

CUSTOMER MARGIN & SHORT ACCOUNT AGREEMENT

APEX CLEARING CORPORATION AND/OR
BROKER DEALERS FOR WHICH IT CLEARS

tastyworks.

1000 W. Fulton Market, Suite 220
Chicago, Illinois 60607

ACCOUNT NUMBER: _____

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; (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 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 effect 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 of 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.

CUSTOMER MARGIN & SHORT ACCOUNT AGREEMENT

APEX CLEARING CORPORATION AND/OR BROKER DEALERS FOR WHICH IT CLEARS

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:**
- 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;**
 - ARBITRATION AWARDS ARE GENERALLY FINAL AND BINDING; A PARTY'S ABILITY TO HAVE A COURT REVERSE OR MODIFY AN ARBITRATION AWARD IS VERY LIMITED.**
 - THE ABILITY OF THE PARTIES TO OBTAIN DOCUMENTS, WITNESS STATEMENTS AND OTHER DISCOVERY IS GENERALLY MORE LIMITED IN ARBITRATION THAN IN COURT PROCEEDINGS;**
 - 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.**
 - THE PANEL OF ARBITRATORS MAY INCLUDE A MINORITY OF ARBITRATORS WHO WERE OR ARE AFFILIATED WITH THE SECURITIES INDUSTRY.**
 - 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.**
 - 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 rehypothecated, 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

CUSTOMER MARGIN & SHORT ACCOUNT AGREEMENT

APEX CLEARING CORPORATION AND/OR BROKER DEALERS FOR WHICH IT CLEARS

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 noninfringement. 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. 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.

BY SIGNING BELOW, 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 PREDISPUTE ARBITRATION CLAUSE ON PAGE 2, 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.

DATE OF DELIVERY OF MARGIN DISCLOSURE STATEMENT: _____

Signature

Print Name

Signature (Second Party, If Joint Account)

Print Name

Date

FOR USE BY ENTITY ACCOUNTS ONLY (I.E. CORPORATIONS, PARTNERSHIPS, TRUSTS):

Is this account for a foreign bank? YES No

If Yes, Please list Agent for service of process: _____

Is this account for a foreign shell bank? YES No

Does this firm offer services to a foreign shell bank? YES No

If you answered yes to any of the above questions, Corporations will need to complete Certification Regarding Correspondent Accounts.

Signature

Print Name

Title

Date

tastyworks Australia Pty Ltd

ACN 623 542 969 AFSL No. 508867



Margin Agreement Addendum

(Australian Resident Investors Only)

This addendum contains important information regarding the terms and conditions which will apply to your tastyworks Margin Lending Facility. You should read this document carefully together with the Product Disclosure Statement found at www.tastyworks.com.au and retain it for future reference.

Part 1

Margin Loan Terms

1 Loan Facility

- 1.1 You may ask us to provide you with a variable interest rate loan up to the facility limit.

Facility Limit

- 1.2 We may review the facility limit either as a result of a request from you or if we are requested by law so to do.
- 1.3 You must provide us with any information that we reasonably require at the time of any review.
- 1.4 As a consequence of a review we may decrease the facility limit or refuse your request for a facility limit increase if we consider it appropriate having regard to our lending criteria and obligations under any law (and even if to do so would result in a default event).
- 1.5 You must ensure that, within 5 business days of receiving notice of a reduction in the facility limit, the secured liabilities are less than the facility limit.
- 1.6 If you do not comply with your obligations under clause 1.5 then, without limiting our rights under the mortgage terms in part 2, you will be taken to have requested the attorney appointed under clause 10 to take all steps we deem necessary to ensure that the secured liabilities are less than the facility limit.

2 Procedure for application of loan

Application of your loan

- 2.1 When your *loan* is approved it will be automatically applied to the *positions* in your *facility*.
- 2.2 A *cash account* will be opened with the *Nominee* on your behalf. The *cash account* will be used, among other things to receive and hold any cash collateral you provide, including any amount provided following the making of a *margin call*.

Conditions to making a loan

- 2.3 For all *loans* (we are not required to make you a loan if:
- (a) a *default event* has occurred for you; or
 - (b) the loan would cause the *secured liabilities* to exceed the *facility limit* or would give us the right to make a margin call under clause 8; or
 - (c) the *current LVR* is equal to or greater than the *margin call LVR* or if the advance would result in the *current LVR* becoming equal to or greater than *margin call LVR*; or

- (d) we have asked you to repay the *secured liabilities* under clause 8.3.

- 2.4 We may, in our absolute discretion where the law so permits, make a *loan* to you to acquire *investments* that would cause the *secured liabilities* to exceed the *facility limit*. If we do so you acknowledge that:

- (a) your *facility limit* is increased to the amount of secured liabilities after we have made the *loan*; and
- (b) we will review your *facility limit* under the clauses 1.2 to 1.6 and as a consequence of the review we may decrease your *facility limit* which would require you to take steps to ensure that the *secured liabilities* are less than decreased *facility limit*.

3 Purchasing investments with loan funds

- 3.1 A *loan* that we make to you under the facility must be used to purchase investments as agreed by us.
- 3.2 On request we will provide you with a list of *approved investments*. That list may also appear on the *website*. We may remove an *investment* from the approved list at any time, without having to give you prior notice. We will give you notice that an *investment* has been removed from the *approved investment* list as soon as practicable after the *investment* is removed.

4 Calculation of interest

- 4.1 You agree to pay us interest at the applicable interest rate on the *loan* advanced to you, calculated daily from (and including) the date the *loan* is advanced. We may also charge interest on unpaid interest, fees, charges, and any other amount owing to this *agreement* from (and including) the date that relevant amount becomes payable.
- 4.2 We may debit any interest to your *loan account* if to do so would not cause the *secured liabilities* to exceed the *facility limit*.
- 4.3 If we:
- (a) do not, under clause 4.2, debit your *loan account* because to do so would cause the *secured liabilities* to exceed the *facility limit* or debit your *cash account*; or
 - (b) debit your *loan account* and upon doing so the *secured liabilities* exceed the *facility limit*,

that amount of the interest is immediately due and payable by you and failure to pay will be a *default event*.

