiduciary duty of loyalty and fair dealing to the United States when acting as a financial agent of the United States. The Financial Agent agrees to act at all times in the best interests of the United States when carrying out its responsibilities under this FAA and in all matters connected with this agency relationship. The Financial Agent acknowledges and agrees that its fiduciary duties under this FAA include, but are not limited to, the following:

- to perform its obligations with care, competence, and diligence;
- to construe the terms of this FAA and any related instructions from the Treasury in a reasonable manner to serve the purposes and interests of the United States;

- to use any Sensitive Information (as defined in Section 6B) the United States received or developed in connection with this FAA solely for the purposes of fulfilling its duties to the Treasury and not for its own commercial purposes or for those of a third party; and

- to act only within the scope of its actual authority and to comply with all lawful instructions or directions received from the Treasury.

## **6. Nonpublic and Sensitive Information**

A. The Financial Agent shall take appropriate measures to ensure the confidentiality of Nonpublic Information and to prevent its inappropriate use, and shall document these measures in sufficient detail to demonstrate compliance. Nonpublic Information is defined as any information that the Treasury provides to the Financial Agent pursuant to this FAA, or that the Financial Agent obtains or develops pursuant to this FAA, until the Treasury determines the information is otherwise and informs the Financial Agent of such determination in writing, or until the information becomes part of the body of public information from a source other than the Financial Agent. Nonpublic Information includes, but is not limited to, information about the Treasury, business, economic, and policy plans, prospective transactions, financial and asset information, trade secrets, information subject to the Privacy Act, personally identifiable information (PII), and Sensitive Information. This definition includes trade secret or other information protected by the Trade Secrets Act and may include other information designated by the Treasury or as defined by other Federal Government sources not mentioned above.

B. Sensitive Information is defined as any information received in connection with the FAA for which the loss, misuse, unauthorized access to, or modification could adversely affect the national interest or the conduct of Federal programs, or the privacy of individuals that they are entitled to under the Privacy Act.

C. PII means any information received in connection with the FAA about an individual, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and information, which can be used to distinguish or trace an individual's identity, such as their name, social security number, date and place of birth, mother's maiden name, biometric records, etc., including any other personal information which is linked or linkable to an individual. This definition includes information for which the loss, misuse, modification of, or unauthorized access to such information could adversely affect the privacy that individuals are entitled to under the Privacy Act.

D. The Financial Agent shall use Nonpublic Information, as defined herein, solely for the purposes of fulfilling its duties under this FAA and not for its own commercial purposes or for those of a third party. The Financial Agent may disclose such Nonpublic Information only to those employees of the Treasury or the Financial Agent or its affiliates or contractors, who have a legitimate need to know the information to assist in the proper performance of services required by this FAA, consistent with the conflict of interest mitigation and information barrier measures identified in Exhibit E. The Financial Agent shall require any affiliate or contractor that provides services under this FAA to agree in writing to confidentiality obligations substantially the same as those in this FAA.

E. The measures required by this Section to protect Nonpublic Information shall include, but are not limited to, (i) security measures to prevent unauthorized access to facilities and storage containers where Nonpublic Information is stored, (ii) security measures to detect and prevent unauthorized access to computer equipment and data storage devices that store or transmit Nonpublic Information, in accordance with Section 9, (iii) training to ensure that persons receiving Nonpublic Information know their obligations to maintain its confidentiality and to use it solely for purposes contemplated by this FAA, and (iv) programs designed to ensure compliance with Federal securities laws, including laws relating to insider trading.

F. The Treasury may periodically issue other policy statements or guidance to clarify the Financial Agent's obligations regarding Nonpublic Information. If the Financial Agent has any questions on the designation or proper handling of Nonpublic Information, it shall immediately seek clarification from the Treasury whose decision shall be binding upon the Financial Agent.

G. The Financial Agent's agreement with respect to Nonpublic Information is a continuing one that shall survive the termination or expiration of this FAA. However, the Financial Agent shall not be required to protect Nonpublic Information that is lawfully disclosed independent of the Financial Agent and is in the public domain.

H. The Financial Agent shall strictly enforce the terms of confidentiality agreements it has with its employees, affiliates, and contractors that provide services under this FAA. In addition, the Financial Agent shall ensure that each employee of the Financial Agent and all affiliate and contractor personnel to whom Nonpublic Information is or may be disclosed review and sign a Non-Disclosure Agreement containing substantially the provisions and obligations in Exhibit D.

I. Notwithstanding the requirements of this Section, the Financial Agent may disclose Nonpublic Information if required pursuant to a lawful court order or valid subpoena, or if required by a federal regulatory or supervisory authority, or if required by a body duly charged with oversight of relevant programs, including but not limited to the Government Accountability Office, the Special Inspector General for Pandemic Recovery, the Treasury Office of the Inspector General, and the Congressional Oversight Commission, after giving prior notice to the Treasury to the extent legally permissible and, if not then legally permissible, as soon as it becomes legally permissible to do so.

## **7. Breaches of Nonpublic Information**

A. The Financial Agent shall immediately notify the Treasury of any discovered or suspected breaches of Nonpublic Information that may occur while handling Treasury data, whether paper or electronic, including unauthorized access, use, disclosure, or loss of Nonpublic Information. Such immediate notification should occur whether before or after regular business hours or on a weekend or holiday and should not be delayed as the Financial Agent researches or confirms the particular details on an incident or suspected incident.

B. In response to a reported breach of Nonpublic Information, the Treasury may request the Financial Agent conduct an investigation and report detailed findings as to the cause and impact

of the breach as well as the remediation taken. As determined by the Treasury after reviewing any investigation conducted by the Financial Agent, the Financial Agent may be liable and may be required to reimburse the Federal Government or any affected individual for any costs, expenses, or damages which result from the fraud, theft, willful misuse or negligence of the Financial Agent or its employees, affiliates, or contractors with respect to the handling and maintenance of Nonpublic Information.

C. The Financial Agent must ensure that all of its employees and affiliate and contractor personnel covered by this Section receive the proper education and guidance.

## **8. Privacy Act**

The Treasury may determine that, in connection with the services provided under this FAA, the Financial Agent has obtained or developed a system of records as defined under the Privacy Act of 1974, 5 U.S.C. § 552a. For purposes of the Privacy Act, when a Government agency delegates the development, operation, or maintenance of a system of records on individuals to accomplish an agency function, the person that operates the system is bound by the Privacy Act as if such person were an employee of the agency. Violations of the Privacy Act may involve the imposition of criminal penalties. If the Treasury makes such a determination, it shall so notify the Financial Agent. After receiving such notice, the Financial Agent shall promptly provide training to all of its officers, employees, affiliates, and contractors with access to such system of records on the duties and responsibilities imposed on them by the Privacy Act and by applicable regulations and guidance, including the potential penalties for wrongful disclosure.

