

**SECURED DEMAND NOTE  
COLLATERAL AGREEMENT**

This Secured Demand Note Collateral Agreement (the "Agreement") is effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_ the "Lender") and \_\_\_\_\_ (the "Borrower"), who mutually agree as follows:

1.
  - A. The term "Designated Self-Regulatory Organization" "DSRO" shall mean the Exchange's and/or other Self-Regulatory Organization(s) which is (are) a party to the Joint Audit Agreement and which has (have) been designated by the Joint Audit Committee as the borrower's DSRO. The borrower's DSRO is subject to change from time to time at the Joint Audit Committee's discretion.
  - B. The term "Commission" shall mean the Commodity Futures Trading Commission.
  - C. The term "Capital Requirements" shall mean the rules, regulations and requirements of the Designated Self-Regulatory Organization adopted pursuant to Commodity Futures Trading Commission Regulations 1.17 and 1.52.
  - D. The term "CFTC Regulations" shall mean the Commodity Futures Trading Commission's Minimum Financial Regulations.
  - E. The term "Adjusted Net Capital" shall have the same meaning as adjusted net capital under CFTC Regulation 1.17(c)(5).
  - F. The term "Collateral Value" shall have the same meaning as collateral value under CFTC Regulation 1.17(h)(1)(iii).
  - G. The term "Subordination Agreement" shall have the same meaning as subordination agreement under CFTC Regulation 1.17(h)(1).
2. Lender hereby agrees to lend the sum of \_\_\_\_\_ (\$\_\_\_\_\_) to the Borrower and the Borrower agrees to borrow the said sum from the Lender for a period of \_\_\_\_\_ years<sup>1</sup> upon the terms and conditions set forth herein.

Revised September 2004

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<sup>1</sup> At least one year, and at least three years if the proceeds of this Agreement are used as equity capital.

3. The Lender shall execute and deliver to the Borrower, on or before the effective date of this Agreement, a Secured Demand Note of even date with this Agreement in the principal amount of \_\_\_\_\_ (\$ \_\_\_\_\_) in the form annexed hereto as Exhibit 1 ("Note").
4. The Borrower promises to pay the Lender an amount equal to \_\_\_\_\_ percent per annum of the principal amount plus interest at the rate of \_\_\_\_\_ ( ) percent per annum, payable \_\_\_\_\_, beginning \_\_\_\_\_ and ending on \_\_\_\_\_ (the "Maturity Date").
5. As security for its obligation to lend the principal amount to the Borrower, as evidenced by the Note, the Lender hereby pledges to the Borrower the Securities and Cash described in Schedule A annexed to the Note (hereinafter referred to as the "Collateral") as the same may be amended from time to time in accordance with the terms hereof. Lender agrees that all Securities pledged hereunder as Collateral for the payment of the Note shall be fully paid for, and may be publicly offered or sold without registration under the Securities Act of 1933, and that the offer, sale and transfer of such Securities shall not be otherwise restricted. Further, all Securities pledged as Collateral shall be in bearer form or registered in the name of the Borrower or its nominee or custodian. All such Securities shall be in the custody of or under the control of the Borrower in deliverable form.
6. The Lender hereby subordinates any right to receive any payment with respect to this Agreement, together with accrued interest or compensation, to the prior payment or provision for payment in full of all claims of all present and future creditors of the Borrower arising out of any matter occurring prior to the date on which the related payment obligation matures, except for claims which are the subject of Subordination Agreements which rank on the same priority as or are junior to the claim of the Lender under such Subordination Agreements. Any security interest of Lender in the Securities and Cash pledged as Collateral hereunder is null and void as against the Borrower.
7. The Borrower, as holder of the Collateral pledged herein, is entitled:
  - A. To deposit any Cash pledged as Collateral in an account or accounts in its own name in any bank or trust company;
  - B. To pledge, repledge, hypothecate, and rehypothecate, without notice to the Lender, any or all Securities pledged as Collateral, separately or in common with other securities or property, for the purpose of securing any indebtedness of the Borrower;
  - C. To lend to itself or others any or all Securities and Cash pledged as Collateral to secure the Note.