4.4 If the *secured liabilities* exceed the *facility limit*, we may charge you *default interest* on the amount by which the *secured liabilities* exceed the *facility limit*. You must also pay us *default interest* on any amount you fail to pay on the due date (including, the amount of any *margin call* which is not satisfied under clause 8).

4.5 Information on current interest rates and charges is available from us on request. This information may also appear on our *website*.

5 Changing of interest rates

5.1 We may change the interest rate at any time. This reasons why we may change the interest rate include (but are not limited to) changes to the cost or risk of providing the loan to you. We will notify you on our website of any change in the interest rate.

5.2 If a change to the interest rate is not acceptable to you, and you give us notice within 5 days of being notified of the change that you intend to repay the loan under clause 5.1, we will not apply the variable interest rate as so changed to the loan (although you must pay interest at the previous rate until the loan is repaid).

Interest payable in arrears

5.3 Interest accrues daily on your loan. You must pay interest incurred on your loan monthly in arrears. We may debit accrued interest from your *facility*.

Effect of debiting interest to loan amount

5.4 Debiting an amount to your *facility* may result in a *margin call*, or it may result in your *facility limit* being exceeded. In either case, our rights for those events are unaffected by the fact that we have agreed to debit the relevant amount to your *facility*.

6 Fees and Charges

6.1 You agree to pay:

- (a) all fees, charges payable under this *agreement* and described in the *PDS*; and
- (b) any other amount owing to us to this *agreement* including those that you must pay to us, the *Introducing Broker* and the *Nominee*

6.2 We may require you to pay an enforcement expenses incurred in enforcing this agreement as well as any economic cost.

6.3 You must pay or reimburse us for any charges relating to dishonoured, declined or rejected debits or payments.

6.4 We may debit any fees, costs or charges under clause 6.1, clause 6.2, clause 6.3 or clause 6.7 from your *facility* or a

portion of your *facility* and if to do so would not cause the *secured liabilities* to exceed the *facility limit*.

6.5 If we do not debit your *facility* under clause 6.4, you must reimburse us, the *Introducing Broker* and the *Nominee* as we direct within five *business days* of receiving a request from us for any costs, fees and charges incurred on your behalf under the terms of this *agreement*.

6.6 Your liabilities under this clause 6 include stamp duty, taxes, securities registration or other fees and charges associated with trading in the *approved investments*.

6.7 You acknowledge that the *Introducing Broker* or the *Nominee* may charge a fee relating for the services provided to you under this *agreement* and you agree to reimburse us for the amount of that fee or as determined by us pay the *Introducing Broker* or the *Nominee* directly for the amount.

6.8 On giving you at least 30 days' notice in writing we, the *Introducing Broker* or the *Nominee* may impose any new fee, vary the amount of a fee, vary the frequency of interest and fee charging or the basis of the calculation and charging of fees or interest. This does not apply to changes to government fees and charges.

7 Repayments

Repayment at your election

7.1 You may repay the whole or part of the *loan* at any time by giving us five *business days*' notice.

Compulsory repayment on default event

7.2 If a *default* event occurs and we required you to do so, you must repay (all or part of) the *loan* and all other monies owing by you within two *business days* after notice is given by us to you.

7.3 It is a *default* event if:

- (a) you fail to perform or observe any obligation under this *agreement* in a material respect, including an obligation to pay an amount on time;
- (b) you not pay interest, fees, or other amounts due under clause 6;
- (c) the *secured liabilities* exceed the *facility limit*.
- (d) you become *insolvent*, (or in the case of a natural person) die or become of unsound mind or subject to any legal disability or incapacity;
- (e) any provision of this *agreement* becomes void, voidable or defective;
- (f) you without prior written consent purport or attempt to create any *security interest* over any *secured property* in favour of anyone other than us;
- (g) a *margin call* is not satisfied under clause 8; or

- (h) any other event occurs which in our opinion may materially affect your ability to meet your or their obligations under this *agreement*.

Repayment at our election

- 7.4 Despite clause 7.2, and even if no *default event* has occurred, we may ask you to repay the *secured liabilities* at any time by giving you five *business days'* notice.

8 Margin Calls

- 8.1 We may (and will where required to do so by law) make a *margin call* if, at the relevant time, the *current LVR* is equal to or greater than the *margin call LVR* at that time. This may occur in any number of ways, including movement in the value of any item of secured property and/or us removing an investment from the list of approved investments.

- 8.2 We may change the *margin call LVR* at any time. The reasons why we may change this include (but are not limited to) changes to our view of the market risk of providing the *loan* to you and taking security over *approved investments*. We will notify you through the *website* of any change in the *margin call LVR*.

- 8.3 If we make a *margin call*, we will take reasonable steps to notify you or ask you to do any of the following (as you choose) by the *margin call deadline*:

- (a) repay some or all of the *secured liabilities*;
- (b) provide us with security over additional *approved investments*; or
- (c) provide additional cash to the *cash account*,

in any case, so that the *current LVR* is less than the *margin call LVR*. In our sole discretion we may agree to an arrangement that may, but need not include any of (a) (b) or (c), so that the *current LVR* less than the *margin call LVR*.

- 8.4 We will not be liable to you for any loss that you incur because of any failure to make a *margin call* as soon as we are entitled to, or at all.

- 8.5 If you do not satisfy a *margin call* by the *margin call deadline* (regardless of whether you have actually received the *margin call*), or we have been unable to contact you to give you a *margin call* (having taken reasonable steps to do so), you will be taken to have requested your attorney appointed under clause 10 to take all steps they deem necessary to *dispose* of any *secured property* that we choose in our absolute discretion and apply the net proceeds of *disposal* under clause 8.2(a),(b) or (c) (as we deem appropriate, acting reasonably).

- 8.6 The attorney, acting reasonably, may *dispose* of more of the *secured property* than that required to satisfy the *margin call*.