## **9. Information technology security**

A. The Financial Agent shall develop, maintain, enforce, and review for effectiveness, information technology security measures designed to ensure the (i) availability, (ii) access controls, and (iii) integrity of any systems, databases, or data stores containing or processing nonpublic information.

B. The availability measures shall be designed to ensure such systems, databases, or data stores are available for operation and use to support the services required under this FAA. The access control measures shall be designed to ensure such systems, databases, or data stores are protected against unauthorized access and use. The integrity measures shall be designed to ensure that systems processes and storage and retrieval of Nonpublic Information in databases or data stores are complete, accurate, and protected against unauthorized modification.

## **10. Personnel security**

A. The Treasury will rely on the Financial Agent's personnel security screening standards. The Financial Agent shall ensure that all employees and affiliate or contractor personnel who have access to Nonpublic Information in connection with this FAA have appropriate personnel security background checks.

B. Upon request, the Financial Agent shall provide the Treasury with a listing of all such background investigative requirements (e.g., FBI fingerprint check, police check, credit check, verification of lawful permanent resident status, etc.). The Treasury may request additional personnel security checks.

C. Consistent with Section 3B, all Financial Agent employees and contractor personnel who have access to Nonpublic Information must be United States citizens performing their work in the United States, unless specifically authorized by the Treasury in writing.

#### **11. Conflict of interest mitigation and information barriers**

A. Consistent with Exhibit E, the Financial Agent and its affiliates and contractors that provide services under this FAA shall adequately segregate personnel or employ suitably robust internal controls designed to ensure that the Financial Agent's personnel and those of its affiliates and contractors performing services under this FAA do not divulge Nonpublic Information regarding the Treasury's programs and portfolios to other personnel involved with the Financial Agent's or its affiliate's or contractor's activities, including but not limited to trading, brokerage, sales, or asset management activities, that may conflict with its duties owed to the Treasury. No Nonpublic Information related to the management of the Treasury's programs or portfolios shall be revealed to such other personnel, except as required by law, or as required for internal senior management or legal purposes consistent with the Financial Agent's duties owed to the Treasury.

B. As part of its obligation to comply with the conflicts of interest requirements of this FAA, the Financial Agent shall implement the conflicts of interest mitigation and information barrier measures set forth in Exhibit E throughout the term of this FAA and during any Cooling Off Period (as may be defined in Exhibit E of this FAA) for provisions in Exhibit E expressly subject to the Cooling Off Period.

#### **12. Employee codes of conduct and ethics**

The Financial Agent must establish policies and procedures reasonably designed to assist all individuals performing services under this FAA to comply with applicable laws and regulations, and to comply with requirements for the disclosure and the avoidance, mitigation, or neutralization of any actual or potential personal conflicts of interest, consistent with the provisions of Exhibit E. The Financial Agent must have in place policies and procedures establishing a Code of Conduct and a Code of Ethics.

#### **13. Representations and warranties**

The Financial Agent represents and warrants to the Treasury the following, the truth and accuracy of which are a continuing obligation of the Financial Agent:

A. The Financial Agent is an institution established and regulated under the laws of the United States or any state, territory, or possession of the United States and having significant operations in the United States.

- B. The Financial Agent has full corporate power and authority to enter into, execute and deliver this FAA and to perform its obligations hereunder.
- C. The Financial Agent has obtained or made all governmental approvals or registrations required under law to authorize performance of its obligations under this FAA. The Financial Agent is not aware of any legal or financial impediments to performing its obligations under this FAA that it has not disclosed in writing to the Treasury.
- D. The Financial Agent is not delinquent on any Federal tax obligation or any other debt owed to the United States government or collected by the United States for the benefit of others.
- E. The Financial Agent is not on any Federal excluded parties, debarment, or suspension lists.
- F. The Financial Agent is not subject to any pending or current legal, regulatory, or enforcement actions that could impair the Financial Agent's ability to provide any services under this FAA, or that could in any way pose a reputational risk to the Treasury or the Financial Agent.
- G. The Financial Agent has or shall promptly obtain all required licenses, bonding, facilities, equipment, and trained personnel to perform its obligations under this FAA.
- H. The Financial Agent owns or is licensed to use software programs and data processing hardware that are necessary for it to perform its obligations under this FAA, and to the best of its knowledge such software programs and data processing hardware do not infringe upon or constitute an infringement on or misappropriation of any valid United States patent, copyright, trademark, trade secret or other proprietary rights of any third party.
- I. The Financial Agent maintains a sufficiently robust compliance program designed to detect and prevent violations of Federal securities laws.
- J. The Financial Agent covenants to disclose all actual or potential organizational conflicts of interest, including conflicts with the interests of any corporate parents, affiliates, and subsidiaries, and of any contractors providing services under this FAA, and to avoid, mitigate, or neutralize to the extent feasible and to the Treasury's satisfaction any personal or organizational conflicts of interest that may be identified by the Treasury or the Financial Agent, consistent with the conflicts mitigation measures set forth in Exhibit E.
- K. If doing other business with the Treasury or another Federal agency, the Financial Agent is not in any kind of probationary status, and is addressing and resolving any identified deficiencies in performance.
- L. The Financial Agent covenants to disclose to the Special Inspector General for Pandemic Recovery or Treasury Office of the Inspector General, as applicable, any credible evidence in connection with the designation, services, or closeout of this FAA, that a management official, employee, affiliate, or contractor of the Financial Agent has committed (a) a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity



violations found in Title 18 of the United States Code, or (b) a violation of the civil False Claims Act (31 U.S.C. §§ 3729-3733). Prior to the appointment of a Special Inspector General for Pandemic Recovery, the Financial Agent covenants to make the disclosures specified in this paragraph to the Treasury Office of the Inspector General.

- M. The Financial Agent covenants to disclose any other facts or information that the Treasury should reasonably expect to know about the Financial Agent and its affiliates and contractors to help protect the reputational interests of the Treasury and the Financial Agent.

The Financial Agent shall sign a certification and deliver it to the Treasury in the form set forth in Exhibit C. Furthermore, the Financial Agent shall immediately notify the Treasury if any representation or warranty made by the Financial Agent herein is or becomes materially false, incorrect, or incomplete, as set forth in Section 19 (Notice to the Treasury).

#### **14. Use of affiliates and contractors**

A. In accordance with section 3B, the Treasury may authorize affiliates of the Financial Agent, to perform services under this FAA provided that the Financial Agent shall be fully accountable for any acts or omissions of an affiliate, as if such acts or omissions were its own, provided that such use is in accordance with Section 3B. The Financial Agent shall use only its own employees and employees of corporate affiliates to perform services under this FAA, unless the Financial Agent obtains the prior written consent of the Treasury to use contractors to perform such services. The Treasury may approve or reject any contractor in its sole discretion. The Treasury shall have the right to impose requirements for any such contractor including, without limitation, requirements relating to the location of the contractor's offices, the citizenship of the contractor's employees, and the contractor's physical and data security systems.

