

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

_____	)	
In re:	)	Chapter 11
	)	
CRED INC., <i>et al.</i> ,	)	Case No. 20-12836 (JTD)
	)	
Debtors. ¹	)	(Jointly Administered)
	)	
_____	)	Related to Docket No. 356
	)	
CRED INC. LIQUIDATION TRUST,	)	
	)	
Plaintiff,	)	Adv. Proc. No. _____
	)	
v.	)	
	)	
UPHOLD HQ INC., a South Carolina	)	
Corporation, UPHOLD INC., a Washington	)	
Corporation, and UPHOLD LTD., a Cayman	)	
Islands exempted limited liability company,	)	
	)	
Defendants.	)	
	)	
_____	)	

COMPLAINT

The Cred Inc. Liquidation Trust (the “Trust” or “Plaintiff”) established in the above-captioned chapter 11 cases (the “Chapter 11 Cases”) of Cred Inc. and its affiliated debtors (collectively, the “Debtors” or “Cred”), by and through its undersigned counsel, sets forth the following allegations against Uphold HQ Inc., Uphold Inc., and Uphold LTD. (collectively “Uphold”):

¹ The Debtors in these chapter 11 cases, along with the last four digits of each debtor’s tax identification number, as applicable, are as follows: Cred Inc. (8268), Cred (US) LLC (5799), Cred Capital, Inc. (4064), Cred Merchant Solutions LLC (3150), and Cred (Puerto Rico) LLC (3566). The Debtors’ mailing address is 3 East Third Avenue, Suite 200, San Mateo, California 94401.

INTRODUCTION

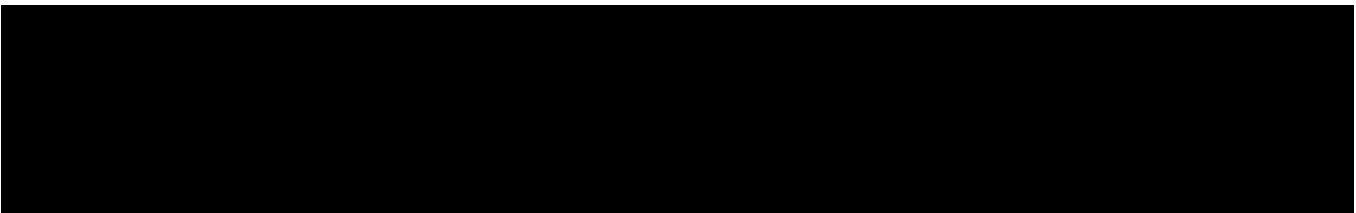
1. Uphold and Cred’s co-founders jointly created “CredEarn,” a “yield earning” program that lost hundreds of millions of dollars’ worth of retail customer cryptocurrency. Uphold drove thousands of retail customers to lend cryptocurrency to the CredEarn program by falsely marketing it as “safe,” “secured,” “insured,” and “fully hedged.” As thousands of retail customers found out too late, CredEarn was not “safe,” “secured,” “insured,” or “fully hedged.”

2. Uphold aided and abetted the breaches of fiduciary duties of Cred co-founders, directors, and officers Daniel Schatt (“Schatt”), Lu Hua (“Hua”), and other key Cred officers by jointly developing CredEarn and then creating and disseminating false marketing materials to drive hundreds of millions of dollars’ worth of cryptocurrency debt obligations to Cred. While Cred sank deeper into debt under CredEarn, Uphold enjoyed substantial risk-free profits. Cred paid Uphold commissions and other profit sharing fees irrespective of whether Cred was able to return the cryptocurrency to the retail customers.

3. Schatt in particular was deeply conflicted. He was Cred’s co-founder (with Hua), President and Chief Executive Officer (“CEO”), and one of two Cred directors (with Hua). Schatt also served on Uphold’s Board of Directors (the “Uphold Board”). Schatt acted in Uphold’s interests, not Cred’s. Accordingly, the Trust seeks to hold Uphold liable for (among other things) its aiding and abetting breaches of fiduciary duty, which caused Cred’s losses.

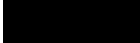
4. Following Cred’s bankruptcy filing in November 2020, in a private text message group among Uphold senior executives,² one Uphold executive summarized Uphold’s culpability as follows:

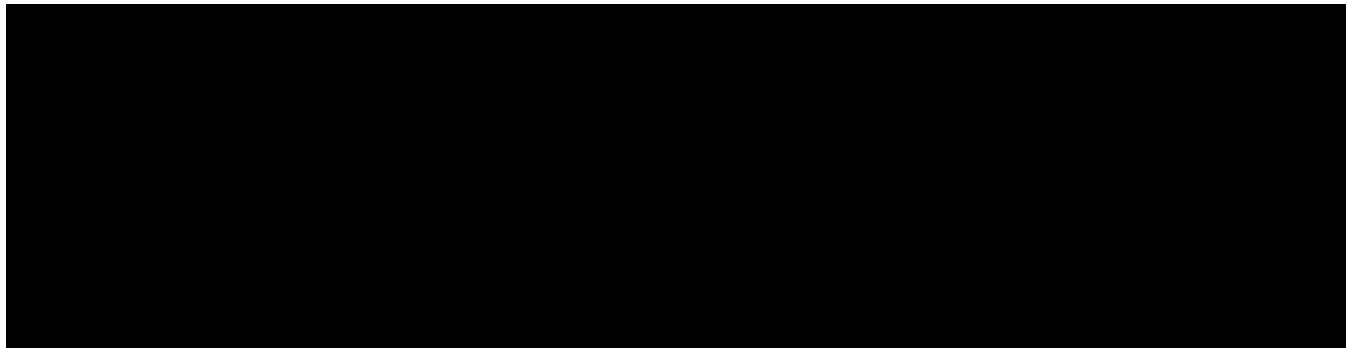
² Ex. A (text messages between Uphold executives).



5. Uphold scrambled to cover up its relationship with Cred once it was publicly reported that Cred was nearing bankruptcy. Uphold issued false press releases attempting to distance itself from Cred. Uphold even engaged in a clean-up campaign deleting past false advertisements and deceptive social media posts.

6. On November 2, 2020, in a group text message between Uphold executives Juan Pablo Thieriot (“Thieriot”), Simon McLoughlin (“McLoughlin”), and other executives Rui Marinho (“Marinho”), and Tiago Ribeiro (“Ribeiro”), Marinho warned 

:³



7. Customers were not fooled by Uphold’s “cover up.” As one customer stated, “[Uphold] went on a lame initial PR campaign to distance themselves from Cred, but when that was proven to be untenable with digital receipts they’ve gone radio-silent to their customers.”⁴

³ *Id.*

⁴ Ex. B (Trustpilot reviews of Uphold, available at <https://uk.trustpilot.com/review/uphold.com?search=Cred>).

8. Uphold's customers lost substantial funds because of CredEarn, and Uphold's substantial assistance facilitating CredEarn. As one customer stated, [REDACTED]

[REDACTED]⁵

9. That customer also explained how he was driven to CredEarn by repeated false marketing from Uphold, most of which has since been deleted: [REDACTED]

[REDACTED]⁶

10. As another CredEarn customer stated, "*Uphold is [as] guilty as Cred . . .* I trusted [REDACTED] Cred because of Uphold . . ."⁷

11. Other customers complained about Uphold's false marketing and obvious conflicts of interest because Schatt concurrently served on the Uphold Board:

Uphold promoted and advertised Cred (they called it "UpholdEarn"), as a safe platform for customers to invest their cryptocurrency [sic] and earn a small interest. Suddenly, Uphold terminated their partnership [sic] with Cred. Shortly afterwards, Cred filed for bankruptcy [sic].... Relevant fact: Cred's CEO was in Uphold's board of directors!⁸

12. As Uphold's customers correctly recognized, and for reasons discussed in greater detail below, Uphold is responsible for the losses suffered in connection with the CredEarn and

⁵ Ex. C (October 2020 email chain between customer and Uphold).

⁶ *Id.*

⁷ Ex. B (Trustpilot reviews of Uphold, available at <https://uk.trustpilot.com/review/uphold.com?search=Cred>) (emphasis added).

⁸ *Id.* (emphasis added).

CredBorrow programs.⁹ While the claim reconciliation process is ongoing, the Trust brings this action against Uphold for an amount to be proven at trial, but no less than \$783,946,276. The Trust also seeks return of the “commissions” that were fraudulently transferred to Uphold and satisfaction of an unpaid letter of credit, plus interest, attorneys’ fees, and costs.

PARTIES

13. The Trust was created pursuant to the *Modified First Amended Combined Plan of Liquidation and Disclosure Statement of Cred Inc. and Its Subsidiaries Under Chapter 11 of the Bankruptcy Code* (D.I. 629-1) (as amended, the “Plan”), which this Court confirmed on March 11, 2021. The Plan became effective on April 19, 2021 (the “Effective Date”). (See D.I. 730.) On the Effective Date, the Trust was established and the Debtors’ assets were transferred and assigned to the Trust. (See Plan, § 12.3.) The Trust is being administered by the Liquidation Trustees (as defined in the Plan). (See *id.* at § 12.3(a).)

14. Defendant Uphold HQ, Inc. is a South Carolina corporation with its principal executive office at 900 Larkspur Landing Circle, Suite 209, Larkspur, California 94939-1724. Uphold HQ Inc. is registered to do business in Delaware.

15. Defendant Uphold Inc. is a Washington corporation with its principal executive office at 6 West 18th St., 3rd Floor, New York, NY 10011.

16. Defendant Uphold Ltd. is a Cayman Islands exempted limited liability company with its principal executive offices at 6 West 18th St., 3rd Floor, New York, NY 10011.

⁹ In the CredBorrow program, Cred lent fiat to customers who would post Bitcoin and other cryptocurrencies as collateral.