- 8.7 The *secured property* may be *disposed* of together with other property of the same type belonging to other clients

and the *disposal* proceeds of the combined *disposals* allocated in the proportion which the number of your investments *disposed* bears to the total number of investments *disposed* of the same type.

- 8.8 If the attorney disposes of secured property, under this clause 8, the attorney will take all reasonable care to dispose of the *secured property* for:

- (a) when it is sold it has a market value, not less than that market value; or
- (b) otherwise, the best price that is reasonably obtainable, having regard to the circumstances existing when *secured property* is sold.

- 8.9 We do not need to give notice of a *default event* to exercise our rights under this clause 8.

9 Representations, warranties and covenants

- 9.1 I represent and warrant to you that:

- (a) we have legal power to invest;
- (b) if the loan will be held jointly, each of us is able to operate the account and bind the other to any transaction;
- (c) investing as trustee on behalf of a trust I/we confirm that:
 - (i) I am/we are acting in accordance with my/our designated powers and authority under the trust deed and that the copies of the trust deed and other documents relating to the trust provided to us disclose all the terms of the trust;
 - (ii) trust deed will not be amended or altered without our prior consent;
 - (iii) you will not relinquish your trusteeship without our prior consent;
 - (iv) you are not, and never have been, in default under the trust deed;
 - (v) rights under this agreement rank in priority to the interests of the beneficiaries of the trust; and
 - (vi) you have carefully considered the purpose of this agreement and consider that entry into this agreement is for the benefit of the beneficiaries and the terms of this agreement are fair and reasonable.

Each representation and warranty is taken to be repeated on each date on which we provide a *loan*.

- 9.2 If you are a trustee, you agree:
- (a) At our request and at your own expense:
 - (i) to execute and cause your successors to execute documents and do everything else necessary or appropriate to bind yourself and your successors under this *agreement*; and
 - (ii) to use your best endeavours to cause relevant third parties to do likewise to bind every person intended to be bound under this *agreement*;
 - (b) to observe your obligations as trustee of the trust;
 - (c) not, without consent, to do anything which:
 - (i) effects or facilitates the retirement, removal or replacement of yourself as trustee of the trust or termination of the trust; or
 - (ii) could restrict your right of indemnity from the trust fund for obligations incurred as trustee under this *agreement*; or
 - (iii) could restrict or impair your ability to observe its obligations under this *agreement*; or
 - (iv) effects or facilitates the variation of the trust deed or resettles the trust; or
 - (v) could result in the trust fund being mixed with other property.

9.3 You agree to notify us immediately if any representation or warranty made or taken to be made under this *agreement* is found to be incorrect or misleading when made or taken to be made.

10 Power of attorney

in this clause 10, 'you' and related terms mean the *client*.

- 10.1 You (and, if there are more than one of you, each of you severally) appoint us, our authorised agents and/or the *Introducing Broker* as your attorneys. If we ask, you must formally approve anything an attorney does under clause 10.2 (*including* in writing). You may not revoke these appointments until all the *secured property* is released from this *agreement*.
- 10.2 An attorney may do any act or thing and execute, sign or deliver any document which an attorney reasonably considers necessary or desirable for the purpose of:
- (a) doing anything which you may authorise an attorney to do or request an attorney to do to the *secured property* (*including* executing a deed, acquiring, *disposing* of or otherwise dealing with the *secured property* or directing *our agent* to do so, starting, conducting and defending legal

- proceedings, applying the proceeds or dealing with *secured property* to repay all or part of the *secured liabilities*, or sending messages or communications by which *secured property* can be disposed of); and
- (b) their powers (*including* this power and the power to revoke a delegation); and
- (c) exercising their powers even if this involves a conflict of duty or if they have personal interest in doing so; and
- (d) exercising their powers regardless of whether a *default event* has occurred.

- 10.3 Neither we nor an attorney are liable for any loss or penalty incurred by you as a result of:
- (a) any delay by an attorney in exercising their powers; or
 - (b) an attorney not exercising their powers, except if caused by our fraud or gross negligence.
- 10.4 You indemnify each attorney against any reasonable loss or costs they suffer or incur in exercising powers under this power of attorney. We may debit this loss or cost to your *facility*.

11 Right of set-off over your cash account

- 11.1 As security of your obligations under *this agreement* you agree to give us rights of set-off against the *cash amount*.
- 11.2 This means that we may set off any amount due by you to us against the credit balance in the *cash account* if a *default event* has occurred. We may do this without prior notice to you.

Part 2

Mortgage Terms

12 Agreement to mortgage securities

- 12.1 You agree to mortgage to the *Nominee*, as security for the payment of the *secured liabilities*:
- (a) all *future investments* held in the name of, or on behalf of, any one or more or all of you, automatically and immediately that they become future investments;
 - (b) all new rights, automatically and immediately that they are acquired by or on behalf of any one or more or all of you; and
 - (c) the credit balance in your cash account.
- 12.2 In enforcing our security under this *agreement*, we are entitled to resort to any secured property the *Nominee* holds from any one or more or all of you.
- 12.3 For those *secured liabilities* which are loans, this mortgage is limited to the *security limit*.
- 12.4 We may, at your expense, apply for any registration, or give any notification, to a security interest created under this *agreement*.

13 Power of sale

In this clause 13, 'you' and related terms mean the *client*.

- 13.1 If a *default event* occurs, the *Nominee* may, in addition to any other powers conferred on us by this *agreement*, do all or any of the following:
- (a) *dispose* of all or any of the secured property either separately or together with other property of the same type belonging to other clients, in our absolute discretion and do all acts and things that we consider necessary to complete the *disposal* of the *secured property*;
 - (b) demand and recover all of the proceeds from the *secured property* by action or otherwise in your name or the *Nominee's* name to the full extent of the estate or interest which you could dispose of;
 - (c) make any arrangement or compromise which we consider expedient in our interests; or
 - (d) bring or defend any action, suit or legal proceedings in your name or otherwise, for all or any of the above purposes.