B. The Financial Agent must execute any agreement with a contractor in its own name and not on behalf of the United States or the Treasury, and any such contractor does not become a subcontractor, agent, or subagent of the Treasury. The Treasury shall not be deemed a party to any arrangement or agreement the Financial Agent may enter into with another entity to perform any services under this FAA. The Treasury will not be liable for any payment to any entity other than the Financial Agent.

C. The Financial Agent is responsible for the supervision and management of any affiliate or contractor that assists in the performance of services under this FAA. The Financial Agent shall remove and replace any affiliate or contractor that fails to perform. The Financial Agent shall ensure that all of its affiliates and contractors comply with the terms and provisions of this FAA. The Financial Agent shall be responsible for the acts or omissions of its affiliates and contractors as if the acts or omissions were by the Financial Agent.

#### **15. Reviews and audits**

The Treasury, the Special Inspector General for Pandemic Recovery, the Treasury Office of the Inspector General, the Government Accountability Office, the Congressional Oversight Commission, and other entities as authorized by the Treasury shall have the right during normal

business hours to conduct announced and unannounced onsite and offsite physical, personnel and information technology testing, security reviews, and audits of the Financial Agent, and to examine all books and records related to the services provided and compensation received under this FAA. The Financial Agent shall be responsible for implementing corrective actions associated with such testing, reviews, or audits as directed by the Treasury.

#### **16. Internal control program**

A. The Financial Agent shall have an internal control program designed to ensure effective delivery of the services under this FAA as set forth in Exhibit A. The internal control program must include documentation of the control objectives for major activities, the associated control techniques, and mechanisms for testing and validating the controls.

B. In conjunction with the internal control program, the Financial Agent shall provide the Treasury with a service auditor's report based on standards issued by the Auditing Standards Board of the American Institute of Certified Public Accountants ("AICPA") or, at the sole discretion of the Treasury, the results of alternative auditing procedures covering the services provided by the Financial Agent to the Treasury. The Financial Agent shall meet the internal control program requirement in accordance with the Treasury's timelines.

#### **17. Intellectual property rights**

A. For purposes of this Section, the following definitions apply:

"Business Methods" means any ideas, concepts, designs, practices, and business methods created by the Financial Agent or its affiliates or contractors, jointly or independently, at any time, expressly for the purpose of providing the services under this FAA.

"Data" means any recorded information, regardless of form or the media on which it may be recorded, regarding any of the services described in this FAA.

"Federal Government" means any Federal Government department, agency, bureau, corporation or instrumentality, or any Federal Reserve Bank.

"Unlimited Rights" means perpetual rights to, without limitation, use, copy, maintain, modify, enhance, disclose, reproduce, prepare derivative works, and distribute, in any manner and for any purpose and to permit others to do so.

B. For use within the Federal Government, the Treasury shall have exclusive Unlimited Rights to Business Methods and may use them for any purpose within the Federal Government's authority. For use outside the Federal government, the Treasury shall have non-exclusive Unlimited Rights to the Business Methods and may use them for any purpose within the Treasury's authority.

C. Except as otherwise provided herein or prohibited by law, the Treasury shall have non-exclusive Unlimited Rights to all data produced or developed, or obtained without third party restriction, by the Financial Agent or its affiliates or contractors for the purpose of providing

services under this FAA. If requested, such data shall be made available to the Treasury in industry standard useable format.

D. In accordance with 28 U.S.C. § 1498, the Treasury hereby authorizes and consents to all use, manufacture, and production of any invention, product or work described in and covered by a United States patent or copyright by the Financial Agent or any affiliate or contractor of the Financial Agent in the performance of this FAA.

#### **18. Liability of Financial Agent**

A. Except as otherwise provided in this Section, the Financial Agent will not be liable to the Treasury for (i) any exercise of, or failure to exercise, any discretionary authority duly granted to the Financial Agent under this FAA; and (ii) any loss or liability incurred as a result of any action or failure to act by any custodian selected by the Treasury, a broker, a clearing agency, or a securities depository, provided that this provision shall not constitute a waiver of any rights the Treasury may have under Federal securities or other laws.

B. The Financial Agent is liable and shall reimburse the Treasury for any monetary loss or costs which result from the fraud, theft, embezzlement, willful misconduct, bad faith, or negligence of the Financial Agent or its affiliates or contractors, or from the Financial Agent's or its affiliate's or contractor's breach of a fiduciary duty.

C. The Financial Agent may be liable for costs, expenses, or damages associated with a breach of Nonpublic Information, as set forth in Section 7.

D. If the Treasury reasonably believes that the Financial Agent is in breach of this FAA, an investigation of the Financial Agent's actions by the Treasury or another entity may be required. If ultimately found to be in breach, the Financial Agent shall be liable for the reasonable costs and expenses of any such investigation to the extent that such costs and expenses are reasonably documented.

#### **19. Notice to the Treasury**

The Financial Agent shall promptly notify the Treasury if (i) the Financial Agent becomes aware of any loss, damage, investigation, action, proceeding, or claim related to its performance under this FAA that may have a material adverse effect on the Treasury or the United States or that may damage the public's trust in the operations of the Treasury; (ii) the Financial Agent breaches any material obligation or condition of this FAA; or (iii) the Financial Agent is in default under this FAA.

#### **20. Defaults**

The following, as solely determined by the Treasury, constitute events of default by the Financial Agent under this FAA:

- A. The Financial Agent fails to perform or comply with any covenant or any of its material obligations under this FAA.
- B. The Financial Agent or any of its employees, affiliates, or contractors commits a negligent, willful, or reckless act in connection with services or activities under this FAA.
- C. The Financial Agent breaches a fiduciary duty to the United States with respect to its responsibilities under this FAA.
- D. Any representation or warranty made herein by the Financial Agent is or becomes materially false, incorrect, or incomplete.
- E. The Financial Agent is or becomes delinquent on any Federal tax obligation or any other debt owed to the United States Government or collected by the United States for the benefit of others.
- F. The Financial Agent becomes insolvent or a receiver, liquidator, trustee, conservator, or other custodian is appointed for the Financial Agent.
- G. The Financial Agent is in default under any other agreement between the Financial Agent and the Treasury or any bureau of the Treasury.
- H. The Financial Agent fails to provide the required notice to the Treasury under Section 19.