17. Uphold is a registered money service business with the Financial Crimes Enforcement Network and is a registered money transmitter in many jurisdictions across the United States, including Delaware.

RELEVANT NON-PARTIES

18. Thieriot is Uphold's former CEO and current Vice Chairman. Thieriot co-founded Uphold in December of 2013, and served as Vice Chairman until September 2018, when he became CEO. Thieriot stepped down as Uphold's CEO in February 2022.

19. Schatt was retained by Uphold as an advisor in February 2018. Schatt joined the Uphold Board in April 2018 where he remained until October 25, 2020—only weeks before Cred's bankruptcy filing. Schatt is a co-founder and 50% owner of Cred. Schatt previously served as Cred's President and later CEO. Schatt was one of Cred's two directors.

20. Hua is a co-founder and 50% owner of Cred, and the second of Cred's two directors. Hua previously served as Cred's CEO until late 2018 at which time Schatt became CEO. Hua is also the founder of MoKredit.

21. MoKredit is a Chinese micro-lending platform owned by Hua and to which the vast majority of CredEarn funds were funnelled.

22. MoKredit was incorporated in the Cayman Islands and is based in Shanghai, where it provides microcredit loans to Chinese borrowers.¹⁰

23. Cred implemented a highly-leveraged trading strategy by using an unlicensed and unregistered trading firm (the "Trading Firm"). The Trading Firm is a limited liability company

¹⁰ The entities comprising the defined term MoKredit are MoKredit Inc., MoKredit Technology (Hong Kong) Company Limited, MoKredit (Shanghai) Information Technology, Co. Ltd, and Shanghai Bestone Information Technology Co. Ltd. They will be referred to collectively herein as "MoKredit."

organized in Delaware with its principal place of business in New Jersey. The Trading Firm provides cryptocurrency trading, conversion, payments, and investment services.

24. In late 2018, Cred hired the Trading Firm as a consultant to assist Cred with its hedging strategy. Cred also hired the Trading Firm to convert BTC, ETH, and other cryptocurrencies to stablecoin, and to facilitate all cryptocurrency transactions with MoKredit. The Trading Firm enabled Cred to make risky trades that were otherwise unavailable to U.S. persons and entities.

25. James Alexander (“Alexander”) was hired as Cred’s Chief Capital Officer in August 2018.

26. Joe Podulka (“Podulka”) was Cred’s Chief Financial Officer (“CFO”) from July 2019 to December 2020.

27. Daniel Wheeler (“Wheeler”) joined Cred as its General Counsel in August 2019. Wheeler previously served as Cred’s primary outside counsel while a partner at Bryan Cave Leighton Paisner LLP from May 2012 to August 2019.

28. Daniyal Inamullah (“Inamullah”) served as Cred’s Vice President of Capital Markets from January 2020 to April 2020.

JURISDICTION AND VENUE

29. This Court has original jurisdiction over this adversary proceeding pursuant to 28 U.S.C. § 1334(b) because it arises under title 11 of the United States Code (the “Bankruptcy Code”) and arises in and relates to cases under the Bankruptcy Code pursuant to 28 U.S.C. §§ 157 and 1334(b). This adversary proceeding is a “core” proceeding to be heard and determined by the Court pursuant to 28 U.S.C. § 157(b)(2), and the Court may enter final orders for matters contained herein.

30. In accordance with Rule 7008-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), the Trust confirms its consent to the entry of final orders or judgments by the Court in connection with this adversary proceeding to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

31. Venue is proper in this district pursuant to 28 U.S.C. § 1409(a).

GENERAL BACKGROUND ON CRYPTOCURRENCY AND KEY DEFINITIONS

32. The term “cryptocurrency” refers to a digital asset on a blockchain, including assets sometimes referred to as “cryptocurrencies,” “virtual currencies,” “digital assets,” “coins,” and “tokens.” Cryptocurrencies are digital assets that hold value based primarily on what a purchaser is willing to pay. Most customers purchase cryptocurrency speculating that the price of that particular cryptocurrency will increase. Some cryptocurrencies are also used to pay for goods and services. Bitcoin (“BTC”) and Ethereum (“ETH”) are the most popular cryptocurrencies, but there are thousands of others.

33. A “blockchain” is an open-sourced string of code which is the underlying technology that facilitates the creation of and subsequent transaction in a particular cryptocurrency. All cryptocurrencies exist on a blockchain. All transactions are recorded on the blockchain and are publicly available.¹¹

34. When market participants seek to transact in a particular cryptocurrency, those transactions are submitted to the blockchain and are executed in batches of transactions called

¹¹ There is one exception not relevant here. Certain blockchains are “private” blockchains. In those blockchains, the transactions are not public.

“blocks.” Those “blocks” are publicly available and reflect all of the cryptocurrency transactions that occurred on the blockchain at a particular point in time. Those “blocks” are all reflected on the blockchain and are ordered by date in a “chain.” That is why it is called a “block”-“chain.”

35. There are a number of cryptocurrencies called “stablecoins.” Stablecoins are “stable” because their value is pegged to a “stable” asset such as the U.S. dollar or gold. The purpose of stablecoins is to allow users to transact without the volatility of other cryptocurrencies.

36. A digital wallet (“wallet”) is a software program or physical device that allows a user to store their cryptocurrency and allows for the sending and receiving of cryptocurrency transactions.

37. A cryptocurrency exchange (“exchange”) is a marketplace where users buy and sell cryptocurrencies. Many exchanges are designed to be user friendly. Although exchanges are not necessary to buy and sell cryptocurrency, exchanges are the most popular mechanism for retail customers to buy and sell cryptocurrency. The customer interface on exchanges are often very similar to online stock brokerages.

38. Decentralized finance (or “DeFi”) is a common term used for banking activities such as lending and borrowing, which are not performed by a centralized entity.

39. “Yield earning platforms” borrow cryptocurrency from their customers and promise to pay their customers back at a later date, plus interest. Yield earning platforms essentially provide their customers unsecured notes. Cred was a yield earning platform.

40. Yield earning platforms have increased in popularity in recent years, due to the potentially high returns for both the investor and the yield earning platform. Yield earning platforms are generally risky due to their promises of high returns. Cryptocurrency prices are highly volatile and the regulations concerning yield earning platforms are unclear. The SEC and

state regulators have begun to bring some enforcement actions against yield earning platforms arguing that they constitute the sale of unregistered securities.

FACTUAL BACKGROUND

I. The Cred-Uphold Relationship

41. Uphold is a multi-asset cryptocurrency exchange, on which users can buy and sell cryptocurrencies, fiat currencies, equities, and precious metals.¹² Uphold primarily markets to retail customers.

42. Uphold provides retail customers an easy to use platform for transacting and storing cryptocurrency. Uphold specifically markets itself as easy to use for new cryptocurrency investors.¹³ Uphold markets and operates its services on a desktop and mobile “digital money platform” (the “Uphold Platform”), which provides “consumers worldwide with convenient and secure access to traditional currencies, cryptocurrencies, and other investments.”

43. Schatt first encountered Uphold in February 2018.¹⁴ Schatt testified that Uphold initially engaged him to provide advisory services.¹⁵

44. Two months later, Uphold appointed Schatt as a director on the Uphold Board.¹⁶

45. After Schatt was retained by Uphold in early 2018, Schatt and Hua established an entity named “Libra Credit” in Singapore.

¹² See Uphold, <https://uphold.com/en-us>.

¹³ Ex. D (January 2021 Uphold marketing materials).

¹⁴ Deposition of Dan Schatt, dated December 14, 2020 (“2020 Schatt Dep. Tr.”) at 115:14-18.

¹⁵ *Id.*

¹⁶ *Id.*

46. Libra Credit later became known as “Cyber Quantum Pte. Ltd.” Cyber Quantum Pte. Ltd. conducted an initial coin offering in or around May 2018 for the cryptocurrency, Libra Token (“LBA”).

47. An initial coin offering is a fund-raising event in connection with the launch of a new cryptocurrency.

48. The proceeds of the Cyber Quantum Pte. Ltd. initial coin offering were used to fund Cred.

49. On May 14, 2018, Schatt and Hua organized “Libra Credit (US) LLC,” in Delaware.

50. In August 2018, Libra Credit (US) LLC changed its name to “Cred LLC.”

51. Schatt and Hua also formed a subsidiary “Cred (US) LLC” in August 2018, with Cred LLC as the sole member.¹⁷

52. On May 13, 2020, Cred LLC converted to Cred Inc.¹⁸ The Trust refers to Libra Credit, Cyber Quantum Pte. Ltd., Cred LLC, and Cred (US) LLC collectively as “Cred.”

53. Initially, Hua was Cred’s CEO and Schatt was Cred’s President. In mid-to-late 2018, Hua stepped down from his role as CEO and Schatt assumed that role. Schatt and Hua were the only two directors.

54. Schatt and Hua were fifty percent (50%) co-owners of Cred.

55. Schatt introduced Thieriot to Hua in or around June of 2018.

¹⁷ Ex. E (Delaware Certificate of Conversion).

¹⁸ *Id.*

56. Uphold's team (including Thieriot) visited the MoKredit offices in China in or around August to September 2018.¹⁹

57. In July of 2018, Uphold and Schatt began discussing a joint-venture to create a yield earning program.²⁰

A. Uphold and Schatt Create an "Earn" Program

58. Looking for new ways to make money from its customers, Uphold decided to launch a yield earning program.

59. Cryptocurrency yield earning programs have become popular in recent years. The customer lends his or her cryptocurrency to a company. The company promises to repay the customer, plus interest. Then the company seeks to earn a greater yield on the loaned cryptocurrency than it owes its customer, usually through re-lending or cryptocurrency trading strategies.