8.<sup>2</sup> Borrower, at its option, but not at the option of Lender, may reduce the unpaid principal amount of the Note by:

- (a) reducing the amount of Collateral held hereunder by returning all or any portion thereof to the Lender at any time prior to the scheduled Maturity Date (hereinafter referred to as a "Prepayment"), but in no event may any Prepayment be made before the expiration of one year from the date this Agreement becomes effective. No Prepayment shall be made if, after giving effect thereto (and to all payments under any other subordination agreements then outstanding, the maturities or accelerated maturities of which are scheduled to fall due within six months after the date such Prepayment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such Prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the Borrower, the Adjusted Net Capital of the Borrower is less than the greatest of 1) 120% of the appropriate minimum dollar amount required by CFTC Regulations, or 2) 120% of the firm's risk based capital requirement calculated in accordance with CFTC Regulations, or 3) if Borrower is a securities broker or dealer, the amount of net capital specified in Rule 15c3-1d(b)(7) of the Regulations of the Securities and Exchange Commission [17 C.F.R. 240.15c3-1d(b)(7)] or 4) the minimum capital requirement as defined by the DSRO.
  
- (b)<sup>3</sup> reducing the amount of Collateral held hereunder by returning all or any portion thereof to the Lender within one year of the effective date of the Agreement (hereinafter referred to as a "Special Prepayment"). Provided, however, no special prepayment shall be made if:
  - (i) After giving effect thereto (and to all payments of payment obligations under any other subordinated agreements then outstanding, the maturities or accelerated maturities of which are scheduled to fall due within six months after the date such Special Prepayment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such Special Prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the Borrower, the Adjusted Net Capital of the Borrower is less than the greatest of 1) 200% of the appropriate minimum dollar amount required by CFTC Regulations, or 2) 125% of the firm's risk based capital requirement calculated in accordance with CFTC

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<sup>2</sup> These provisions are optional, i.e., not required by the CFTC Regulations or the capital requirements of the DSRO, but permitted by them.

<sup>3</sup> Optional. This provision cannot be used if the proceeds of this agreement are used as equity capital.

Regulations, or 3) if Borrower is a securities broker or dealer, the amount of net capital specified in Rule 15c3-1d(c)(5)(ii) of the Regulations of the Securities and Exchange Commission [17 C.F.R. 240.15c3-1d(c)(5)(ii)] or 4) the minimum capital requirement as defined by the DSRO or

- (ii) Pre-tax losses during the latest three month period were greater than 15% of current excess Adjusted Net Capital.
- (c) Notwithstanding the provisions of this paragraph, no Prepayment or Special Prepayment shall occur without the prior written approval of the Designated Self-Regulatory Organization and the Commission and without meeting the requirements of Appendix A, if applicable.

9.<sup>4</sup> Subject to the rights of the Borrower as pledgee, the Lender shall have the right at any time to:

- (a) Direct the sale of any or all Securities pledged as Collateral and substitute the net proceeds of such sale for the Collateral;
- (b) Direct the purchase of any Securities with any Cash included in the Collateral and substitute such Securities for the Collateral;
- (c) Withdraw the whole or part of any excess Collateral;
- (d) Substitute Cash or other Securities for the original or other substituted Collateral.

Provided, that the net proceeds of any such sale and the Cash so substituted and the Securities so purchased or substituted shall be held by Borrower as pledgee, and shall be included in the Collateral to secure payment of the Note;

Provided further, however, that none of the above transactions shall be permitted if, after giving effect thereto, the sum of the amount of any Cash, plus the Collateral Value of the Securities then pledged as Collateral would be less than the unpaid principal amount of the Note;

- (e) Pledge additional Cash or Securities as Collateral;
- (f) Retain ownership of the Collateral for the purpose of having the benefit of any increases and bearing the risk of any decreases in the value of the Collateral;
- (g) Retain the right to vote securities contained within the Collateral and any right to income therefrom or distributions thereon.

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<sup>4</sup> Optional.

Provided, however, the Borrower shall have the right to receive and hold as pledgee all dividends payable in Securities and all partial and complete liquidating dividends.