## **21. Remedies for default**

The Treasury may take any, all, or none of the following actions in the event of a default by the Financial Agent under this FAA:

- A. The Treasury may terminate this FAA and cease its performance hereunder effective immediately or following a transition period as described in Section 2C. If this FAA is terminated, the designation and authorization of the Financial Agent for purposes of providing the services under this FAA are automatically revoked.
- B. The Treasury may reduce the scope of services under this FAA and cease a portion of its performance hereunder. If the scope of this FAA is reduced, the authorization of the Financial Agent for purposes of providing the discontinued services under this FAA is automatically revoked.
- C. The Treasury may revoke the Financial Agent's designation as a financial agent for the United States, encompassing this FAA and any other financial agency agreements with the Treasury, which shall be deemed terminated as of the effective date of such revocation.
- D. The Treasury may declare any other agreement between the Financial Agent and the Treasury to be in default.

E. The Treasury in its sole discretion may put the Financial Agent on probation for failing to perform satisfactorily a service (or services) delineated in this FAA. Probation means that the Treasury will withhold some or all of the Financial Agent's compensation until in the Treasury's determination the Financial Agent has cured the non-performance issues. The Treasury reserves the right to consider other measures in addition to withholding the compensation if the Financial Agent is put on probation, including but not limited to, preclusion from additional work under the existing agreement and ineligibility to be designated for other work under a new agreement. The payment of compensation may also be adjusted consistent with Section 18 (Liability of Financial Agent).

F. The Treasury may consider information or history regarding any default hereunder when making any decisions regarding future use of the Financial Agent for performance of financial agent services.

G. The Treasury may take any other action available at law or in equity.

## **22. Actions in the interest of the United States**

Notwithstanding any other provision of this FAA, when the Treasury in its sole discretion determines that such actions are necessary to protect the interests of the United States Government, the Treasury may reduce the authorized scope of work under this FAA, terminate this FAA, or revoke the Financial Agent's status as a financial agent of the United States even in the absence of an event of default by the Financial Agent under this FAA.

## **23. Disputes**

The Treasury and the Financial Agent agree that it is in their mutual interest to resolve disputes by agreement. If a dispute arises under this FAA, the parties will make all reasonable efforts to resolve the dispute by mutual agreement. If a dispute cannot be resolved informally by mutual agreement at the lowest possible level, the dispute shall be referred up the respective chain of command of each party in an attempt to resolve the matter. This referral will be done in an expeditious manner. The Financial Agent shall continue diligent performance of the services required by this FAA pending resolution of any dispute. The Treasury and the Financial Agent reserve the right to pursue other legal or equitable rights they may have concerning any dispute. However, the parties agree to take all reasonable steps to resolve disputes internally before commencing legal proceedings.

## **24. Data and records retention**

In addition to its fiduciary duties and any other obligation to retain financial and accounting records that may be imposed by Federal or state law, the Financial Agent shall retain all data, books, reports, documents, audit logs and records, including electronic records, related to the performance of services required by this FAA. In addition, the Financial Agent shall maintain a copy of all computer systems and application software necessary to review and analyze these electronic records. Unless otherwise directed by the Treasury, the Financial Agent shall retain these records for at least 7 years from the date the data or record was created and shall transfer

any such records to Treasury at Treasury's request. The Treasury may also notify the Financial Agent from time to time of any additional records retention requirements resulting from litigation in which the Treasury may have an interest, and the Financial Agent agrees to comply with these litigation requirements.

## **25. Transfer or assignment**

A. The Financial Agent may not transfer or assign its rights under this FAA without the prior written consent of the Treasury, which may be granted or withheld in the sole discretion of the Treasury. Any purported transfer or assignment without the prior written consent of the Treasury shall be void.

B. The Financial Agent shall notify the Treasury as soon as legally possible of any proposed merger, acquisition, or other action involving the Financial Agent, its corporate affiliates, or its contractors that will affect the Financial Agent's ability to carry out its responsibilities under this FAA.

C. In the event that the Financial Agent is involved in a merger or acquisition, the Treasury may, in its sole discretion, elect to continue this FAA and to treat the Financial Agent's successor in interest to be a successor financial agent, or elect not to continue this FAA, in which case the Treasury shall notify the Financial Agent of the termination date of the FAA.

## **26. Notices**

All notices required to be given herein shall be in writing and shall be given to the following contacts unless expressly stated otherwise herein:

To the Treasury:

Deputy Assistant Secretary for Fiscal Operations and Policy  
U.S. Department of the Treasury  
1500 Pennsylvania Ave, NW  
Room 2112  
Washington, DC 20220

To the Financial Agent:

Moelis & Compay  
Attention: General Counsel  
399 Park Avenue  
New York, NY 10022  
212-883-3800  
Compliance@moelis.com

The party giving the notice should send an e-mail to the party receiving the notice and the Treasury general mailbox: [OFA\\_Agents@treasury.gov](mailto:OFA_Agents@treasury.gov), advising them that the notice by mail has been given.

## **27. Publicity and Disclosure**

A. The Financial Agent shall not make use of any Treasury name, symbol, emblem, program name, or product name, in any advertising, signage, promotional material, press release, Web page, publication, or media interview, without the prior written consent of the Treasury.

B. The Financial Agent, its affiliates or contractors, and their respective employees shall not make statements to the media or issue press releases regarding their services under this FAA without the prior written consent of the Treasury.

C. The Financial Agent acknowledges that this FAA is confidential and, consistent with applicable law, shall not disclose this FAA, or any portion thereof, to third parties unless the Treasury has released such portion into the public body of information.

## **28. Modifications**

Modifications to this FAA shall be in writing and signed by the parties. Notwithstanding the foregoing, the Treasury reserves the right to unilaterally modify the terms and provisions of this FAA, through written notice to the Financial Agent, to comply with changes in legislation or regulations, court orders, or audit findings or any interpretation thereof.

## **29. Miscellaneous**

A. This FAA will be interpreted under Federal law, and if there is no applicable Federal law, under the laws of New York.

B. This FAA is not a Federal procurement contract and is therefore not subject to the provisions of the Federal Property and Administrative Services Act (41 U.S.C. §§ 251-260), the Federal Acquisition Regulations (48 CFR Chapter 1), or any other Federal procurement law.

C. Any provision of this FAA that is determined to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this FAA, and no such prohibition or unenforceability in any jurisdiction shall invalidate such provision in any other jurisdiction.

D. Failure on the part of the Treasury to insist upon strict compliance with any of the terms hereof shall not be deemed a waiver, nor will any waiver hereunder at any time be deemed a waiver at any other time. No waiver will be valid unless in writing and signed by an authorized officer of the Treasury. No failure by the Treasury to exercise any right, remedy, or power hereunder will operate as a waiver thereof. The rights, remedies, and powers provided herein are cumulative and not exhaustive of any rights, remedies, and powers provided by law.

E. This FAA shall inure to the benefit of and be binding upon the parties to this FAA. No other person or entity will have any right or obligation hereunder, except for successor financial agents accepted by the Treasury.

F. This FAA may be executed in two or more counterparts (and by different parties on separate counterparts), each of which shall be an original, but all of which together shall constitute one and the same instrument.