60. The customer benefits from yield earning programs because he or she maintains ownership of the cryptocurrency while earning interest. The company profits from yield earning programs if it earns a greater yield than the company owes customers.

61. Initially, Uphold was going to release the yield earning program directly through Uphold under the name "UpholdEarn."²¹

62. Cred's CEO Schatt played a substantial role in the creation of UpholdEarn.

63. Schatt was an active Uphold director who participated in key decision-making concerning Uphold's daily operations, marketing, and new programs—including UpholdEarn.

¹⁹ Ex. F (timeline of events produced by Uphold).

²⁰ *Id.*

²¹ Ex. G (October 2018 email chain between Uphold and a PR firm).

64. Despite an obvious conflict of interest as both Cred's CEO and an Uphold director, Schatt participated in the key decision making concerning Uphold's and Cred's plans to jointly launch a yield earning program.

65. Uphold targeted January 2019 as the launch date for its UpholdEarn offering.

66. Because the offering was initially going to be launched by Uphold, Cred was not referenced on early drafts of marketing materials.

67. In early October 2018, the name of the yield earning product was the subject of internal debate at Uphold. A member of the Uphold marketing team stated that they "[REDACTED]

,"²²

68. While Uphold was initially going to launch the earn program, Uphold later decided to run the offering through Cred. This decision caused confusion at Uphold and Cred as to which entity was actually running the offering and how it should be marketed.

69. In response to draft marketing materials, Uphold's former Chief Growth Officer Rawdon Messenger ("Messenger") emailed the Uphold marketing team stating:

[REDACTED]
23

70. Messenger informed Cred's marketing department that Uphold would place marketing references to Cred in "appropriate spots going forward."²⁴

²² Ex. H (October 5, 2018 email from Uphold team member Alistair Morrison).

²³ Ex. I (October 12 2018 email from Messenger and subsequent response by marketing team).

²⁴ Ex. J (October 17, 2018 email from Messenger).

71. However, many of the initial marketing materials for UpholdEarn did not mention Cred. For example, the initial draft press release purporting to launch “UpholdEarn” and “UpholdBorrow” made no reference to Cred:

Global Consumers Get New Personal Finance Tool Promising Up to Five Percent Interest

Uphold announces the world’s first crypto equity digital line of credit giving global consumers access to credit benefits historically available to one percent of world’s population

SAN FRANCISCO – Oct. XX, 2018 – Uphold, a leading global digital money platform that has powered more than \$3.5 billion in transactions across 184 countries, announced today the availability Uphold Earn and Uphold Borrow, two revolutionary consumer finance products made possible by the Blockchain.

Uphold Earn, which functions much like a traditional savings account, will offer interest rates between two and five percent. Uphold Borrow draws on a quarter-billion-US dollar credit facility to grant secured, revolving lines of credit at single digit interest rates. Both products are made possible by the Universal Dollar (UPUSD), a fully-transparent, digital asset that is collateralized 1-to-1 with U.S. dollars to be held at U.S. domiciled, FDIC-insured banks.

“The concept behind Uphold Borrow is really very simple,” said JP Thieriot, Co-Founder and CEO of Uphold. “In America, homeowners can borrow against the equity in their homes with a Home Equity Line of Credit (HELOC). It’s an incredibly powerful financial tool because it offers a low interest line of credit with extremely flexible terms. But it’s limited to those fortunate enough to own a home. What Uphold has done today is replaced the Home Equity part of the HELOC with a consumer’s digital equity – in the form of cryptocurrency – thereby allowing non-homeowners all over the world an alternative means of securing the same type of consumer-friendly credit.”

With Uphold Borrow, consumers can borrow against up to 50 percent of their digital assets – anywhere from two thousand to two hundred thousand dollars – empowering them with one of the most affordable and consumer-friendly loans available.

Moreover, Uphold Borrow creates, for the first time, access to dollar-denominated loans to anyone in the world who holds digital assets, allowing them to use their accumulated capital without having to sell assets at the bottom of a pricing cycle.

72. On October 17, 2018, Cred’s Director of Marketing Meghan Gardler (“Gardler”) complained to Uphold, writing: [REDACTED]

[REDACTED]

[REDACTED]

25

²⁵ Ex. K (October 17, 2018 email from Gardler).

73. The next day, on October 18, 2021, Uphold released marketing materials to its customers that did not reference Cred.²⁶

74. In response, Gardler forwarded the marketing piece to Uphold stating: “Hi guys, still seeing zero Cred branding on any messaging coming from Uphold. I need a concrete ETA when this will be done because I was originally told it would be changing over by the beginning of this week and it still hasn’t happened. I also never received the draft of the email marketing that was going to be sent.”²⁷

75. No later than November 6, 2018, [REDACTED]

[REDACTED]²⁸

76. On October 18, 2018, Schatt also sent an email to Messenger and Thieriot stating that he was “getting complaints from the Cred team that some marketing ... [is] not shared with the Cred team prior to release.”²⁹

77. In another email, also sent on October 18, 2018, Schatt made clear that Uphold and Cred were “one team” when it came to the CredEarn program by stating: “[l]et’s operate as one team as much as possible.”³⁰

78. On December 22, 2018, Uphold and Cred finalized a launch plan for UpholdEarn.

²⁶ Ex. L (October 18, 2018 email from Schatt).

²⁷ *Id.*

²⁸ Ex. M (November 6, 2018 email chain between Uphold team members).

²⁹ Ex. L (October 18, 2018 email from Schatt).

³⁰ *Id.*

79. According to an email sent by Schatt on December 22, 2018, this launch plan included the following four key components:

- Early to mid-January rollout of UpholdEarn, capped at \$20M
- Leverage Cred engineering and design resources to alleviate Uphold engineering/product bandwidth concerns
- Craft an integrated PR/marketing plan
- Plan for automated Uphold Earn and Borrow Product to launch in Q1 2019³¹

80. Also as part of this December 22, 2018 plan, Schatt emailed Thieriot, Uphold's Chief Operating Officer Simon McLoughlin ("McLoughlin"), and Hua to confirm the rates and structures for participating in the UpholdEarn program, depending on whether the customers used Bitcoin, Universal Dollar, or its non-US counterpart, the Universal Euro:

- Minimum investment \$5,000 or 1 BTC
- Minimum investment period: 6 months
- Annualized return: 10% (5% if you invested Universal Dollar or Euro)
- Interest paid quarterly in USD or Universal Dollar
- Principal returned at end of period in BTC (or USD or Universal Dollar)³²

81. Between October and December 2018, various email communications and social media posts by Uphold and Thieriot marketed the UpholdEarn offering with reference to both Uphold and Cred (Cred's twitter handle is "@ihaveCred"):

³¹ Ex. N (December 21, 2018 email from Schatt).

³² *Id.*



82. Uphold knew the risks that were associated with the yield earning program.

83. Uphold also knew: (1) about Cred's business relationship with MoKredit; (2) more than 90% of the cryptocurrency that Uphold's customers lent to Cred would be loaned to MoKredit; (3) MoKredit only accepted and remitted stablecoin from Cred; and (4) because MoKredit only accepted and remitted stablecoin, Cred was exposed to the rise in price of BTC and other cryptocurrencies.

84. In addition, Uphold knew that Cred was implementing a highly-risky hedging strategy, and that there was regulatory risk associated with cryptocurrency yield earning programs.

85. Rather than take on all of these risks, Uphold and Schatt decided to shift the risks away from Uphold by running it through Cred.

86. Despite Cred taking all of the risks, Uphold would profit by receiving 2% commissions and other benefits for driving Uphold's customers to Cred.

B. Uphold Decides to Launch the Earn Program Through Cred

87. Between late December 2018 and mid-January 2019, Uphold and Schatt decided to offload Uphold's risk to Cred, run the yield earn program entirely through Cred, and rebrand the offerings as CredEarn and CredBorrow.

88. As Schatt was a co-owner of Cred, he owed a fiduciary duty of loyalty to Cred.

89. As a board member of Uphold, Schatt also owed a fiduciary duty of loyalty to Uphold.

90. The duty of loyalty requires a director to be loyal to the company at all times, and also imposes the responsibility to avoid possible conflicts of interest.

91. As CEO of Cred, Schatt had an obligation to engage in business relationships that were in the best interests of Cred, not to Cred's detriment.

92. Despite his fiduciary duties and obligations, Schatt entered Cred into a business relationship with Uphold that disproportionately benefitted Uphold to the detriment of Cred.

93. Uphold substantially assisted in Schatt's breach of fiduciary duties by using its position of power, and Schatt's conflicting interests, to negotiate terms of Cred and Uphold's arrangement that benefitted Uphold to Cred's detriment.

94. On or around January 16, 2019, Cred and Uphold entered into a Statement of Work (the "SOW") related to the CredEarn program.³³

³³ Ex. O (January 16, 2019 Statement of Work for CredEarn).

95. During the negotiations of the SOW, Schatt was conflicted as he was at the time the CEO of Cred while also serving on Uphold's Board.

96. Under the SOW, Uphold integrated CredEarn on the Uphold website and mobile application.³⁴

97. In exchange for the integration of CredEarn on the Uphold website, the SOW required Cred to pay a "service fee" to Uphold. This "service fee" was effectively a "commission" to Uphold for driving its customers to Cred.