10. (a) If at any time the sum of the amount of any Cash, plus the Collateral Value of any Securities, then pledged as Collateral is less than the unpaid principal amount of the Note, the Borrower must immediately transmit written notice to that effect to the Lender, the Designated Self-Regulatory Organization and the Commission and, meet the requirements of Appendix D, if applicable, and, concurrently with the service of such written notice upon the Lender, request that the Lender pledge additional Collateral to meet the unpaid principal amount of the Note prior to noon of the next business day following such notice.
- (b) Prior to noon of the business day next succeeding the transmittal of such notice, Lender may pledge as Collateral additional Cash or Securities sufficient, after giving effect to such pledge, to bring the sum of the amount of any Cash plus the Collateral Value of any Securities then pledged as Collateral, up to an amount not less than the unpaid principal amount of the Note.
- (c) Unless additional Cash or Securities are pledged as Collateral by Lender as provided in paragraph 10(b), (1) Borrower, at noon on the business day next succeeding the transmittal of notice to Lender, must commence sale for the account of Lender, of such of the Securities then pledged as Collateral and apply so much of the net proceeds thereof, together with such of the Cash then pledged as Collateral as may be necessary to eliminate the unpaid principal amount of the Note. Provided, that the unpaid principal amount of the Note need not be reduced below the sum of the amount of any remaining Cash plus the Collateral Value of the remaining Securities pledged as Collateral. Borrower may not purchase for its own account any Securities subject to such a sale.
- (d) In lieu of the procedures specified in paragraph 10(c) hereof, Lender, with the prior written consent of the Borrower and the Designated Self-Regulatory Organization, may reduce the unpaid principal amount of the Note (hereinafter referred to as a "Reduction"). Provided that, after giving effect to such Reduction, the Adjusted Net Capital of the Borrower would not be less than the greatest of 1) 120% of the appropriate minimum dollar amount required by CFTC Regulations, or 2) 120% of the firm's risk based capital requirement calculated in accordance with CFTC Regulations, or 3) if the Borrower is a securities broker or dealer, the amount of net capital specified in Rule 15c3-1d(b)(6) (iii) of the Regulations of the Securities and Exchange Commission [17 C.F.R. 240.15c3-1d(b)(6)(iii)], or 4) the minimum capital requirement as defined by the DSRO. Provided further, that no single secured demand note shall be permitted to be reduced by more than 15 percent of its original principal amount and after such Reduction no excess Collateral may be withdrawn.

11. In the event of a demand by the Borrower for the principal amount of the Note, or any portion thereof, and the subsequent delivery by the Lender of the amount demanded, the Borrower shall issue to the Lender a subordinated loan agreement in a form acceptable to the Designated Self-Regulatory Organization for the amount of the payment, or credit a capital account of the Lender or issue preferred or common stock of the Borrower in the amount of such payment. [Provided, however, that this paragraph does not apply to a Prepayment as provided for in paragraph 8(a) or 8(b) or a Reduction as provided for in paragraph 10(c).]<sup>5</sup>

12. [A. The unpaid principal balance of the Note shall remain available to the Borrower on demand, but the payment obligation of the Borrower in respect of this Agreement shall be suspended and shall not mature if, after giving effect to payment of such payment obligation (and to all payments of the Borrower under any other subordination agreement(s) then outstanding which are scheduled to mature on or before such payment obligation), the Adjusted Net Capital of the Borrower would be less than the greatest of 1) 120% of the appropriate minimum dollar amount required by CFTC Regulations, or 2) 120% of the firm's risk based capital requirement calculated in accordance with CFTC Regulations, or 3) if Borrower is a securities broker or dealer, the amount of net capital specified in Rule 15c3-1d(b)(8)(i) of the Regulations of the Securities and Exchange Commission [17 C.F.R. 240.15c3-1d(b)(8)(i)], plus, if applicable, the amount set forth in Appendix A; or 4) the minimum capital requirement as defined by the DSRO.]

[Provided, if the payment obligation of the Borrower thereunder does not mature and is suspended as a result of the requirement of this paragraph for a period of not less than six months, the Borrower shall then commence the rapid and orderly liquidation of its entire business, but the right of the Lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this Agreement.]<sup>6</sup>

[B. In the event the Borrower is required to commence a rapid and orderly liquidation, as permitted in section A of this paragraph, the date on which the liquidation commences shall be the maturity date for all subordination agreements of the Borrower then outstanding, but the rights of the respective lenders to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of such agreements.]<sup>7</sup>

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<sup>5</sup> This bracketed proviso is required if you choose the option of prepayment as provided in paragraph 8(b) or 8(c) or a reduction as provided in paragraph 10(c). You should only refer to an option actually chosen.

<sup>6</sup> Optional.

<sup>7</sup> Optional.