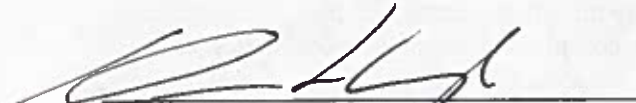
G. This FAA and the attached Exhibits constitute the entire agreement between the parties.

**30. Incorporation by reference**

Exhibits A-F attached to this FAA are incorporated herein by reference and given the same force and effect as though fully set forth herein.


In witness whereof, the Treasury and the Financial Agent by their duly authorized officials hereby execute and deliver this Financial Agent Agreement as of the Effective Date.

**Department of the Treasury**

  
\_\_\_\_\_  
David Lebryk  
Fiscal Assistant Secretary

4/1/2020  
Date

**Financial Agent**

  
\_\_\_\_\_  
Osamu Watanabe  
General Counsel

April 1, 2020  
Date



## EXHIBITS

- Exhibit A Services to be Performed**
- Exhibit B Compensation**
- Exhibit C Annual Certification Format**
- Exhibit D Non-Disclosure Agreement**
- Exhibit E Conflicts of Interest Mitigation**
- Exhibit F Financial Agent Public Trust Personnel Positions Self-Certification Form**

## **EXHIBIT A**

### **SERVICES TO BE PERFORMED**

#### **1. Scope of Services**

The Financial Agent shall provide services, as described herein, to assist the Treasury to help execute programs for cargo air carriers and aviation support firms (the Programs) pursuant to Subtitles A and B of Title IV of the Coronavirus Aid, Relief, and Economic Stability Act (the Act). Aviation support firms are contractors (as defined in Section 4111 of the Act); businesses that are certified under 14 C.F.R. part 145 and approved to perform inspection, repair, replace, or overhaul services; and ticket agents, as defined in 49 U.S.C. 40102.

#### **2. Design and Operation of the Programs**

As assigned by the Treasury and in accordance with any guidelines provided by the Treasury, the Financial Agent shall help analyze, develop, and document the Programs, including but not limited to program purpose, scope, size, duration, execution, operations, terms and conditions, costs, risks, and performance metrics.

#### **3. Analyzing Compensation Due under the Programs**

As assigned by the Treasury and in accordance with any guidelines or other instructions provided by the Treasury, the Financial Agent shall provide independent, arm's-length analysis and input on the size, structure, pricing, valuation, and other terms of financial instruments to be received by the Treasury as compensation from cargo air carriers and aviation support firms participating in the Programs.

Such financial instruments may include warrants, stock options, preferred stock, common stock, other equity instruments, senior debt instruments, notes, or other financial instruments issued by the cargo air carriers and aviation support firms.

As necessary to provide analysis and input on the financial instruments, the Financial Agent shall also conduct independent, arm's-length analysis of the business, finances, and operations of individual or classes of cargo air carriers and aviation support firms, which will have a variety of corporate, ownership, and capital structures.

The Financial Agent's independent, arm's-length analysis and input on the financial instruments, the cargo air carriers, and the aviation support firms shall reflect the costs and risks assumed by the Federal Government under the Programs, in accordance with the Act.

#### **4. Other Requirements**

In carrying out required services, the Financial Agent shall:

- Provide all necessary operational and analytical hardware and software.

- Collaborate and coordinate as directed by the Treasury with other stakeholders in the design and execution of the Programs, including but not limited to review of application materials submitted by cargo air carriers and aviation support firms, and engagement with other financial agents of the Treasury designated to perform similar services for passenger air carriers and other businesses described in Section 4003(b)(1) of the Act.
- Provide independent input to support the preparation of reports and other materials to be issued to the public and to oversight bodies.

**EXHIBIT B**  
**COMPENSATION**

**1. Compensation**

The Financial Agent shall receive a fee of \$500,000 for the initial term of the Financial Agency Agreement ("FAA") and, for any extension periods in accordance with Section 2B of the FAA, a proration of a \$500,000 per month fee based on the length of the extension period.

The Financial Agent must submit a proper invoice prior to receiving any compensation hereunder.

**2. Methods of compensation**

The Treasury retains the right to compensate the Financial Agent for services provided under this FAA in such a method or methods as the Treasury in its sole discretion deems appropriate including, but not limited to, direct payments.

**3. Probationary status**

The Treasury may withhold all or a portion of the compensation if the Financial Agent is placed on probation.

**4. Sole compensation**

The Financial Agent shall solely be compensated for its performance of its obligations under this FAA as set forth above. The Financial Agent shall not be entitled to any other form of compensation or reimbursement for the performance of its obligations under this FAA.

## EXHIBIT C

### CERTIFICATION FORMAT

I, [Name of Authorized Official], a duly authorized official of [Financial Institution name], certify that:

1. [Financial Institution name] is taking all reasonable steps to ensure that Nonpublic Information and PII obtained from or on behalf of the Treasury is properly safeguarded;
2. All charges and expenses charged to the Treasury are accurate and attributable to services provided to the Treasury;
3. [Financial Institution name] is not on any Federal Excluded Parties, Debarments, or Suspension Lists;
4. [Financial Institution name] is not delinquent on any Federal tax obligation or on any other debt owed to the United States and that [Financial Institution name] agrees to execute IRS Form 8821, and any other necessary Federal forms, to allow the Treasury to verify such information;
5. [Financial Institution name] is not aware of any legal or financial impediments to performing its obligations under the Financial Agency Agreement that it has not disclosed in writing to the Treasury;
6. [Financial Institution name] is not subject to any pending or current enforcement actions that could impair its ability to provide services under the Financial Agency Agreement;
7. All employees and affiliate and contractor personnel who have access to Nonpublic Information in connection with the FAA perform their work in the United States and are U.S. citizens, unless specifically authorized by the Treasury in writing;
8. [Financial Institution name] covenants to disclose all potential conflicts of interest not otherwise previously disclosed, including conflicts with the interests of any corporate parents, affiliates, and subsidiaries, and any contractors performing services under the FAA, and to avoid, mitigate, or neutralize to the extent feasible and to the Treasury's satisfaction any personal or organizational conflicts of interest that may be identified by the Treasury or the Financial Institution, in accordance with the FAA, as many be amended from time to time;
9. In accordance with the FAA, as may be amended from time to time, [Financial Institution name] covenants to disclose to the Special Inspector General for Pandemic Recovery or the Treasury Inspector General, as applicable, any credible evidence, in connection with the designation, services, or closeout of this FAA, that a management official, employee, affiliate, or contractor of [Financial Institution name] has committed (a) a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found

in Title 18 of the United States Code, or (b) a violation of the civil False Claims Act (31 U.S.C. §§ 3729-3733);

10. [Financial Institution name] covenants to disclose any other facts or information not otherwise previously disclosed that the Treasury should reasonably expect to know about the Financial Agent to help protect the reputational interests of Treasury in connection with the Financial Agent providing services for the Treasury under this FAA; and.
11. Any other provisions or statements contained in the Financial Agent Agreement, and any amendments thereto, remain true and correct.