98. Under the SOW, Uphold would receive "the greater of (a) 2% of total credit extended by customers funding CredEarn accounts via Uphold [P]latform, or (b) the historical yield percentage on the assets committed to CredEarn accounts via Uphold [P]latform" (the "Uphold Fees").³⁵

99. As Schatt explained, Uphold "earned a percentage of all funds that their customers lent to Cred I believe it was 2 percent. So if we gave an interest rate of 5 percent to the customer, there would be an extra 2 percent that would go to Uphold."³⁶

100. Uphold Fees were calculated based on the assets that Uphold customers committed to CredEarn.

101. Uphold regularly invoiced Cred for the Uphold Fees.

102. As part of this arrangement, Uphold and Cred jointly created marketing materials for Uphold to disseminate to its thousands of pre-existing and potential customers.³⁷

³⁴ *Id.*

³⁵ *Id.*

³⁶ Deposition of Dan Schatt, dated July 28, 2021 ("2021 Schatt Dep. Tr.") at 246:16-22.

³⁷ Ex. O (January 16, 2019 Statement of Work for CredEarn).

103. Under section 7 of the SOW, Uphold and Cred were both granted “a limited, revocable, non-exclusive, royalty-free, worldwide license to use [the other party’s] trademarks, service marks, names and logos ... for the sole purpose of marketing and promoting the CredEarn Offering as mutually agreed.”

104. Although CredEarn was technically offered by Cred, Uphold had complete control over CredEarn both contractually and functionally.

105. Section 2.2.1 of the SOW states that Cred “will not change its requirements under the Cred Earn Offering or the End User Agreement without the prior written consent of [Uphold].”³⁸

106. Cred could not and did not change its core business plan without Uphold’s consent.

107. Cred could not and did not change CredEarn interest rates without Uphold’s consent.

108. Cred could not and did not change the CredEarn marketing strategy or marketing materials without Uphold’s consent.

109. Beyond contractual control, Uphold functionally controlled Cred.

110. Uphold exerted financial control over Cred because Uphold held most of Cred’s cryptocurrency.

111. To facilitate CredEarn, Uphold held both Cred’s and CredEarn customers’ digital wallets for the majority of Cred’s existence.

112. Because Uphold held Cred and CredEarn customers’ wallets, Uphold dictated the types of cryptocurrencies used in CredEarn by Uphold customers.

113. Uphold held the majority of Cred’s and CredEarn customers’ cryptocurrency.

³⁸ *Id.*

114. Uphold comingled the cryptocurrency it received from its customers. Cred's cryptocurrency held at Uphold was comingled with the cryptocurrency of other Uphold customers, including CredEarn customers.

115. The transactions between Cred and Cred's customers were executed within comingled digital wallets hosted on the Uphold Platform.

116. The majority of transactions between Cred and CredEarn customers were only reflected in the internal recordkeeping at Uphold and were not actually recorded on any public blockchain.

117. Accordingly, Cred relied entirely on Uphold's internal recordkeeping to determine which cryptocurrency was owned by Cred, which cryptocurrency was owned by CredEarn customers, and which cryptocurrency was owned by other Uphold customers.

118. CredEarn-related transactions only occurred on the blockchain if one of the recipient digital wallets was not hosted by Uphold.

119. In addition to Uphold's contractual and effective control of Cred, Uphold also sought to allocate all risks of the CredEarn program to Cred.

120. Section 2.2.2 of the SOW stated that "all risk of loss of principal loan by [Cred] from [Uphold's customers] shall be borne by [Cred]."

121. In short, as a result of the SOW, Uphold received risk-free commissions from Cred while Cred bore all of the risk associated with CredEarn.

122. Yield earning platforms are subject to various risks associated with volatility in the market and risk of cyber-attacks. To attract cryptocurrency customers, yield earning offer returns in excess of 8-12%.

123. CredEarn was riskier than other similar programs because it had to earn enough by re-lending or trading to satisfy the exorbitant interest rates and also to pay Uphold the additional 2% commission.

124. Regulators such as the United States Securities and Exchange Commission (“SEC”) and state securities regulators have been closely monitoring cryptocurrency companies and have been aggressively investigating and taking action against yield earning platforms similar to CredEarn.³⁹

125. Schatt had a fiduciary duty to act in the best interests of Cred. Schatt’s fiduciary duties to Cred required him to not allow Cred to incur debts in excess of what Cred would reasonably service.

126. But Schatt acted both as director of Uphold and as CEO and a director of Cred during the negotiations of the SOW.

127. Uphold developed the CredEarn program with Schatt and Hua. Uphold retained control over CredEarn.

³⁹ A recent example involves the cryptocurrency exchange BlockFi. In 2019, BlockFi began offering interest-bearing digital asset accounts. Similar to CredEarn, customers participating in BlockFi’s program loaned cryptocurrency to BlockFi in exchange for a variable monthly interest payment. By 2021, BlockFi held as much as \$14.7 billion in investor assets. The New Jersey Bureau of Securities sent a cease and desist order, charging that BlockFi’s accounts were not registered with that office or exempt from registration, and their sale violated New Jersey securities laws. Shortly after, the SEC instituted a cease and desist proceeding of its own. *See* <https://www.sec.gov/litigation/admin/2022/33-11029.pdf>. BlockFi settled these actions and agreed to pay a total of \$100 million in fines to the SEC and a consortium of 32 states. The penalty is the largest ever by the SEC against a crypto company, and shows that regulators are aggressively pursuing yield earning platforms.

In another example, the SEC also threatened to sue cryptocurrency exchange Coinbase over an earning product Coinbase Lend. *See* <https://blog.coinbase.com/the-sec-has-told-us-it-wants-to-sue-us-over-lend-we-have-no-idea-why-a3a1b6507009>. Within two weeks after the SEC issued this threat, Coinbase canceled the launch of the product. *See* <https://techcrunch.com/2021/09/20/following-sec-lawsuit-threat-coinbase-cancels-launch-of-lend-product/>.

128. Schatt negotiated and knowingly commenced a relationship that gave all power and control to Uphold, while leaving Cred with none of the power, but all of the risk.

129. Schatt negotiated and knowingly commenced a business relationship that provided Uphold a steady stream of the Uphold Fees with every new CredEarn customer and customer loan, while every new CredEarn customer caused Cred to incur new debts and liabilities.

130. Uphold substantially assisted Schatt's breaches of fiduciary duties by developing the CredEarn program with Schatt and others at Cred.

131. Uphold substantially assisted Schatt's breaches of fiduciary duties by continuously promoting and enrolling new CredEarn members which caused Cred to incur debts it could not reasonably service.

132. Uphold substantially assisted Schatt's breaches of fiduciary duties by promoting CredEarn using false marketing materials to drive more debt to Cred than it could reasonably service.

133. Uphold's substantial assistance only increased the Uphold Fees that Uphold collected, and the debt that Cred incurred.

134. Uphold and Schatt used Uphold's dominant position over Cred to allocate all of these risks to Cred while (i) maintaining complete control over CredEarn and (ii) receiving risk-free commissions regardless of whether CredEarn succeeded and Uphold customers were ever repaid.

135. In short, Uphold was a de facto fiduciary and controller of Cred. Uphold also occupied a position of trust with Cred due to Uphold's complete control over CredEarn and Schatt's dual positions with Cred and the Uphold Board.

C. Uphold Uses Cred to Launch CredEarn

136. CredEarn launched on January 23, 2019.

137. On January 24, 2019, Schatt announced that CredEarn had signed its 1,000th customer in less than 24 hours after launching.⁴⁰

138. Uphold drove all of these initial customers to Cred.

139. CredEarn was completely integrated on Uphold's website.

140. Schatt described this integration as follows: with a "push [of] a button [you could] sign the terms and conditions and participate in the program as an Uphold customer."⁴¹

141. Cred and Uphold primarily targeted Uphold customers through advertisements on the Uphold Platform.

142. Only a very small percentage of customers found the Cred website independently from Uphold and became CredEarn customers.

143. To utilize the Uphold Platform, a customer had to first join Uphold as a customer before having access to CredEarn:

⁴⁰ Ex. P (January 23, 2019 email from Schatt).

⁴¹ 2021 Schatt Dep. Tr. at 245:1–3.



To get started with CredEarn

1 Sign up for an Uphold account

Create an Uphold account to authorize the CredEarn app.

Sign up

42

144. When Uphold customers logged in to the Uphold Platform, they immediately saw advertisements and banners associated with CredEarn urging them to “earn” with CredEarn:



Earn NEW

Access a 3 - 10% return on your digital currency holdings.*



Borrow SOON

Access low cost credit, secured by your digital currency holdings.*

Earn with Cred NEW

Start earning up to 10% on your digital assets



43

⁴² Ex. Q (Snapshot of CredEarn page on Uphold’s website from April 22, 2020, available at <https://web.archive.org/web/20200422052159/https://uphold.com/en/credearn>).

⁴³ *Id.* (Snapshot of Uphold’s website from November 6, 2019, available at <https://web.archive.org/web/20191106180122/https://uphold.com/>).

145. As one Uphold customer [REDACTED]

[REDACTED] described:

[REDACTED]⁴⁴

146. To participate in the CredEarn program, customers entered into “CredEarn Agreements” with Cred.

147. Pursuant to the CredEarn agreements, customers lent cryptocurrency to Cred in exchange for a promise by Cred to repay the loan, plus interest.

148. Cred agreed to repay loans to its CredEarn customers in the same type of cryptocurrency that the CredEarn customer lent to Cred as specified in the individual agreement. For example, CredEarn agreements would specify that “[Customer is] lending Bitcoin to CRED,” “[Customer agrees] to initially lend CRED [up to 1,250] Bitcoin,” and that “[i]nterest is paid in Bitcoin on the last business day of every calendar quarter.”⁴⁵

149. To make these loans, the customers executed a transfer of cryptocurrency from their own Uphold wallet to Cred wallets also hosted by Uphold.