- 13.2 We may allocate the *disposal* proceeds of combined *disposals* under clause 13.1(a) according to the proportion which the number of *investments* comprised in the *secured property* sold on your behalf bears to the overall number of *investments* of the same type in the combined *disposal*.

14 Obligations for secured property

In this clause 14, 'you' and related terms mean the *client*.

- 14.1 The *client* must ensure that a *default event* under this *agreement* does not occur. You must also carry out on time all of your obligations including obligations to pay the *secured liabilities*. Your obligations under this agreement continue even if we or the *Nominee* releases the secured property from this *agreement*.
- 14.2 You may request us to release the *secured property* from this *agreement* when there is no amount owing for *secured liabilities*. However, even if the *secured liabilities* are paid, the *secured property* remains mortgaged to the *Nominee* until we actually release it from this *agreement*. We will act reasonably in releasing the *secured property*.
- 14.3 The *client* is liable for all of the *client's* obligations under this *agreement*.

15 Restrictions on dealing with the secured property

In this clause 15, 'you' and related terms mean the *client*.

- 15.1 You must not, without our consent:
- (a) *dispose* of, deal with or part with the possession of any interest in the *secured property*; or
 - (b) create or allow to come into existence any *security interest* which affects the *secured property* in favour of anyone other than us or the *Nominee*; or
 - (c) abandon, settle, compromise or discontinue or become nonsuited for any proceedings against any person (other than us) for any of your rights to be *secured property*; or
 - (d) waive any of your rights or release any person from their obligations to the secured property.
- 15.2 You must do anything we reasonably require to the *secured property* including obtaining consents, signing and producing documents, producing receipts, getting documents completed and signed and paying any duties, taxes and other imposts to allow the *Nominee* to perfect or register any *security interest* created under this agreement or enforce our rights under this agreement or protect the value of, or perfect

the *Nominee's* interest in, or to otherwise improve our position for the *secured property*.

15.3 You must do anything we reasonably consider necessary for the purpose of:

- (a) providing more effective security over the secured property (or any other property you are required to mortgage under this agreement) for the payment of the secured liabilities including:
- (b) ensuring that any security interest created under this agreement is enforceable, perfected or otherwise effective;
- (c) enabling the *Nominee* to apply for any registration, or give any notification, to any security interest created under this agreement so that the security interest has the priority we require; or
- (d) enabling the *Nominee* to exercise our rights to the secured property; or
- (e) enabling the *Nominee* to register the power of attorney described in clause 12 or a similar power; or
- (f) showing whether you are complying with this agreement.

15.4 You must:

- (a) pay all calls or other moneys payable for the *secured property* if we determine that it is reasonably necessary to protect the value of the *secured property*. If funds are provided, we may, at our discretion, pay or authorise and direct the *Nominee* to take up these calls and other amounts as may be necessary, and that payment will form part of the *secured liabilities*;
- (b) take up *new rights* if we ask you to (but you may decline to take up *new rights* for which you have a present or future obligation to make a payment to acquire the *new right* or to that *new right*);
- (c) assist us in exercising any power of sale or *disposal* that we have for the *secured property*; and
- (d) without limiting anything in clause 15.1, enter into a priority agreement in a form acceptable in a form acceptable to us if you create or allow to exist any *security interest* over the *secured property* in favour of anyone other than the *Nominee* without our consent. If you do not do any of these things, then without limiting any other rights we may have, we need not advance to you any further amounts under this *agreement*.

16 Preservation of our rights

In this clause 16, 'you' and related terms mean the *client*. This *agreement* does not merge with or adversely affect and is not adversely affected by any of the following:

- (a) another security or right or remedy to which we are entitled; or
- (b) a judgement or order which we obtain against you for any amount owed to us by you.

17 Appointment of tastyworks US as your Introducing broker

17.1 You appoint *tastyworks US*, and *tastyworks US* agrees, to be your *Introducing Broker* by the purchase and disposal of *approved investments* on your behalf.

17.2 This appointment of *tastyworks US* as your *Introducing Broker* under clause 17.1 is irrevocable until we notify you otherwise in writing.

18 Authority of Introducing Broker

18.1 Your *Introducing Broker* may:

- (a) do anything necessary to transfer or register the *approved investments* that form part of the *secured property* under a *street name registration*;
- (b) do anything that is necessary or convenient for the purpose of effecting title to the *approved investments* under the applicable *settlement rules*.

18.2 Your *Introducing Broker* is under no duty to enquire whether it may validly give any consent or instruction.

18.3 Your *Introducing Broker* may refuse to take action for approved investments under this clause 18 unless it is satisfied that to do so:

- (a) will not affect the *Nominee's* security interest;
- (b) will not cause or result in a *default event*;
- (c) will not give rise to a *margin call*.

18.4 Subject to clauses 18.3 and 18.4, your *Introducing Broker* will initiate any action necessary to give effect to a request by you to *dispose* of your *approved investments* from registration under clause 18.1 within two *business days* of the date request.

18.5 Your *Introducing Broker* may dispose of any *secured property* by providing instructions to the *Nominee* acting as your attorney under clause 10.

Supply of information

- 18.6 you agree to supply all information and supporting documentation that is reasonably required by your *Introducing Broker* to permit it to comply with the registration requirements under the *settlement rules*.
- 18.7 If any information that you have previously supplied changes, you must notify your *Introducing Broker* of the change (and supply any necessary supporting documentation) as soon as possible.
- 18.8 You authorise your *Introducing Broker* to obtain statements of your *approved investments* that form part of the secured property from the *Nominee* on your request, or at the times as the *Introducing Broker* reasonably thinks necessary.

19 Indemnity

- 19.1 Your indemnity your *Introducing Broker* and us against any liability or loss arising from, and any costs, charges and expenses incurred by your *Introducing Broker* properly carrying out its duties or exercising its powers as *Introducing Broker* for the *approved investments* or from carrying out any direction given by you or us. This is a continuing indemnity and it is not necessary the *Introducing Broker* or us to incur any expenses or make any payment before enforcing it. The indemnity under this clause is reduced proportionally to the extent that we or *the Introducing Broker* acted fraudulently or with gross negligence and caused or contributed to foreseeable liabilities, losses, damages, costs and expenses.