In the event that any of the representations made herein cease to be true and correct, [Financial Institution name] agrees to notify the Treasury immediately.

\_\_\_\_\_  
[Name of Authorized Official]  
[Title of Authorized Official]

\_\_\_\_\_  
Date

## EXHIBIT D

### NON-DISCLOSURE AGREEMENT

#### Conditional Access to Nonpublic Information

I, \_\_\_\_\_, employee of \_\_\_\_\_ (Organization) hereby consent to the terms in this Agreement in consideration of my being granted conditional access to certain United States Government confidential information.

I understand and agree to the following terms and conditions:

1. By being granted conditional access to confidential information, the Organization and the U.S. Department of the Treasury (Treasury) have placed special confidence and trust in me, and I am obligated to protect this information from unauthorized disclosure, according to the terms of this Agreement.
2. Nonpublic Information refers to any information, provided to me by the Treasury or the Organization in connection with my authorized services to the Treasury, or that I obtain or develop in providing authorized services to the Treasury, other than information designated as publicly available by the Treasury in writing or that becomes publicly available from a source other than the Financial Agent. Nonpublic information includes but is not limited to information, about the Treasury's nonpublic business, economic, and policy plans, nonpublic or proprietary financial information, trade secrets, information subject to the Privacy Act, personally identifiable information (PII), and Sensitive Information.
3. PII includes, but is not limited to, information pertaining to an individual's education, bank accounts, financial transactions, medical history and other information which can be used to distinguish or trace an individual's identity, including but not limited to social security numbers.
4. Sensitive Information is any information where the loss, misuse, or unauthorized access to, or modification of which could adversely affect the national interest or the conduct of Federal programs, or the privacy of individuals that they are entitled to under the Privacy Act and other Federal statutes.
5. I am being granted conditional access to Nonpublic Information, contingent upon my execution of this Agreement, to provide authorized services to the Treasury.
6. Except as set forth in paragraph 14 below, I shall never divulge any Nonpublic Information provided to me pursuant to this Agreement to anyone, unless I have been advised in writing by the Organization and/or the Treasury that an individual is authorized to receive it.

7. I will submit to the Treasury for security review, prior to any submission for publication, any book, article, column or other written work for general publication that is based upon any knowledge I obtain during the course of my work in connection with the Treasury. I hereby assign to the Federal Government all rights, royalties, remunerations and emoluments that have resulted or will result or may result from any disclosure, publication, or revelation of confidential information not consistent with the terms of this Agreement.

8. If I violate the terms and conditions of this Agreement, I understand that the unauthorized disclosure of Nonpublic Information could compromise the security of individuals, the Organization and the Treasury.

9. If I violate the terms and conditions of this Agreement, such violation may result in the cancellation of my conditional access to Nonpublic Information. Further, violation of the terms and conditions of this Agreement may result in the Organization and/or the United States taking administrative, civil or any other appropriate relief.

10. I understand that the willful disclosure of information to which I have agreed herein not to divulge, may also constitute a criminal offense.

11. Unless I am provided a written release by the Treasury from this Agreement, or any portions of it, all conditions and obligations contained in this Agreement apply both during my period of conditional access, and at which time my affiliation and/or employment with the Organization ends.

12. Each provision of this Agreement is severable. If a court should find any provision of this Agreement to be unenforceable, all other provisions shall remain in full force and effect.

13. I understand that the Treasury may seek any remedy available to it to enforce this Agreement, including, but not limited to, application for a court order prohibiting disclosure of information in breach of this Agreement.

14. I understand that if I am under U.S. Congressional or judicial subpoena, I may be required by law to release information, and I shall provide prior notice to Treasury of any such disclosure or release.

I make this Agreement in good faith, without mental reservation or purpose of evasion.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



## **EXHIBIT E**

### **CONFLICTS OF INTEREST MITIGATION**

The following explains and memorializes certain conflicts of interest mitigation controls the Financial Agent shall implement and monitor during the term of the Financial Agency Agreement (“FAA”), including those for its parent, subsidiaries, affiliates, and named contractors approved in writing from the Treasury (collectively, and for the purpose of this Exhibit E, the “Financial Agent Group”). The conflicts of interest mitigation controls are based on the Financial Agent’s role under this FAA, including the services set forth in Exhibit A of this FAA. To the extent the FAA, including Exhibit A, is amended, this Exhibit E shall be reviewed to ensure that it appropriately identifies and mitigates conflicts of interest. For the purpose of this Exhibit E, an applicant for a loan or a payroll assistance payment under Sections 4003 and 4112 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and assigned to the Financial Agent by the Treasury shall be considered an “Assigned Entity.”

#### **Conflicts of Interest**

The following have been identified as actual or potential conflicts of interest associated with the Financial Agent providing services under this FAA to the Treasury in support of the CARES Act:

1. The Financial Agent Group may provide investment banking, strategic advisory, due diligence or other business services to an Assigned Entity. Because the Financial Agent will be responsible for evaluating the finances of the Assigned Entity and the terms of financial instruments that may be received by the Treasury as compensation from the Assigned Entity, there exists a potential conflict of interest between the Financial Agent’s duty to the Treasury and its duty to its other clients.
2. The Financial Agent Group may provide strategic advisory or due diligence services to other clients with current or prospective financial interests in an Assigned Entity. Because the Financial Agent Group may have knowledge of the Treasury’s plans, and access to material nonpublic information, regarding the terms and conditions for loans or payroll assistance payments, and any associated financial instruments, for the Assigned Entity, there exists a potential conflict of interest between the Financial Agent’s duty to the Treasury and its duty to its other clients.
3. The Financial Agent Group may provide strategic advisory or due diligence services on behalf of or related to direct competitors of an Assigned Entity. Because the Financial Agent Group may have knowledge of the Treasury’s plans, and access to material nonpublic information, regarding the terms and conditions for loans or payroll assistance payments, and any associated financial instruments, for the Assigned Entity, there exists a potential conflict of interest between the Financial Agent’s duty to the Treasury and its duty to its other clients.
4. Individuals employed by or associated with the Financial Agent Group may own, on behalf of their personal accounts, securities issued by, or another financial interest in, an Assigned

Entity. Because these individuals may have knowledge of the Treasury's plans, and access to material nonpublic information, regarding the terms and conditions for loans or payroll assistance payments, and any associated financial instruments, for the Assigned Entity, there exists a potential conflict of interest between their duty to represent the interests of the Treasury and their desire to represent their own interests that could impair the individuals' objectivity.

### **Mitigation Plans**

To address the conflicts of interest identified above, the Financial Agent agrees to implement the following conflict of interest mitigation plans and controls. The Financial Agent owes a fiduciary duty to the United States as set forth in Section 5 of this FAA.