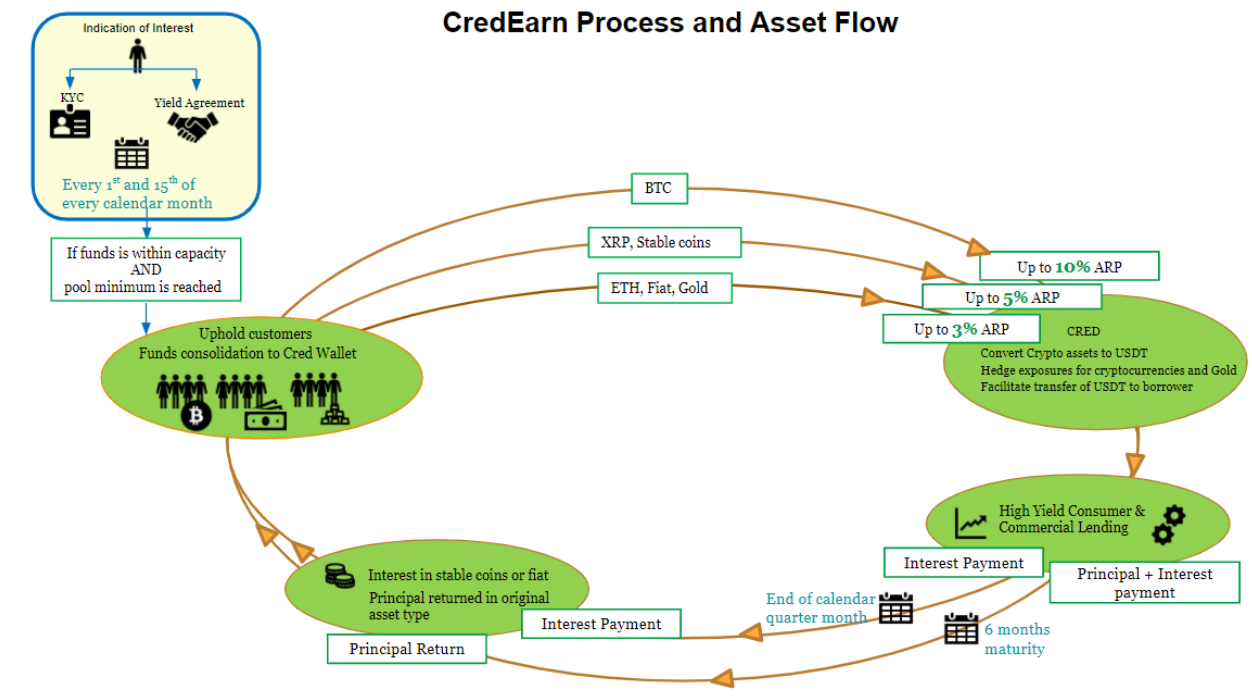
150. Thus, the CredEarn program appeared to involve shifting cryptocurrency from one Uphold wallet to another Uphold wallet.

⁴⁴ Ex. C (October 2020 email chain between customer and Uphold) (emphasis added).

⁴⁵ Ex. R (sample CredEarn agreement).

151. In actuality, the Uphold wallets were comingled and the CredEarn cryptocurrency transactions were primarily just recorded in internal recordkeeping at Uphold.

152. The CredEarn process and asset flow is demonstrated by the below flowchart:



153. The CredEarn agreements generally expired in 6-12 months, after which Cred was required to return the cryptocurrency to the CredEarn customers.

154. Upon the expiration of a CredEarn agreement, Cred allowed customers to re-enroll into a subsequent CredEarn agreement.

155. At expiration, many customers re-enrolled into a new CredEarn agreement. That means that at the expiration of the 6-12 month period, Cred would not return the lent cryptocurrency.

156. The CredEarn agreements stated that customers were “agreeing to lend [Cred] all funds in the account [and Cred agrees] to repay, with interest, all amounts [it] borrow[s] from [the

customer], subject to provisions of this Agreement that allow[s] [Cred] to deduct certain fees in some circumstances.”⁴⁶

157. Under the CredEarn program, Cred was required to pay customers 8-12% interest.

158. Cred took huge risks in order to generate enough yield to satisfy such interest and Uphold’s commission.

159. Cred loaned the CredEarn cryptocurrency that Cred received from customers to MoKredit.

160. Hua, as founder of MoKredit, owed a fiduciary duty of loyalty to MoKredit.

161. As Hua was also a co-owner and a director of Cred, he also owed a fiduciary duty of loyalty to Cred.

162. These dual roles created significant conflicts of interest for Hua as MoKredit and Cred were counterparties whose interests were not always aligned.

163. Hua had a fiduciary duty to not allow Cred to lend cryptocurrency and other funds to counter-parties that could not or would not repay Cred.

164. Hua breached his fiduciary duty to Cred by allowing it to lend significant sums of cryptocurrency to MoKredit because Hua knew MoKredit would not be able to repay Cred.

165. Uphold substantially assisted Hua’s breach of the fiduciary duty of loyalty by driving customers to CredEarn which in turn drove more risky loans to MoKredit and unsecured debt to Cred.

166. Uphold substantially assisted Hua’s breach of the fiduciary duty of loyalty by promoting false marketing materials concerning CredEarn in order to drive more debt to Cred.

⁴⁶ *Id.*

167. Uphold knew the cryptocurrency lent to CredEarn would be lent by Cred to MoKredit.

168. When Cred lent CredEarn cryptocurrency to MoKredit, MoKredit then lent those funds to MoKredit's customers. MoKredit's customers were purportedly thousands of videogamers located primarily in China who would borrow small sums at high interest rates, often exceeding 35%.

169. Uphold knew of MoKredit's involvement in CredEarn.

170. Uphold knew that MoKredit's business model was extremely risky and that MoKredit may not be able to satisfy the debts owed from MoKredit to Cred.

171. Cred and MoKredit's relationship was governed by a series of agreements and tranches for additional loan amounts that are subject to those agreements.⁴⁷

172. In connection with the loans made to MoKredit, a Loan and Security Agreement in the principal amount of \$50 million was entered into by and between Cyber Quantum Pte Ltd. as lender and MoKredit as borrower (the "Cyber Quantum LSA"). The Cyber Quantum LSA is dated January 4, 2019, but was not executed until June 5, 2019.

173. Contemporaneously with the execution of the Cyber Quantum LSA, Cyber Quantum Pte Ltd. and MoKredit also entered into a Multi-Tranche Credit Agreement (the "Cyber Quantum Multi-Tranche Credit Agreement").

174. Finally, MoKredit and Cred executed a loan and security agreement with an effective date of December 27, 2018 (the "Cred LSA" and, together with the Cyber Quantum LSA and Cyber Quantum Multi-Tranche Credit Agreement, the "MoKredit Agreements").

⁴⁷ Ex. S (December 27, 2018 MoKredit Loan and Security Agreement).

175. The MoKredit Agreements governed MoKredit's borrowing of funds from Cred, which largely consisted of CredEarn loan proceeds.

176. The Cred LSA authorized Cred to extend a line of credit of up to \$100,000,000 to MoKredit, and contained an effective date of December 27, 2018.

177. However, the Cred LSA was not actually executed until February 4, 2020, more than one year later. By then, Cred had already lent MoKredit tens of millions of dollars of customer cryptocurrency. Cred did not loan MoKredit any cryptocurrency after February 4, 2020.

178. Until the Cred LSA was executed, the only contracts that existed were between MoKredit and Cyber Quantum.

179. Under the Cred LSA, MoKredit was obligated to repay obligations outstanding under the MoKredit Agreements upon the sooner of (i) the maturity date of the loan or (ii) 30 days' notice by Cred at Cred's discretion.

180. Cred sought to generate profits based on the spread between the interest rate offered to customers through CredEarn, and the interest Cred received from MoKredit.

181. However, as Hua sat on both sides of the negotiating table, Hua favored MoKredit over Cred with respect to allocating risk.

182. MoKredit refused to expose itself to the risk of loss due to fluctuations in the price of BTC and other cryptocurrencies. Thus, at MoKredit's request, Cred loaned MoKredit fiat currency or stablecoin rather than BTC and other cryptocurrencies.

183. CredEarn agreements specified the cryptocurrencies that Cred was obligated to repay to its customers.

184. For example, the CredEarn agreements stated “[Customer is] lending Bitcoin to CRED,” “[Customer agrees] to initially lend CRED [up to 1,250] Bitcoin,” and that “[i]nterest is paid in Bitcoin on the last business day of every calendar quarter.”⁴⁸

185. Because Cred and MoKredit only transacted with each other entirely in stablecoin and Cred owed its customers BTC and other cryptocurrencies: (i) Cred bore the risk of loss if BTC and other cryptocurrencies increased in value during the life of a CredEarn loan; and (ii) Cred was regularly short BTC and other cryptocurrencies.

186. Similar to Schatt, Hua also had fiduciary duties to Cred to not incur debts in excess of what Cred can reasonably service.

187. However, by refusing to expose MoKredit to risk, Hua sought to shift all risk to Cred, in violation of his fiduciary duties to Cred.

188. Uphold knew that MoKredit would only accept stablecoin in connection with its loans to Cred.

189. Uphold knew that Hua was breaching his fiduciary duties to Cred by causing it to enter into these highly risky agreements with MoKredit in which Cred was exposed to an increase in the price of BTC and other cryptocurrencies.

190. In an effort to mitigate the risk associated with an increase in prices of cryptocurrency, Cred hired the Trading Firm to create and execute a “hedging strategy.”

191. Cred and the Trading Firm entered into a consulting agreement regarding the hedging strategy, which was effective December 25, 2018.

⁴⁸ Ex. R (sample CredEarn agreement).

192. Pursuant to this hedging strategy, the Trading Firm entered into options, futures, and “perpetual swaps” (or “perps”) for Cred in order to hedge against an increase in the price of cryptocurrency.