20 Termination

- 20.1 Your appointment of *tastyworks US* as *introducing Broker* terminates immediately:
- (a) by notice in writing from either you or *tastyworks US* to the other;
 - (b) if *tastyworks US* becomes insolvent; or
 - (c) if *tastyworks US* is suspended from the settlement facility or its rights under the settlement facility are terminated.

21 General rights and obligations

- 21.1 We do not guarantee the obligations or performances of *the Nominee* or the services it offers.
- 21.2 The regulatory regime that applies to us is set out in the *Corporations Act*. Accordingly, we are regulated by *ASIC*. Information as to our status may be obtained from *ASIC*.
- 21.3 The regulatory regime established by the settlement rules applies to the *Introducing Broker* and it is regulated in the United States of America by FINRA (Financial Regulatory Authority), SEC (Securities and Exchange Commission), NFA (National Futures Association) and the CFTC (Commodity Futures Trading Commission) and is a member

of FINRA, NFA and SIPC (Securities investor Protection Corporation).

- 21.4 The *Nominee* is a company constituted in the United States and regulated by FINRA (Financial Regulatory Authority), SEC (Securities and Exchange Commission), NFA (National Futures Association) and the CFTC (Commodity Futures Trading Commission) and is a member of FINRA, NFA and SIPC (Securities Investor Protection Corporation).

Part 3

Appointment of Nominee

In this Part 3, 'you' and related terms mean the *client*.

22 Appointment (and replacement) of Nominee

- 22.1 You appoint the *Nominee* to hold on your behalf as *custodian* the *approved investments* and the *cash account* comprising your facility. The appointment will continue this agreement terminates.
- 22.2 You expressly authorise your attorney appointed under clause 10, at any time we request it, to replace the *Nominee* appointed under clause 22.1 by terminating on your behalf that appointment and instead appointing another person to act in that capacity, and the expression 'The *Nominee*' in this *agreement* is interpreted accordingly. You authorise your attorney to do all things the attorney deems necessary or desirable on your behalf to effect that replacement, including directing the transfer of any *secured property* or the *cash account* held by the terminated nominee to the new nominee. We will notify you in writing after this has occurred.

23 Indemnity to the Nominee

- 23.1 You agree to indemnify the *Nominee* against all liabilities or loss whatsoever which the *Nominee* may suffer or incur except if caused by the fraud or gross negligence of the *Nominee*.

24 Authority to mortgage and dispose

- 24.1 You authorise the *Nominee* to mortgage on terms we specify in our favour all interests in *future investments* and *new rights* which are held by the *Nominee*, to secure the *secured liabilities* or the *cash account*.
- 24.2 You authorise the *Nominee* to pay the proceeds of disposal of any *secured property* held on your behalf towards satisfaction of *secured liabilities* or by way of deposit into your *cash account*, as we direct.
- 24.3 You authorise the *Nominee* to dispose of secured property under our instructions where we the *Introducing Broker* are acting as your attorney under clause 10. Without limiting this authorisation, the *Nominee* will act on our instructions in sending any messages or communications by which secured property can be disposed of.

Part 4

General Terms and Definitions

In this Part 4 (except for clause 37), 'you' and related terms mean the *client*.

25 Declarations by you

- 25.1 You declare that:
- (a) you have not breached any law or any obligation to any other person by becoming party to this agreement; and
 - (b) all the information you have given us is correct and not misleading; and
 - (c) you have not withheld any information which might have caused us not to enter into this agreement; and
 - (d) a *default event* has not occurred.
- 25.2 You must notify us if anything has happened which would prevent you from repeating all the declarations in clause 25.1 before you ask us for an advance.
- 25.3 You agree that each of the items in *Schedule 1: Suitability Requirements Confirmation* are correct.

26 How we may exercise our rights

- 26.1 We may exercise a right or remedy or give or refuse our consent or approval in any way we consider appropriate, including by imposing reasonable conditions, but we may not refuse our consent or approval unreasonably.
- 26.2 We may enforce any part of this agreement before we enforce other rights or remedies.
- 26.3 If we do not exercise a right or remedy fully or at a given time (including a right to make *margin call*), we may still exercise it later.
- 26.4 We are not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy except to the extent caused by our fraud or gross negligence.
- 26.5 Our rights and remedies under this *agreement* are in addition to the other rights and remedies provided by law independently of this *agreement*.
- 26.6 Our rights and remedies under this agreement may be exercised by any person we authorise.

27 Our appointment of Service Providers

- 27.1 We may appoint:
- a) an *Introducing Broker* to effect trading in securities on your behalf;

- b) a wholesale provider of finance for your *facility*;
- c) a *Nominee* to hold and deal with some or all of your *facility*, either in your name or in its name on your behalf;
- d) a *clearing house*;
- e) an *Administrator* to create and maintain records of your *facility*, and

these service providers may be appointed by us directly or through our *associates*, delegates or authorised agents and may be changed from time to time.

27.2 By the authority in clause 27.2, we have appointed the following service providers:

- (a) tastyworks US as the *Administrator* and *Introducing Broker*; and
- (b) Apex as the *Nominee* and wholesale provider of finance for your *facility*.

28 Authorised representatives

28.1 You agree that each of the persons notified by you to us as your authorised representative is authorised in your name to:

- (a) access all information, and receive statements of account, for the facility, including electronically;
- (b) give instructions to us, the *Nominee*, and the *Introducing Broker* for the secured property;
- (c) direct us to deal with the proceeds from a dealing by us with *secured property*;
- (d) gain, create or perfect security over any *approved investment* or other property of yours in favour of us including but not limited to, notifying particulars of approved investments to us as *future investments* for the purposes of this *agreement* entered into by you; and
- (e) any other actions necessary to give effect to this *agreement*.