*[NOTE; CHOOSE ONE OF THE FOLLOWING THREE ALTERNATIVES. THE FIRST ALTERNATIVE MUST BE CHOSEN IF THE PROCEEDS OF THIS AGREEMENT ARE USED AS EQUITY CAPITAL.]*

13. No default in the payment of interest or in the performance of any covenant or condition of this Agreement or any note or notes made hereunder shall have the effect of reducing the term of this Agreement.
13. Subject to the provisions of paragraph 12 of this Agreement and Appendix A, if applicable, the Lender may, upon prior written notice to the Borrower and the Designated Self-Regulatory Organization and, if required, the Commission, given not earlier than six months after the effective date of this Agreement, reduce the term of this Agreement and accelerate the date on which the payment obligation of the Borrower, together with accrued interest or compensation, is scheduled to mature to a date not earlier than six months after giving such notice, but the right to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this Agreement.
- <sup>8</sup>13. (A) Subject to the provisions of Appendix A, if applicable, the Lender may, upon prior written notice to the Borrower and the Designated Self-Regulatory Organization and, if required, the Commission, of the occurrence of any event of acceleration (as hereinafter defined) given no sooner than six months after the effective date of this Agreement, reduce the term of this Agreement and accelerate the date on which the payment obligation of the Borrower, together with accrued interest or compensation, is scheduled to mature, to the last business day of a calendar month which is not less than six months after notice of acceleration is received by the Borrower and the Designated Self-Regulatory Organization. If, upon such accelerated maturity date, the payment obligation of the Borrower is suspended as required by paragraph 12 of this Agreement and liquidation of the Borrower has not commenced on or prior to such accelerated maturity date, notwithstanding paragraph 12 of this Agreement, the payment obligation with respect to this Agreement shall mature on the date immediately following such accelerated maturity date and in any such event the payment obligations of the Borrower with respect to all other subordination agreements then outstanding shall also mature at the same time but the rights of the respective Lenders to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of such agreements. The following are the events of acceleration.

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<sup>8</sup> If this alternative is chosen, you may further choose to use either (A) or (B) or may use both (A) and (B).

- (1)<sup>9</sup> Failure of Borrower to pay interest or any installment of the principal on a subordination agreement as scheduled;
- (2) Failure of Borrower to pay when due other money obligations of \$\_\_\_\_\_ or greater, which Borrower and Lender agree is a material amount;
- (3) Discovery that any material, specified representation or warranty of the Borrower which is included in any Addendum to this Agreement and on which this Agreement was based or continued was inaccurate in a material respect at the time made;
- (4) Any specified and clearly measurable events which Lender and Borrower agree are (a) a significant indication that the financial position of the Borrower has changed materially and adversely from agreed upon specified norms; or (b) could materially and adversely affect the ability of the Borrower to conduct its business as conducted on the date this Agreement was made; or (c) is a significant change in the senior management of the Borrower or in the general business conducted by the Borrower from that which existed on the date this Agreement became effective;
- (5) Any continued failure to perform agreed covenants included in an Addendum to this Agreement relating to the conduct of the business of the Borrower or relating to the maintenance and reporting of its financial position.

(B) Notwithstanding the provisions of paragraph 12, if liquidation of the business of the Borrower has not already commenced, a demand for payment of the unpaid principal balance of the Note shall be made and the payment obligation of the Borrower shall mature, together with accrued interest or compensation, upon the occurrence of an event of default (as hereinafter defined). Further, if liquidation of the business of the Borrower has not already commenced, the rapid and orderly liquidation of the business of the Borrower shall then commence upon the occurrence of an event of default. If liquidation of the Borrower has not already commenced, the date on which such event of default occurs shall be the date on which the payment obligation of the Borrower with respect to all other subordination agreements then outstanding shall mature, but the rights of the respective lenders to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of such agreements. The following are the events of default:

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<sup>9</sup> Cross out any events of acceleration which you do not agree to include. You may NOT add additional events of acceleration.



- (1)<sup>10</sup> The making of an application by the Securities Investor Protection Corporation for a decree adjudicating that customers of the Borrower are in need of protection under the Securities Investor Protection Act of 1970 and the failure of the Borrower to obtain the dismissal of such application within 30 days;
  - (2) Failure to meet the applicable minimum Capital Requirements additional non-substantive language changes here or CFTC Regulations, throughout a period of fifteen (15) consecutive business days, commencing on the day the Borrower first determines and notifies the designated Self-Regulatory Organization and the Commission; or the Designated Self-Regulatory Organization or the Commission first determines and notifies the Borrower of such fact;
  - (3) The Commission shall revoke the registration of the Borrower; or
  - (4) The Designated Self-Regulatory Organization shall suspend (and not reinstate within ten (10) days) or revoke the Borrower's status as a member thereof.
14. Notwithstanding the provisions of paragraph 13 of this Agreement, a demand for payment of the unpaid principal balance of the Note shall be made and the payment obligation of the Borrower with respect to this Agreement, together with accrued interest and compensation, shall mature in the event of any receivership, insolvency, or liquidation pursuant to the Securities Investor Protection Act of 1970 or otherwise, bankruptcy, assignment for the benefit of creditors, reorganization (whether or not pursuant to the bankruptcy laws), or any other marshaling of the assets and liabilities of the Borrower, but the right of the Lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this Agreement.
- 15.<sup>11</sup> Borrower agrees, for itself, and its representatives, successors and assigns (1) that neither Lender nor Lender's heirs, executors, administrators, successors or assigns shall be personally liable on the Note except to the extent of Securities or Cash pledged to secure the Note which are withdrawn in violation of this Agreement, and (2) that in the event of default the Borrower and Borrower's representatives, successors and assigns shall look for payment of such note solely to the Collateral then pledged to secure the same, and will not make claim or institute any action or proceeding against Lender or Lender's heirs, executors, administrators, successors or assigns for the payment of the Collateral or otherwise; provided, however, that nothing herein contained shall be construed to release