193. Uphold knew Cred’s entire business model, including Cred’s relationship with MoKredit and the hedging strategy.

194. Uphold continued to substantially assist Hua’s breaches of fiduciary duties by promoting false marketing materials concerning CredEarn to drive more cryptocurrency to Cred which Cred would lend to MoKredit..

195. Uphold conducted no meaningful diligence on MoKredit. Neither Uphold nor Cred reviewed any meaningful financial information from MoKredit. Neither Uphold nor Cred ever requested any audited financials from MoKredit. Indeed, MoKredit has never been audited.

196. On January 23, 2019, Uphold launched the CredEarn program through Cred.

197. Unbeknownst to Uphold’s customers, the cryptocurrency they provided to Cred was immediately lent by Cred to MoKredit.

198. When MoKredit failed to repay principal on its loans as required by the Cred LSA, Cred would simply allow MoKredit to “roll” the principal amounts owed to the next “tranche.”

199. Cred’s former Chief Financial Officer Podulka testified about the MoKredit principal payments as follows: “the money, when a tranche would close, wouldn’t necessarily result in a flow of cash to Cred. It could be reenrolled in another program or tranche.”⁴⁹

⁴⁹ Deposition of Joseph Podulka, dated July 23, 2021 (“Podulka Dep. Tr.”) at 131:7-9. The Trust conducted a series of depositions pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure.

200. Despite Uphold's marketing materials in which Uphold told its customers that CredEarn was "secured," Cred did not perfect the security interests in MoKredit that were granted by the Cred LSA.

201. Section 2.1 of the Cred LSA grants Cred a security interest in, among other things, all of MoKredit's accounts, inventory, equipment, instruments and securities (collectively, the "Collateral").

202. Uphold published extensive marketing materials indicating that CredEarn was "secured." Schatt, Hua, and Uphold knew CredEarn marketing materials indicating that the MoKredit debt was "secured" were false.

203. The testimony of all senior executive officers of Cred reveal that Cred took no steps to perfect Cred's security interest in the Collateral.⁵⁰

204. Cred never perfected any security interests in the Collateral.

205. All of the Uphold marketing material referencing CredEarn as "secured" were false.

II. Uphold Disseminated False CredEarn Marketing Materials

206. Schatt testified that Uphold distributed Cred's marketing material throughout the lifecycle of CredEarn, starting from CredEarn's launch in early 2019 up until late 2020.⁵¹

⁵⁰ See 2021 Schatt Dep. Tr. at 125:3-6 (Q. "Did Cred ever perfect any security interest in any collateral from MoKredit? A. I don't believe it was ever perfected."); *see also* Deposition of Daniel Wheeler, dated August 5, 2021 ("Wheeler Dep. Tr.") at 232:10-19 (Q. "Who made that decision to not go forward with the section on secured interest?" A. "I think that was a combination of James [Alexander] and Dan Schatt." Q. "Did you make a recommendation as to whether they should perfect security interests or not?" A. "I told them they should press on and, you know, do it right. But it was their business call to stop the presses at that point."); Podulka Dep. Tr. at 51:18-20 (Q. "Are you aware of any efforts that Cred made to perfect security interests pursuant to this agreement? A. "No.").

⁵¹ See 2021 Schatt Dep. Tr. at 254:23-255:1 (Q. "And Uphold was sending out marketing material from early 2019, until late 2020. Right?" A. "That's right.").

207. At all relevant times, Uphold knew Cred's business model and the risks involved due to Schatt's significant and conflicting roles and involvement with both companies.

208. Uphold nonetheless substantially assisted Schatt's and Hua's breaches of fiduciary duties by disseminating false marketing materials concerning CredEarn and CredBorrow.

A. Marketing Materials Omitted the MoKredit Relationship and Claimed Cred Only Lent to Reputable Parties

209. Uphold also knew about Cred's relationship with MoKredit, including about Hua's conflicting leadership roles with Cred and MoKredit.

210. Indeed, Hua and Thieriot met several times. Thieriot went to Shanghai during the summer of 2018 to meet with Hua, and Hua also visited the Uphold offices in San Francisco. Hua testified that he met Thieriot and the Uphold team multiple times:

- Q. Did you have any interactions with anyone from Uphold?
- A. No interactions, no. I was – I visited the office a couple of times while I was in San Francisco.
- Q. Oh, you visited the office. Who did you meet with?
- A. JP.
- Q. JP Thieriot?
- A. Yeah. And there is the head of, I think its head of marketing or head of – oh, I think COO, the chief, COO [McLoughlin], a guy called [McLoughlin]...
- Q. And when you met with Uphold, you told them that you owned moKredit; right?
- A. Yes.
- Q. And when you met with Uphold, did Uphold ask you any questions about moKredit?
- A. Uphold, no.
- Q. Okay. Did you meet with Uphold once or did you meet with them on multiple occasions?
- A. You mean the Uphold team?
- Q. Yeah.
- A. Multiple.⁵²

⁵² Deposition of Lu Hua, dated July 28, 2021 ("Hua Dep. Tr.") at 226:8-227:11.

211. Schatt testified that Uphold knew about MoKredit's involvement and understood the relationship between MoKredit and CredEarn:

- Q. How many times did you and Lu Hua meet with JP Thieriot?
- A. Us together, let's see, he came to moKredit, to the Shanghai office once. So he was in China.
- Q. You say "he," you mean JP Thieriot came to moKredit?
- A. That's right.
- Q. So Uphold was aware of Cred's relationship with moKredit. Correct?
- A. Yes.
- Q. And did Uphold ask Lu Hua any questions about moKredit?
- A. Yes. And, in fact, JP was in the moKredit office saw the facilities, as well.
- Q. Okay. Did you ever have any board meetings where moKredit was discussed?
- A. No, I don't believe we did. No.
- Q. Did you ever speak to anyone else at Uphold about moKredit?
- A. Yeah, I believe – I believe we probably would have spoken with the COO and possibly their general counsel.
- Q. Uphold understood that in connection with the CredEarn program, that Cred would be relending those loans to moKredit. Right?
- A. Right.
- Q. Okay. And Uphold understood that moKredit was then relending it to video gamers. Right?
- A. Correct.
- Q. And did Uphold ever ask you or Lu Hua to provide audited financial statements from moKredit?
- A. I don't believe so. No.
- Q. Did Uphold ever ask you or Lu Hua to provide a loan tape from moKredit?
- A. I don't believe so. No.
- Q. Did Uphold ever ask you or Lu Hua to provide information about its customers it was lending its money to?
- A. Yeah, I believe it – I believe those questions were asked when JP was in China, in Shanghai at the moKredit offices.⁵³

212. Schatt also testified that Uphold knew about Cred's hedging risks:

- Q. Did you ever discuss with JP Thieriot, or anyone else at Uphold, the fact that Cred was lending stablecoin to moKredit as opposed to Bitcoin?
- A. Yes.
- Q. Did you ever discuss with JP Thieriot, or anyone else at Uphold, that Cred would have to employ this hedging strategy in order to protect it against the rise in price of Bitcoin?
- A. Yes.

⁵³ 2021 Schatt Dep. Tr. at 243:15-246:1.

- Q. So JP Thieriot and others at Uphold were fully aware of Cred's business model?
A. Yes.⁵⁴

213. Although Uphold was aware of Cred's business model's reliance on MoKredit loans and the risks involved, Uphold substantially assisted Schatt's and Hua's breaches of fiduciary duties by disseminating retail customer marketing that did not disclose MoKredit.

214. Except for disclosing MoKredit's involvement with Cred to a select few high net-worth investors, most of the marketing materials and communications surrounding CredEarn did not disclose the existence of MoKredit in the business model at all.

215. For example, the initial joint press release for CredEarn on Business Wire failed to mention MoKredit.⁵⁵

216. Other communications directly from Uphold falsely represented that Cred made the CredEarn loans to [REDACTED]
[REDACTED]:

⁵⁴ *Id.* at 247:6-18.

⁵⁵ See Business Wire, *A Better Way to Earn Interest on Digital Assets*, <https://financialpost.com/pmn/press-releases-pmn/business-wire-news-releases-pmn/a-better-way-to-earn-interest-on-digital-assets>.

56

217. Cred did not make loans to “reputable third-party companies.”

218. Cred primarily made loans to MoKredit, despite the risks involved, and MoKredit repeatedly failed to make principal payments owed to Cred.

219. Uphold also sent email blasts and other marketing materials to thousands of customers containing this similar claim that Cred lent to “reputable companies.”⁵⁷

220. Schatt testified that Uphold did not mention MoKredit in its CredEarn marketing materials:

Q. You are aware that in the marketing material issued by Uphold, there was no mention of moKredit. Right?

A. Yes, that's, right.⁵⁸

B. Uphold Issued False Statements Indicating that CredEarn Was Secured and Insured

221. Cred executives, including Schatt, Hua, and Wheeler had fiduciary duties to exercise good business judgment in operating CredEarn, and ensuring the product was secure.

⁵⁶ Ex. T (March 29, 2019 Email from McLoughlin).

⁵⁷ Exs. U (March 29, 2019 email marketing), V (Uphold marketing deck).

⁵⁸ 2021 Schatt Dep. Tr. at 255:13–16.

222. Wheeler had a fiduciary duty to ensure that the loans provided to MoKredit were secured by Cred perfecting its security interests in the Collateral.

223. Wheeler breached this fiduciary duty by not perfecting Cred's security interest in the MoKredit Collateral.

224. Schatt and Hua had a fiduciary duty to insure that CredEarn loans were insured and could be repaid to customers.

225. Schatt and Hua breached their fiduciary duties by not insuring CredEarn loans.

226. Uphold knew that CredEarn loans were not secured or insured.

227. Uphold substantially assisted Schatt's, Hua's, and Wheeler's breaches of fiduciary duties by disseminating false marketing materials claiming CredEarn was secured and insured.