28.2 You agree to ratify (including, if we request, in writing) anything done by an authorised representative or any actions taken by us on your behalf on the instructions of an authorised representative.

28.3 You agree to indemnify and hold harmless us and our directors, officers, agents and employees from and against all liabilities, losses, damages, costs, expenses directly or indirectly incurred or suffered by us or our directors, officers or employees as a result of complying with instructions of an authorised representative. The indemnity under this clause is reduced proportionally to the extent that we have acted fraudulently or with gross negligence and caused or

contributed to foreseeable liabilities, losses, damages, costs or expenses.

29 Notices and other communications

29.1 Unless otherwise specified in this agreement, notices, certificates, consents, approvals, requests and other communications to us to this agreement must be in writing (unless we agree otherwise) and may be sent by post, facsimile, or electronic mail to the address indicated in the PDS, or any other address we notify you in writing.

29.2 Unless otherwise specified in this agreement, notices, certificates, consents, approvals, requests and other communications to this agreement for you may be given to you by:

- (a) delivering it personally; or
- (b) leaving it at or sending it by post to the postal address nominated by you; or
- (c) electronic communication to a device (including by way of SMS), electronic equipment or electronic address nominated by you; or
- (d) displaying information on our website (after notifying you by electronic communication that the information is available for retrieval on the website and the nature of this information); or
- (e) in the case of a notification of a margin call under clause 8, emailing or texting you using the number you have nominated.

29.3 You may change your nominated electronic address or telephone number by giving us notice.

29.4 You may request a paper copy of any notice given to you by electronic means if you request the paper copy within 6 months of receipt of the electronic copy.

29.5 A communication given to your authorised representative is taken to be given to you.

29.6 Communications to us from a company must be signed by an authorised representative or a director.

29.7 For the purposes of this agreement a communication is taken to be given:

- (a) In the case of a communication given personally – on the date it bears or the date it is received by the addressee, whichever is the later; or
- (b) in the case of a communication sent by post – on the date it bears or the date when it would have been delivered in the ordinary course of post, whichever is the later; or
- (c) in the case of a transmission sent by electronic means the date that it is sent unless the sender's machine received a report that indicates there was a failure in delivering the communication; or

(d) in the case of anything we publish in the metropolitan daily press, or on a website, on the date of publication.

29.8 You can access your statements of account for your *facility* each month on the *website* of the *Administrator*. Unless prevented from doing so by law we may:

- (a) choose to vary the frequency of the statements we provide to you; or
- (b) vary the means by which we make statements available to you.

We will give you notice if we do either of these things.

29.9 You can access confirmations of all transactions for the *facility* as soon as is reasonably practicable after the transactions.

30 General Indemnities, releases and disclaimers

30.1 We will only disclose information that we have about you, the *secured property*, the *facility* and this *agreement*:

- (a) to the extent specifically required by law; or
- (b) for the purposes of this agreement (including disclosing information to any query or claim); or
- (c) to the extent we decide, where disclosure to third parties without your consent is permitted by laws relating to privacy; or
- (d) with your consent.

30.2 You consent to us giving, from time to time, to:

- (a) an authorised representative; or
- (b) the *Introducing Broker*, *Administrator* and/or the *Nominee*,

any information in our possession about you, the *secured property*, the *facility* and this agreement which they may request from time to time. We may also give this information to a settlement facility to the extent we deem necessary or desirable for effecting transactions to this *agreement*. This information may be given in electronic, paper or spoken form.

30.3 We, the *Introducing Broker*, *Administrator* and or the *Nominee* are not in any way liable to you, and you release us, our directors and employees from any liability for, the unauthorised accessing or release of any information (except to the extent, and only to the extent, arising from our gross negligence or fraud).

30.4 You release us, the *Introducing Broker*, the *Administrator* and the *Nominee* and each of our respective directors and employees from any and all liability, costs, losses and expenses (including taxes and indirect and consequential losses) arising from this agreement (except to the extent,

and only to the extent, arising from our gross negligence or fraud).

30.5 You acknowledge that we are not responsible for any missed market opportunities or any loss or losses you may suffer or incur as a consequence of a missed market opportunity caused by us taking any action under this agreement.

30.6 You acknowledge that there may be a delay between the time you give instructions and when they are effected. In particular (but without limitation), there will be a delay between when we advance a loan to you and when those funds are used to acquire investments. We are not in any way liable to you, and you release us, our directors and employees from, any liability for any movement in the value or price of any investment between, on the one hand, (a) the date you give instructions to effect a transaction, or the date we receive funds, or the date we advance a loan, and, on the other hand, (b) the date the instructed transaction is effected or the date the relevant investment is acquired. The indemnity under this clause is reduced proportionally to the extent that we have acted fraudulently or with gross negligence and caused or contributed to any foreseeable loss.

30.7 If an error is made by us for the recording, effecting or processing of any transaction to this *agreement*, we will not in any circumstances be liable, except to the extent caused by our fraud or gross negligence, for, and you expressly release us from any liability for, any tax consequences suffered by you, and any indirect or consequential damages or losses you may incur.

30.8 We are not responsible for any decision you make to obtain the *facility*, to enter into any arrangement incidental to the *facility*, to purchase investments in the *facility* or the performance of any investments.

30.9 The fact that we have included an investment on our list of *approved investments* is not a recommendation of that investment or a representation relating to the past or future performance of it.

30.10 Where our officers or agents are acting on our behalf, they do not have our authority to recommend the purchase or sale of, or make a prediction or offer an opinion for investments.