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<sup>10</sup> Cross out any event of default which you do not agree to include. You may NOT add additional events of default.

<sup>11</sup> Optional.

or impair the Indebtedness evidenced by the Note, or of the lien upon the Collateral, or preclude the application of said Collateral to the payment thereof in accordance with the provisions of this Agreement.

- 16.<sup>12</sup> The Borrower will make a demand for payment of the unpaid principal amount of the Note only after it determines in good faith that an event of financial restriction has occurred, provided, however, that no failure to make such a determination in good faith shall affect the effectiveness of a demand, or give rise to any claim which is superior to Lender's claim under this Agreement for the withdrawal of the Collateral or the return or Reduction of the Note.

The term "event of financial restriction" shall mean for the purpose hereof any of the following events:

- (a) Whenever additional cash is required by the Borrower to continue its current operations;
  - (b) Whenever the Borrower requires additional capital under the then applicable capital requirements, or the CFTC regulations;
  - (c) The appointment of a receiver or trustee for the Borrower, its bankruptcy, assignment for the benefit of creditors, reorganization whether or not pursuant to the bankruptcy laws; or any other marshaling of the assets and liabilities of the Borrower.
17. The Borrower shall immediately notify the Designated Self-Regulatory Organization and the Commission if, after giving effect to all payments of Borrower's payment obligations under subordination agreements then outstanding which are then due or mature within the following six months without reference to any projected profit or loss of the Borrower, its Adjusted Net Capital would be less than the greater of 1) 120% of the appropriate minimum dollar amount required by CFTC Regulations, or 2) 120% of the firm's risk based capital requirement calculated in accordance with CFTC Regulations, or 3) if the Borrower is a securities broker or dealer, the amount of net capital specified in Rule 15c3-1d (c)(2) of the Regulations of the Securities and Exchange Commission [17 C.F.R. 240.15c3-1d(c)(2)], or 4) the minimum capital requirement as defined by the DSRO.
18. Neither this Agreement nor any note or other instrument made hereunder is entered into in reliance upon the standing of the Borrower as a member organization of any commodity exchange or securities exchange or upon any such exchange's surveillance of the Borrower or its capital position. The Lender is not relying upon any such exchange to provide any information concerning or relating to the Borrower. No such exchange has a

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<sup>12</sup> Optional.

responsibility to disclose to the Lender any information concerning or relating to the Borrower which it may have now or at any future time. Neither any such exchange, nor any officer or employee of any such exchange, shall be liable to the Lender with respect to this loan or the repayment thereof or of any interest thereon or with respect to any damages resulting from the breach of this Agreement. Neither Designated Self-Regulatory Organization nor the Commission is a guarantor of this Agreement.

19. This Agreement shall be binding upon the Borrower and the Lender, their creditors, his heirs, executors, administrators, successors and assigns.
20. Any note or other written instrument evidencing the Indebtedness shall bear on its face an appropriate legend stating that such notes or instruments are issued subject to the provisions of this Agreement, which shall be adequately referred to and incorporated by reference therein.
21. This Agreement shall not be subject to cancellation by either party; no payment shall be made with respect thereto and this Agreement shall not be terminated, rescinded or modified by mutual consent or otherwise if the effect thereof would be inconsistent with the Capital Requirements or, if applicable, the CFTC Regulations, or without prior written consent as provided in Appendix A, if applicable.
22. This Agreement is governed by the laws of the State of Illinois/New York.
23. Any notice required or provided for herein shall be deemed to have been given or received when it has been delivered in person or has been deposited, postage prepaid, by United States certified or registered mail, addressed to the person for whom intended:

(a) If for Borrower:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) If for Lender:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(c) If for Borrower's Designated Self-Regulatory Organization:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

24. This Agreement supersedes all prior agreements of the parties with respect to the Indebtedness.

IN WITNESS WHEREOF, the parties hereto have set their hands this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

Borrower

\_\_\_\_\_  
\_\_\_\_\_

Lender

**SECURED DEMAND NOTE**

FOR VALUE RECEIVED, \_\_\_\_\_,  
(the "Lender") promises to pay \_\_\_\_\_  
\_\_\_\_\_ (the "Borrower"), at \_\_\_\_\_  
\_\_\_\_\_ (where  
presentment and demand for payment shall be made), without interest, the sum of  
\_\_\_\_\_ (\$ \_\_\_\_\_) on  
demand.

This Note is secured at its date by the pledge of the Securities and Cash described in Schedule A annexed hereto. Lender agrees that whenever the value of the Securities and Cash determined in accordance with the capital requirements of the Commodity Futures Trading Commission [and the Securities Exchange Commission]<sup>13</sup> ("the Commission), if required, and the applicable Designated Self-Regulatory Organization, as defined in paragraph 1 of the Secured Demand Note Agreement of even date, is less than the unpaid balance of this Note, the Borrower shall exercise the rights set forth in paragraph 10 of the Secured Demand Note Agreement without first making a demand for payment thereof.

This Note and the Securities and Cash from time to time pledged to secure it are subject in all respects to the provisions of the Secured Demand Note Agreement.

<sup>14</sup>The Borrower, by acceptance hereof, agrees, for itself, and its representatives, successors, and assigns (1) that neither Lender nor Lender's heirs, executors, administrators, successors or assigns shall be personally liable on this Note, except to the extent of the value of Securities or Cash pledged to secure this Note which are withdrawn in violation of the Secured Demand Note Agreement, and (2) that in the event of default the Borrower and Borrower's successors and assigns shall look for payment solely to the security of the property then pledged to secure the same, and will not make claim or institute any action or proceeding against Lender or Lender's heirs, executors, administrators, successors or assigns for the payment of the property pledged to secure this Note or otherwise; provided, however, that nothing herein contained shall be construed to release or impair the Indebtedness evidenced by this Note, or of the lien upon the property pledged to secure it, or preclude the application of said pledged property to the payment hereof in accordance with the provisions of the Secured Demand Note Agreement.

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<sup>13</sup> Optional.

<sup>14</sup> Optional.

<sup>15</sup>The Borrower further agrees that it will make a demand for payment hereof only after it determines in good faith that an event of financial restriction has occurred; provided, however, that no failure to make such a determination in good faith shall affect the effectiveness of a demand, or give rise to any claim which is superior to Lender's claim under the Secured Demand Note Agreement for the withdrawal, return or reduction of this Note.

<sup>16</sup>The term "event of financial restriction" shall mean for the purposes hereof any of the following events:

- a. Whenever additional cash is required by the Borrower to continue its current operations.
- b. Whenever the Borrower requires additional capital under the then applicable capital requirements, rules and regulations of the Commission or the Designated Self-Regulatory Organization.
- c. The appointment of a receiver or trustee for the Borrower, its bankruptcy, assignment for the benefit of creditors, reorganization whether or not pursuant to the bankruptcy laws, or any other marshaling of the assets and liabilities of the Borrower.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
LENDER

ACCEPTED:

\_\_\_\_\_  
BORROWER

<sup>15</sup> Optional; but if this option is chosen, both paragraphs must be included.

<sup>16</sup> Optional; but if this option is chosen, both paragraphs must be included.

**INFORMATION STATEMENT**

Name and address of lender: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Business relationship of lender to clearing member:

\_\_\_\_\_ Partner                      \_\_\_\_\_ Officer  
\_\_\_\_\_ Stockholder                \_\_\_\_\_ Other (please specify below)

Comments: \_\_\_\_\_  
\_\_\_\_\_

Did the clearing member carry funds or securities for the lender at or about the time the proposed subordination agreement was filed?

Yes \_\_\_\_\_                      No \_\_\_\_\_

**SECURED DEMAND NOTE**

**SCHEDULE A**

Cash Pledged:           \$ \_\_\_\_\_

<u>Description</u> (include maturity date)	<u>Principal</u> ( <u>Face Amount</u> )	<u>Collateral Market Value</u> as of _____	<u>Collateral Market Value</u> <u>Less Applicable Haircut</u>
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