228. Uphold disseminated marketing materials that falsely stated "CredEarn allows holders of digital assets to earn interest in a variety of assets.... Cred achieves this objective by making *secured and/or guaranteed loans* and investing in *short-term debt instruments*."⁵⁹

229. These materials included a "one-pager" about CredEarn. Uphold requested that these materials be sent to Uphold so that they could be included in a pitch to potential investors.⁶⁰

230. Uphold and Cred also released joint statements on mainstream media stating that Cred provided "secured loans." [REDACTED]:

[REDACTED]

⁵⁹ Exs. W (CredEarn "one-pager") (emphasis added), X (February 4, 2019 email from Thieriot).

⁶⁰ Ex. X (February 4, 2019 email from Thieriot).

⁶¹ Ex. Y (January 2019 email chain between Uphold team and Schatt) (emphasis added).

231. These statements were false and misleading because Cred made no “secured loans.”

232. Cred’s loans to MoKredit were not secured because Cred did not perfect its security interest in the Collateral.

233. Despite Uphold’s representations, MoKredit did not have an “excellent track record.”

234. In fact, MoKredit repeatedly failed to make principal payments to Cred.

235. Other marketing materials falsely claimed that CredEarn was insured.

236. CredEarn loans were not insured.

237. CredBorrow collateral was not insured.

238. Cred’s loans to MoKredit were not insured.

239. The cryptocurrency Cred held on behalf of its customers were not insured.

240. Uphold knew that insurance was a particular concern for investors and customers.

241. [REDACTED]

[REDACTED].⁶²

242. Uphold produced this collection to the Trust, [REDACTED]

a. [REDACTED]

b. [REDACTED]

⁶² Ex. Z ([REDACTED]).

c.

[REDACTED]

d.

[REDACTED]

[REDACTED]

e.

[REDACTED]

⁶³

243. Customers expressed confusion regarding Uphold's representations that CredEarn was "insured" on social media outlets and online message boards, with one user stating:

The other thing that is often touted, which is that CredEarn is insured, is something that you should scrutinize. When I investigated it a couple of months back, I didn't come away with a strong sense that they truly had what I would consider an insurance policy, more an assurance by the management at that point. The situation may be different now.⁶⁴

244. Schatt was aware that insurance was a concern for customers.

245. Scatt also had a fiduciary duty to Cred to ensure that CredEarn loans were protected.

246. Rather than properly insuring CredEarn loans to mitigate Cred's risk, Schatt created and disseminated misleading advertising stating that Cred had insurance.

⁶³ *Id.*

⁶⁴ See Ex. UUU (XRP Chat, *LBA Discussion*, <https://www.xrpchat.com/topic/31706-lba-discussion/>).

247. On June 1, 2019, Schatt sent an email to Cred's and Uphold's marketing teams discussing a "comprehensive insurance post ... to give customers an even higher level of comfort about Cred."⁶⁵

248. Uphold's marketing contact forwarded the details in this email to Thieriot and McLoughlin for approval, which Thieriot approved on June 3, 2019.⁶⁶

249. That day, a joint press release between Uphold and Cred falsely stated that Cred was a licensed lender with "comprehensive insurance."⁶⁷

250. Following this press release, both Cred and Uphold approved of and disseminated other marketing materials that also falsely asserted that Cred had "comprehensive insurance and security policies to protect your digital assets and your data,"⁶⁸ had secured Lockton as the "insurance provider," and touted that Cred had the "most comprehensive insurance policy in the crypto-lending industry."⁶⁹

251. All of these statements concerning Cred's insurance were false.

252. Cred maintained a small amount of basic business insurance, such as a directors and officer's liability policy, a cybersecurity policy, and a property casualty policy.

253. The CredEarn and CredBorrow programs were not insured.

254. None of the customer cryptocurrency that was pledged to Cred was insured.

⁶⁵ Ex. AA (June 1, 2019 email from Schatt and response from Thieriot).

⁶⁶ *Id.*

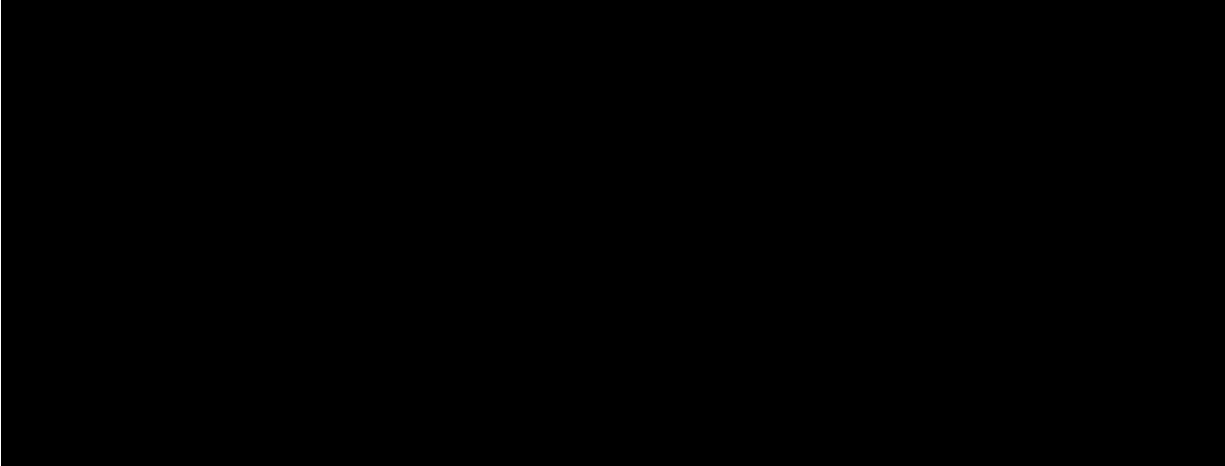
⁶⁷ *Id.*; see also Business Wire, *Earn Up to 10% Interest on USD and Euro on Uphold*, available at: <https://www.businesswire.com/news/home/20190603005557/en/Earn-up-to-10-Interest-on-USD-and-Euro-on-Uphold>.

⁶⁸ Ex. BB (July 14, 2020 email marketing).

⁶⁹ Ex. CC (September 3, 2019 email marketing).

255. The insurance policies Cred did carry were subject to certain exclusions related to cryptocurrency, further limiting their utility.

256. Wheeler believed that even the insurance policies that Cred did have had “no value” to Cred:



257. In May 2020, Wheeler raised concerns regarding false representations about insurance.

258. On May 15, 2020, Wheeler sent an email to Cred employee Michael Zhang stating the following:

We need to delete the entire bullet point about ‘insured custody of users crypto’ because no such insurance exists. ***We also need to delete the bullet point about ‘Cred has one of the most comprehensive insurance’ because it could mislead someone into thinking that their crypto is insured when it is not.***⁷¹

259. In a subsequent email on May 15, 2020 to Marketing Director Meghan Gardler, Wheeler stated, “I am uncomfortable with continued references to Cred’s insurance in our website or any of our marketing materials as our insurance has proven to be of no value to us and in no

⁷⁰ Wheeler Dep. Tr. at 180:5-22.

⁷¹ Ex. DD (May 15, 2020 email from Wheeler) (emphasis added).

way insures our users' crypto against loss ... I am strongly inclined to remove any and all references to Cred's insurance coverage."⁷²

260. Cred's marketing team pushed back. On May 15, 2020, Gardler responded to Wheeler as follows: "[i]t would be a big deal to remove our already scant references to insurance in our marketing and on our website. All of our competitors in the crypto space and in the fintech space reference insurance in one way or another and it would be noticeable if we remove ours without explanation."⁷³

261. Wheeler later testified that the insurance language was a "whack-a-mole that didn't stay whacked" and that despite his efforts to stop insurance representations from being included in marketing materials, "it had a way of sort of creeping back in."⁷⁴

262. Wheeler also raised concerns that Uphold prepared separate advertisements and marketing materials for Cred's products without Cred's knowledge, or approval through Cred's Compliance Team.

263. Wheeler raised these concerns about Uphold's marketing in an email to compliance consultants on December 9, 2019:

Cred's marketing department ... has apparently allowed Uphold, our most important partner by far, to prepare and use advertising for Cred's products. This advertising creates serious confusion as to the nature of the product and does not comply with our policy. It is important that you exercise oversight over partner advertising of Cred products.... No partner should be advertising Cred in a way that violates our marketing policy.⁷⁵

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Wheeler Dep. Tr. p. 171:14-172:2.

⁷⁵ Ex. EE (December 9, 2019 email from Wheeler).

264. Wheeler attempted to establish guidelines to address Uphold's free-range marketing of Cred products. Specifically, Wheeler sent an email to the compliance team and Gardler on September 19, 2019 stating:

I will work with [Compliance] to come up with guidelines ... for the marketing department that will hopefully provide guidance to you and help you decide exactly which communications need compliance review. In looking at these examples, we should start with the principle that any marketing communication that promotes "CredEarn" needs compliance review before it is sent ... we need to document that statements of fact (for example, that all loans are "fully collateralized" or that Cred has \$300 million in funding) are supported by verified facts ... given the volume of marketing occurring, please move the guideline development to our top priority[.]⁷⁶

265. Cred's compliance department attempted to institute a policy pursuant to which the marketing teams for Cred and Uphold were required to "[s]ubmit all marketing content to [Compliance] for Pre-approval."

266. The policy stated that "[a]s long as it is approved by Cred Compliance, it is okay for Uphold to employ the use of" email marketing and "[o]ther communications tools to send marketing materials to Uphold users alerting them to the availability of the CredEarn products."⁷⁷

267. Despite these raised concerns, Uphold continued to substantially assist Schatt's misleading claims and disseminate false marketing materials to drive customers to CredEarn.