30.11 All indemnities in this agreement are continuing indemnities and they survive termination of this agreement.

31 Interpretation

31.1 In this agreement unless the contrary intention appears:

- (a) a reference to this agreement or another instrument includes any variation or replacement of any of them;
- (b) a reference to a statute, ordinance, code or other law, or business rules, includes regulations and

other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

- (c) the singular includes the plural and vice versa;
 - (d) the word 'person' includes a firm, body corporate, an unincorporated association or an authority;
 - (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes and assigns;
 - (f) a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually;
 - (g) a requirement for us to give you a notice or any other information in writing may be done by means of an electronic communication or displaying information at our *website*.
- 31.2 If the whole or any part of a provision of this agreement is void, unenforceable or illegal in a jurisdiction, or would result in us being in breach of any industry code to which we have agreed to be bound, it is severed for that jurisdiction. The remainder of this agreement has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of the document or is contrary to public policy.
- 31.3 Headings are inserted for convenience and do not affect the interpretation of this agreement.
- 31.4 This agreement is governed by the law in force in New South Wales and you and we submit to the jurisdiction.

Payments and effective date

- 31.5 If a day on which a payment must be made is not a business day, then the payment must be made no later than the next *business day*.
- 31.6 We will use and apply any payment or moneys we receive to pay fees, charges, interest and the unpaid balance of your loan in any order we deem appropriate unless we have expressly agreed with you otherwise for any particular payment.
- 31.7 For the purposes of payments under this agreement, a day ends at 4.00 pm.
- 31.8 Payments made by you under this agreement must be made without counterclaim or set off.
- 31.9 We may assign any date we reasonably consider appropriate to any payment you make (but in the case of a

debit, that date must not be earlier than the date on which the relevant transaction occurred).

32 Giving and receiving instructions

- 32.1 We may act on the instructions of any person you notify to us as authorised to give us instructions (including your authorised representative) until you give us written notice not to do so. If you are a company, we may also act on the instructions of any one or more of your directors. You must notify us of any change in your directors.
- 32.2 We are authorised to act on any instructions which appear to have been properly created or communicated to us by you, your authorised representative and we will not be liable to you for effecting those instructions. We are under no duty to enquire as to whether instructions are issued by you or with your authority if they reasonably appear to be issued with your authority. We will not be liable to you for instructions that we act upon which are a result of forgery, fraud or error unless we have acted fraudulently or with gross negligence.
- 32.3 We will not be liable to you for failing to act on any instructions which we reasonably consider to be communicated to us fraudulently, mistakenly, without authority or containing material omissions or errors.

33 Commission

You authorise us to pay commission to any person we choose (*including* to any broker, and to any of our related entities). The payment of a commission to any person is not an endorsement or recommendation by us of them or their services.

34 Recovery of GST

- 34.1 If the *GST* has application to any supply made under or to this *agreement*, we may, in addition to any amount or consideration payable under this *agreement*, recover from you an additional amount on account of *GST*, the amount to be calculated by multiplying the amount or consideration payable by you at the prevailing *GST* rate. Any additional amount on account of *GST* recoverable from you under this clause shall be calculated without any deduction or set-off of any other amount and is payable by you upon demand by us, whether the demand is by means of an invoice or otherwise.

35 Amendments

- 35.1 We may amend this *agreement* without the need to obtain your consent or your signature on any document:
- (a) if and to the extent that the amendment is for the purposes of curing any ambiguity or typographical error, or correcting or supplementing any defective or inconsistent provision, so as to make clearer its intended effect; or

- (b) if and to the extent that the amendment enhances your rights or benefits in any way and/or does not adversely affect your rights or obligations in a material way; or
- (c) if and to the extent that this agreement gives us the right to amend or vary a particular term (including by reducing or increasing an amount, adding or removing anything to a list, changing a percentage or value or rate or fee), or otherwise to vary the terms of the arrangement, so long as it is done under the requirements (if any) of the relevant term.

35.2 In all other cases, we may vary or amend this agreement at any time and from time to time by sending to you under the notice provisions in this *agreement* prior notification in writing describing the proposed amendments, and giving you a reasonable time to consider the proposal (*consideration period*). The amending documentation will be effective even if for any reason you do not actually receive the prior notification sent to you.

36 Appointment of agents and delegates

We may engage any agents, consultants, experts, advisers or other persons and appoint delegates (including introducing brokers, custodians and/or administrators) for any purpose in the exercise of its powers, including an associate.

37 Meaning of words

Administrator means the administrator of your *facility* as appointed by us and which is currently tastyworks US

agreement means this agreement and each document executed at our request to that arrangement, taken together.

Apex means Apex Clearing Corporation, a company constituted in the United States of America.

approved investments means *approved stocks* and *approved managed fund investments*. The current list of *approved stocks* and *approved managed fund investments* at any time will be available from us, and we will endeavour to keep that list published on the *website*.

approved managed fund investments means, at any time and from time to time, managed fund investments which are included on the *approved investments list*.

approved stocks means, *at any time and from time to time, stocks which have been included on the approved investments list*.

ASIC means the Australian Securities and Investments Commission.

associate means an associate as defined in Division 2 of Part 1.2 of the Corporations Act.

authorised representative means a person authorised by you and notified to us in writing, as your representative for the purposes of this agreement.

business day means any day in which banks are open for business in Chicago, Illinois, the United States of America.

cash account means the cash held in a bank account in your name by the *Nominee* on your behalf wherever located, including in the United States of America.

clearing house means a financial institution which facilitates the exchange (i.e., clearance) of payments, securities, and derivatives transactions. The clearing house stands between two clearing firms.

client means the client in whose name the facility is established. It includes lawful assigns and successors and where the account is jointly held, each joint holder.

Corporations Act means the *Corporations Act 2001* (Cth).

current LVR at any time means the amount of your loan expressed as a percentage of the total facility.

custodian means the Nominee which holds the assets comprising your facility on your behalf.

default event means any of the events set out in clause 7.3.

default interest at any time means our base variable interest rate plus a margin according to the amount borrowed of up to 2% per annum.

dispose means to sell, transfer, assign, declare trusts over, redeem, convert, surrender or otherwise alienate, whether for valuable consideration or not. 'Disposal' has a corresponding meaning.

enforcement expenses means any:

- (a) legal costs;
- (b) debt collection costs; and
- (c) other expenses,

reasonably incurred by us for any enforcement action taken by us for a *loan*.

facility means the facility comprising a *loan* made available to you under this *agreement* plus any *cash account invested by you and held by the Nominee* on your behalf.

facility limit means the amount that we are prepared to lend you under the facility, which we notify to you or as set out in the PDS.