#### **Conflict of Interest #1: An Assigned Entity is a Client of the Financial Agent Group**

The Financial Agent Group may provide revenue-generating business services, including investment banking, strategic advisory, due diligence, or other business services (collectively, "Other Services"). To address such actual or potential conflicts of interests, the Financial Agent agrees to implement a structure that ensures that the Financial Agent does not unduly favor the interests of its other clients over those of the Treasury.

Identification of Existing Other Services. The Financial Agent agrees to notify the Treasury if the Financial Agent Group provides Other Services to an Assigned Entity. As part of such notification, the Financial Agent shall disclose to the Treasury the percentage of its total revenue over the previous 12 months received for performing such Other Services. The Financial Agent shall mitigate any potential conflicts of interest by ensuring that, so long as the Financial Agent Group performs services under this FAA for an Assigned Entity, no "Key Individuals," as defined in this section, performing services under this FAA participate in the performance of Other Services for the Assigned Entity. For purposes of this FAA, a Key Individual is an individual who participates personally and substantially in evaluating an Assigned Entity and rendering analysis and advice to the Treasury.

Limitation on Entering into Agreements to Perform Other Services. The Financial Agent Group agrees to refrain from entering into an engagement to perform any new Other Services for an Assigned Entity during the term of this FAA without express approval from the Treasury.

#### **Conflict of Interest #2: Advisory Services on Behalf of Clients with Regard to an Assigned Entity**

To address the concern that the Financial Agent Group may provide strategic advisory or due diligence services to other clients regarding current or prospective financial interests in an Assigned Entity, the Financial Agent Group agrees to refrain from entering into an engagement to perform any such advisory or due diligence services on behalf of a client during the term of this FAA without express approval from the Treasury.

#### **Conflict of Interest #3: Advisory Services on Behalf of or Related to Identified**

## **Competitors of an Assigned Entity**

To address the concern that the Financial Agent Group may provide strategic advisory or due diligence services to direct competitors of an Assigned Entity, identified by either the Financial Agent or the Treasury, (“Identified Competitors”), the Financial Agent Group agrees to refrain from entering into an engagement to perform any such advisory or due diligence services on behalf of Identified Competitors, or on behalf of clients with an interest in acquiring a controlling equity interest in or entering into a joint venture (it being understood that a minority interest in and of itself shall not be deemed to be a joint venture) with an Identified Competitor, during the term of this FAA without express approval from the Treasury.

## **Conflict of Interest #4: Personal Conflicts of Interest**

To address concerns about the objectivity of individuals performing services for the Treasury who may own, on behalf of personal accounts, securities issued by an Assigned Entity, the Financial Agent agrees that all personnel responsible for providing services under this FAA shall be subject to the Financial Agent’s code(s) of conduct, personal securities trading policy(ies), and/or guidelines on personal conflicts of interest (Code of Conduct). Requirements for such Code of Conduct are set forth in the following section, entitled “Conflicts of Interest Mitigation Controls.”

Personal Trading Restrictions. During the term of this FAA, trading or investment activities in the securities of an Assigned Entity are prohibited for Key Individuals and their “Related Persons,” as defined in this section. Related Persons include an employee’s spouse or domestic partner, minor children, anyone else living in their household, partnerships in which they are a general partner, and corporations in which they are a controlling shareholder, trusts of which they are a trustee, and estates of which they are an executor. The Financial Agent’s compliance office shall ensure that all reasonable steps to prohibit such investment activities are taken, including by enforcement of the Financial Agent’s Code of Conduct.

## **Conflicts of Interest Mitigation Controls**

The Financial Agent shall comply with and implement the following general conflicts of interest mitigation controls.

Restrictions Regarding Material Nonpublic Information. While providing services under this FAA, some individuals within the Financial Agent Group may have access to material nonpublic information, such as knowledge of the Treasury’s plans regarding the terms and conditions for loans or payroll assistance payments, and any associated financial instruments. Information is “material” if there is a substantial likelihood that a reasonable person would consider the information important in making an investment decision (*e.g.*, if the disclosure of the information would positively or negatively affect the market price of a security or obligation). Individuals in possession of nonpublic information obtained or developed pursuant to this FAA shall not act, or cause others to act, on such information, except in performance of this FAA.

Identification and Control of Restricted Persons. When an individual is in possession of material

nonpublic information obtained or developed pursuant to this FAA, the individual shall be considered a “Restricted Person” hereunder. The Financial Agent’s compliance office shall maintain a list of all Restricted Persons, including each individual’s name, title, business group, date they became Restricted Persons, and date of removal from the Restricted Person list. While in possession of material nonpublic information, Restricted Persons shall be considered behind the “ethical wall,” and are subject to the transaction restrictions specified below.

Use of Securities Watch List. When an individual associated with the Financial Agent is in possession of material nonpublic information obtained or developed pursuant to this FAA regarding a publicly-traded Assigned Entity, the securities of the Assigned Entity shall be placed on the Financial Agent’s “Securities Watch List” and be subject to enhanced compliance review as specified in the Financial Agent’s insider trading policy. The individuals in possession of the material nonpublic information, including all Key Individuals and Restricted Persons, shall be prohibited from transacting in such securities, on behalf of either organizational or personal accounts, except in performance of this FAA. The Financial Agent’s compliance office shall employ regular testing to determine compliance with the Financial Agent’s insider trading policy. Without limitation, the compliance office shall identify non-compliant transactions and take appropriate corrective action.

Information Barrier Policies. Nonpublic information related to the services under the FAA shall be shared only on a need-to-know basis. The Financial Agent Group shall maintain information barrier policies and controls that are designed to restrict the dissemination, availability, and sharing of nonpublic information, including but not limited to material nonpublic information. Consistent with Section 11 of this FAA, “Conflicts of Interest Mitigation and Information Barriers,” the Financial Agent Group shall enforce, maintain, and monitor existing information barrier policies within the firm and with its affiliates to prevent the dissemination, availability and sharing of nonpublic information, including but not limited to material nonpublic information.

Controls over IT and Paper Files Related to Nonpublic Information. The Financial Agent’s management, performance, and accounting systems shall restrict nonpublic information access only to those individuals who have a need to know such information. Paper files that include nonpublic information will also be appropriately segregated and controlled so as to avoid inappropriate access by unauthorized individuals. Any information technology systems, record systems, and storage systems and devices used by the Financial Agent Group in the performance of services under this FAA that may contain nonpublic information shall have appropriate administrative, technological, and/or physical security controls to help ensure that access to such information is limited to those individuals who have a need to know such information.

Prohibition on Certain Interactions with Affiliates. The Financial Agent shall not provide advice to its affiliates regarding an Assigned Entity during the term of this FAA, unless specifically authorized by the Treasury in writing.

Code of Conduct. The Financial Agent shall maintain a Code of Conduct that sets out principles designed to guide employees and named contractors in the course of their business activities. All employees and named contractors of the Financial Agent shall be required to periodically

acknowledge that they are familiar with and abide by the Code of Conduct. At a minimum, the Code of Conduct must provide for the following:

- The Code of Conduct must require all employees and named contractors to hold as strictly confidential client information, to include all nonpublic information obtained or developed pursuant to this FAA, and to know and comply with all company policies, procedures, laws, and regulations that are applicable to their job duties.
- The Code of Conduct must establish rules requiring a Key Individual to disclose any material assets held for investment by the Key Individual.
- Unless an investment is exempt from prior notification, the Code of Conduct must require that any investments by such Key Individuals must be pre-cleared by the Financial Agent's compliance office and be subject to appropriate trading restrictions.
- The Code of Conduct must include minimum requirements for pre-clearance of certain personal securities transactions and regular reporting of security holdings and personal securities transaction activity.

Training. All Key Individuals associated with the Financial Agent Group performing services under this FAA shall be required to receive compliance training that shall advise each individual of their obligations and requirements under this FAA including its exhibits.

Monitoring / Compliance. The Financial Agent shall monitor the Financial Agent's conflicts of interest mitigation plans and controls set forth in this Exhibit E. The Financial Agent shall document such internal oversight and, upon request of the Treasury, provide a report on the effectiveness of the Financial Agent's mitigation controls in ensuring compliance with all requirements of this FAA.

Incident Reporting. Anyone performing services under this FAA shall be required to promptly report any breaches or violations of the conflicts of interest mitigation controls or other requirements of this FAA to the Financial Agent's compliance officer. A description of the incident shall be documented in an incident report and promptly provided to the Treasury.

Prohibition on Acceptance and Solicitation of Gifts. Neither the Financial Agent Group nor any Key Individual shall accept or solicit favors, gifts, or other items of monetary value from any individual or entity whom the Financial Agent Group or the Key Individual knows is seeking official action from the Treasury in connection with the services performed under this FAA or has interests which may be substantially affected by the performance or nonperformance of duties to the Treasury in carrying out services under this FAA.

Limitations on Communications with Employees of the Treasury. During the term of this FAA, the Financial Agent Group shall not directly or indirectly make any offer or promise of future employment or business opportunity to, or engage directly or indirectly in any discussion of future employment or business opportunity with, any Treasury employee with personal or direct responsibilities related to this FAA. The Financial Agent Group shall not offer, give, or promise to offer or give, directly or indirectly, any money, gratuity, or other thing of value to any employee of the Treasury, except as permitted by Government-Wide Ethics Rules, 5 C.F.R. Part 2635. The Financial Agent Group shall not solicit or obtain from any Treasury employee,

directly or indirectly, any information that is not public and was prepared for use by the Treasury for the purpose of evaluating a bid, proposal, or offer to enter into any service agreement or procurement contract.

Certifications. The Financial Agent shall submit a certification to the Treasury, on behalf of the Financial Agent Group, that to the best of its knowledge and belief, as of the effective date of the FAA:

- It has no organizational conflicts of interest except to the extent already described in this Exhibit E;
- All Key Individuals performing services under this FAA have no personal conflicts of interest, or are subject to a mitigation or waiver plan approved by the Treasury; and
- All Key Individuals providing services under this FAA and each employee of the Financial Agent and all affiliate and named contractor personnel to whom nonpublic information is or may be disclosed understand their obligations under this FAA.

Subsequent Notification. Subsequent to the certification required in the immediately preceding section, the Financial Agent has a continuing obligation to search for and to report any other potential organizational or personal conflicts of interest. The Financial Agent shall notify the Treasury in writing as soon as practicable, and in no instance later than two (2) business days, after learning of any new or expanded conflicts of interest that arise during the term of this FAA. The disclosure shall describe the steps the Financial Agent has taken or proposes to take to mitigate the potential conflict or request a waiver from the Treasury.

Reviews. The Treasury, on its own behalf or through an entity contracted by the Treasury, may conduct an ad hoc review of the compliance of the Financial Agent with all conflicts of interest and confidentiality obligations and responsibilities set forth in this FAA. Additional reviews may be conducted by oversight bodies with explicit authority over the CARES Act including the Special Inspector General for Pandemic Recovery, the Congressional Oversight Commission, the U.S. Government Accountability Office, and the Department of the Treasury Office of Inspector General. The Financial Agent shall cooperate fully with the Treasury or its designated representative and provide it with any and all such information (in whatever form) requested to perform such a review.

**EXHIBIT F**

**PUBLIC TRUST PERSONNEL POSITIONS SELF-CERTIFICATION FORM  
FOR FINANCIAL AGENTS  
IN FULL COMPLIANCE WITH SECTION 3 OF FAA**

This certificate is delivered as required under Section 3 of the Financial Agency Agreement (FAA), effective [DATE], between the U.S. Department of the Treasury (Treasury) and [Name of Financial Institution] (the Financial Agent).

I, [name of authorized official], a duly authorized official of the Financial Agent, certify that:

1. All employees (other than non-essential personnel) of the Financial Agent and its contractors and sub-contractors and auditors providing services under the FAA are United States citizens performing their work in the United States, and
2. The operation and maintenance of all systems and databases used in providing services under the FAA are located in the United States unless specifically authorized by the Treasury.

---

Signature and Title of Individual

Date

**AMENDMENT #1**  
**To the**  
**FINANCIAL AGENCY AGREEMENT**  
**for**  
**INDEPENDENT FINANCIAL ADVICE**  
**on**  
**PROGRAMS FOR CARGO AIR CARRIERS AND AVIATION SUPPORT FIRMS**  
**under the**  
**CORONAVIRUS AID, RELIEF, AND ECONOMIC STABILITY ACT**

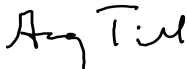
The Financial Agency Agreement (FAA) with an effective date of April 1, 2020, by and between the U.S. Department of the Treasury (Treasury), and Moelis & Company LLC (Financial Agent), is amended as follows effective August 28, 2020.

**Modify Section 2 Term, sub-section B, to revise the number of cumulative 1-month extensions from:**

“4” cumulative 1-month extensions to “7” cumulative 1-month extensions.

**In witness whereof**, the Treasury and the Financial Agent by their duly authorized officials hereby execute and deliver this Financial Agent Agreement as of the Effective Date.

**Department of the Treasury**



\_\_\_\_\_  
Gregory J. Till  
Deputy Assistant Secretary  
Fiscal Operations and Policy

August 28, 2020

\_\_\_\_\_  
Date

**Financial Agent**



\_\_\_\_\_  
Osamu Watanabe  
General Counsel

August 24, 2020

\_\_\_\_\_  
Date