Future investments mean any *investments* held in any one or more or all of your names, or held on behalf of any one or more or all of you:

- (a) in which you or any one or more or all of you acquire a legal or beneficial interest with moneys advanced under the *facility*; or
- (b) for which we or the *Nominee* hold the share certificate, unit certificate, other scrip or indicia of title on your behalf; or
- (c) which have been accepted by us as forming part of the *secured property* by notice in writing to you.

GST means a goods and services tax or any similar tax imposed in Australia.

Insolvent means bankrupt, unable to pay debts as and when they fall due, in receivership, in receivership and management, in liquidation, in provisional liquidation, under any form of administration, wound up, dissolved, and subject to any arrangement, assignment or composition, protected from creditors under any statute, or in receipt of protection under statute. 'Insolvency' has a corresponding meaning.

Introducing Broker means tastyworks US, a company incorporated in the United States of America and authorised by you under this *agreement* to buy and sell *approved investments* for the *facility*.

investments means *stocks, managed fund investments* and the credit balance in any account that forms part of the *secured property*.

loan account means the account we keep in your name to which we debit the amount of the *loan*.

managed fund investments means units of investment (however described) in a managed investment scheme (whether listed or unlisted), and anything else we notify you in writing or by newspaper advertisement is to be a *managed fund investment* for the purposes of this *agreement*.

margin call means a margin call made under clause 8 of this agreement.

margin call deadline means the following (unless specified by us otherwise) 2.00 p.m. on the *business day* after the margin call is made.

margin call LVR means the amount expressed as a percentage of the total *facility* as set out in the PDS as the maximum LVR.

new rights means:

- (a) your right, title and interest in all money, dividends, interest, allotments, offers, benefits, privileges, rights, bonuses, shares, stock, debentures, distributions or rights to take up investments to the *secured property*; or
- (b) your rights consequent on any conversion, redemption, cancellation, reclassification, forfeiture, consolidation or subdivision to the *secured property*; or
- (c) your rights consequent on a reduction of capital, liquidation or scheme of arrangement to the *secured property*.

Nominee means an entity nominated by us or our *Introducing Broker*, including Apex Clearing Corporation, a company constituted in the United States of America.

PDS means the Product Disclosure Statement for tastyworks Margin Lending.

secured liabilities means all amounts which at any time for any reason or circumstance to this *agreement* or any transaction

contemplated by this *agreement* (including any transaction under or to the *facility*) whether at law, in equity, under statute or otherwise:

- (a) are payable, are owing but not currently payable, are contingently owing, or remain unpaid by you to us under the *loan* or have been advanced or paid by us on your behalf; or
- (b) are reasonably foreseeable as likely, after that time, to fall within paragraph (a) above.

A reference to '*secured liabilities*' includes any part of it. This definition applies irrespective of the capacity in which you are liable for the amount concerned and whether the entity holding security under this *agreement* is the *Nominee* or an assignee and whether or not you were aware of the assignment.

secured property means *future investments* and *new rights*, any credit balance in a *cash account* and any other property which we agree to include in the *secured property*.

security interest means any mortgage, charge, lien, pledge, trust or power or other rights given as or in effect as security for the payment of money or enforcement of obligations. *Security interest* also includes a guarantee or indemnity

security limit means the amount that the mortgage in this *agreement* is limited to for *secured liabilities* which are *loans*, being \$10 million or any greater amount we may agree in writing from time to time.

security value means, at any relevant time:

- (a) for *secured property* which is an investment (other than a *cash account*), the value of that *investment* at that time, as determined by us; and
- (b) for *secured property* which is a credit balance in any *account* (including a *cash account*), that credit balance.

settlement facility means a facility for the settlement of securities traded on a listed securities exchange.

stock means shares in corporations from time to time and includes any right or option for shares and debenture stock, bonds, warrants, bills of exchange, certificates of deposit, units in a trust, promissory notes, instalment receipts or any other type of security. It does not include *managed fund investments*.

street name registration means where a security is registered in the name of the *Introducing Broker* or *Nominee* in the security issuer's books, and the *Introducing Broker* or *Nominee* firm holds the security for you in book-entry form; meaning that you do not receive a certificate and instead your *Introducing Broker* or *Nominee* keeps a record in its books that you own that particular security.

tastyWorks US means tastyworks, Inc. which is a U.S registered introducing broker.

tax includes any tax, duty, rates, impost, deductions or charges and any interest or penalty imposed on those amounts by any State, Federal or Commonwealth government (including GST), whether located in or outside of Australia.

value of:

- (a) a *stock* at a particular time means the market value of that *stock*;
- (b) a *managed fund investment* means the market value of that *managed fund investment*;
- (c) an *investment* at a particular time means the market value of that *investment*,

as determined by us in good faith using commercially reasonable procedures at the time of valuation. This may include considering

any market prices (which need not be mid-market) we consider relevant from either internal or external sources.

we or us means tasty works Australia Pty Ltd ACN 623 542 969 AFSL No. 508867, its lawful assigns and successors.

website means a website published by us or with our authority or by *tastyworks US*, on which information about our margin lending product is published, the address of which we notify you from time to time.

you means the *client*.

Schedule 1: Not Unsuitable Confirmation

I certify that:

- my overall debt levels do not exceed 80 percentage of my gross income;
- my income has a suitable surplus available over and above the amount I as an individual, or if supporting a family, is required for day to day living expenses and for general savings;
- my income has suitable surplus available that could be used to satisfy a margin call should the need arise;
- I am not relying on the proposed margin lending trading to support my personal and/or family's general financial requirements;
- I receive a stable regular income of a sufficient level to support my Margin Lending account;
- I confirm either that my initial investment in the Margin Lending is not from borrowed funds i.e. credit or residential property; and
- If my initial investment is from borrowed funds, I confirm that these funds are not secured against my primary residential property.