268. Schatt violated his fiduciary duties to Cred by disseminating false marketing materials concerning insurance which drove CredEarn debt to Cred in excess of what Cred could reasonably service.

⁷⁶ Ex. FF (September 9, 2019 email from Wheeler).

⁷⁷ Ex. GG (draft marketing approval policy).

269. Uphold substantially assisted Schatt in his violation of his fiduciary duties to Cred by promoting false marketing materials concerning CredEarn insurance to drive additional CredEarn debt to Cred that Cred could not reasonably service.

C. Uphold Made Knowing False Claims That CredEarn Was Fully Hedged

270. In addition to regular email blasts to all customers, Uphold sent newsletters to customers called “Uphold Insights,” in which Uphold stated that [REDACTED]

[REDACTED] 78

271. This statement was false because the principal was not “fully hedged.”

272. Cred and the Trading Firm executed an extremely risky hedging strategy that left Cred at risk of losing tens of millions of dollars’ worth of customer cryptocurrency due to normal fluctuations in prices.

273. Far from being “fully hedged,” Cred’s highly leveraged trading strategy left Cred exposed to having its cryptocurrency positions depleted entirely due to price drops of approximately 15-20%.

274. As executives of Cred, Schatt, Hua, and Alexander had fiduciary duties to act prudently in the operation of Cred’s business, and refrain from bet-the-company positions when such strategies could lose tens of millions of dollars due to normal fluctuations in prices.

275. Schatt, Hua, and Alexander oversaw overly risky trading strategies and failed to conduct proper due diligence on new investments

276. In allowing Cred to enter into these risky hedging positions, Schatt and Alexander breached their duties of care to Cred through their mismanagement of Cred, with no formal diligence or oversight policies or procedures regarding investment decisions.

⁷⁸ Ex. HH (Uphold Insights newsletter) (emphasis added).

277. Uphold substantially assisted these breaches of fiduciary duties by falsely marketing the Cred's positions were "fully hedged."

278. Uphold knew about Cred's hedging strategy and the risks involved. But in an email to Uphold board member and former CEO Adrian Steckel ("Steckel") regarding the potential that a customer would have natural doubts about Cred's ability to offer its advertised returns without substantial risk, Thieriot stated that the "principal is all hedged out:"⁷⁹

On Feb 1, 2019, at 10:50 AM, JuanPablo Thieriot <jp.thieriot@uphold.com> wrote:

I hear you, but Lu Hua and James would obviously be happy to speak/meet with him - and they're pretty impressive. The principal is all hedged out. It's the certainty of high interest that requires the explanation... And from a 'security' perspective - there's zero security risk when your BTC is in such a contract.

279. Thieriot directed Schatt to develop a presentation regarding Cred's "hedging mechanism" and how it mitigated consumer risk:

Dan,

You're going to need to create a diagrammatic showing your flows. I'd recommend highlighting that while there is some market risk, one is actually stepping entirely out of "security" risk via the hedging mechanism. I might also add some Mo9 collateral to substantiate the market risk behind the % return. Consider Salinas the most financially sophisticated individual you've ever met.

80

280. Schatt provided materials to Thieriot to attract high net worth investors, including

[REDACTED]

[REDACTED]⁸¹

281. But CredEarn was not "fully hedged."

⁷⁹ Ex. II (February 1, 2019 email from Thieriot).

⁸⁰ *Id.*

⁸¹ Ex. JJ (CredEarn BTC Yield Term Sheet) (emphasis added).

282. A 15-20% price drop of BTC, ETH and other cryptocurrencies would cause Cred's highly leveraged trading positions to be liquidated entirely.

283. If those trading positions were liquidated, Cred would no longer have any "hedge" against price increases of BTC, ETH, or other cryptocurrencies.

284. Predictably, in March of 2020, Cred's trading positions were depleted entirely leaving Cred without any hedge positions.

285. As described by Inamullah, Cred's trading strategy left Cred vulnerable to routine fluctuations in the price of cryptocurrency:

Q. And are there other transactions at Cred that has lost money that may have contributed to this overall position for Cred?

A. Yes. So I guess the MoKredit transactions along with [the Trading Firm] as sort of the consultant on how we should apply our hedges really contributed to, I think, the largest discrepancy between assets and liabilities. And what I mean by that is, you know, the original strategy at Cred was to take in assets despite what type of asset it is—Bitcoin, ETH, whatever it may be—sell a piece of it for cash, and then lend that cash to MoKredit.

When there was a cryptocurrency associated with that strategy, we also needed to hedge the upside risk associated with our liability. And so I believe we had hired [the Trading Firm] as a consultant to help us with our hedging platform. I wasn't involved then, but I'm assuming that was their primary responsibility along with providing advice with our investment committee.

So what ended up happening is we had roughly 800 Bitcoins on margin that was distributed amongst different exchanges... And what ultimately happened is because prices fell really quickly and we were overleveraged, those assets were wiped out, meaning they were liquidated by the exchanges.⁸²

⁸² Deposition of Daniyal Inamullah, dated December 8, 2020 ("Inamullah Dep. Tr.") at 104:21-105:20.

286. Inamullah also testified that Cred's positions were leveraged by six to seven times their value, with a high risk of full liquidation:

- Q. Okay. So I understand there was [the Trading Firm] that was providing some advice and also acting as a counterparty, and there was some various other cryptocurrency hedge funds that were discussed. But these decisions, the decisions where someone at Cred went on BitMEX or OKEx and got a five-or six time – five or six time Perpetual Swap – that decision was made by who?
- A. The investment committee to go – lever long.
- Q. Okay. And you voted in favor of that position?
- A. Yes.
- Q. Okay. You testified previously that you thought that those hedges were a bad idea, right?
- A. At the time where we were trading, it was between 6 to 7x, like I mentioned, which was significantly over-levered. At the time, I thought it was a smart decision because Bitcoin had bottomed out around 5,000, so I thought it was okay to go up to like three to four times leveraged. So, yeah, I thought that was a fine decision. And then in the liquidity analysis for ongoing operations after this trade had ended, you know, I recommended we should at least decrease our leverage ratio down to 3x max. It was like 3.3 I don't remember the exact number.
- Q. Okay. So let me just understand it.
- A. Yeah.
- Q. When trade happened, you thought it was a good idea?
- A. When the 300 Bitcoin trade happened, you know, at the bottom of the market, yes, I thought it was a good idea.
- Q. Okay. What about the 800 Bitcoin transaction that was used to hedge 5,500 Bitcoin?
- A. I thought we were over-levered, and that we were levered somewhere between 6 and 7x. And that translates into, if crypto collapses, 15 percent to 20 percent, you get fully liquidated. And we were probably sitting somewhere at the top of the market with an ongoing pandemic. I didn't think those trades were as smart. And as a result of that, we actually set stop losses somewhere around 7,000 per coin. And with the idea that we expected a dramatic collapse in prices.⁸³

287. The March of 2020 liquidations occurred when Cred was already insolvent and suffering liquidity challenges.

⁸³ *Id.* at 192:4-193:22.

288. The March 2020 liquidations occurred due to the “hedging” strategy executed by Cred and the Trading Firm. This hedging strategy the Trading Firm created for Cred consisted of a combination of options, repurchases, futures contracts, and “perpetual swaps” (or “perps”, a type of highly leveraged trade), among other things, that the Trading Firm would execute on Cred’s behalf in order to (purportedly) protect Cred against an increase in the price of cryptocurrency. It achieved the opposite result.

289. After the price of BTC dropped in March of 2020, this caused Cred’s trading positions to become liquidated. In an email to Cred from March 12, 2020, which accompanied one of the Daily Risk Reports, the Trading Firm advised, “You now have a short position equal to \$27,483,181. For every \$100 move in BTC, you will make or lose around \$400,000.”⁸⁴

290. The Trading Firm’s Risk Reports indicate losses of 4,181 BTC, 259 ETH, and 16,217,464 Ripple (“XRP”) of exposure between March 11 and March 12, 2020—worth tens of millions of dollars at the time and over a hundred million dollars today.⁸⁵

291. Despite Uphold’s statements that Cred’s positions were “fully hedged,” Cred’s positions were never fully hedged because a 15-20% drop in the price of BTC and other cryptocurrencies would eliminate the hedges completely.

292. Schatt and Alexander breached their fiduciary duties to Cred by not reasonably hedging the BTC and other cryptocurrency price risk due to the arrangement with MoKredit.

293. Schatt and Alexander breached their fiduciary duties to Cred by falsely promoting that CredEarn was “fully hedged” in order to drive more CredEarn debt to Cred that Cred could not reasonably service.

⁸⁴ Ex. KK (March 12, 2020 email from Trading Firm).

⁸⁵ Ex. LL (Trading Firm Risk Reports from March 11, 2020 and March 12, 2020).

294. Uphold knowingly substantially assisted Schatt and Alexander’s breaches of their fiduciary duties to Cred by promoting false marketing materials indicating that CredEarn was “fully hedged” to drive more CredEarn debt to Cred than Cred could reasonably service.

D. Uphold Disseminated False and Misleading Marketing Materials Despite Senior Uphold Employees’ Stated Concerns

295. Several Uphold senior executives and directors knew the CredEarn marketing materials were false and raised concerns.

296. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]⁸⁶

297. Steckel also expressed concerns about Cred’s business model on numerous occasions. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁸⁶ Ex. MM (September 30, 2020 email chain between Hansen, O’Connell, and Thieriot).

[REDACTED]

298. Thieriot forwarded the email to Schatt and Alexander [REDACTED]

[REDACTED]

[REDACTED]⁸⁸

299. Although Uphold kept the involvement of MoKredit a secret to retail customers, Uphold did share MoKredit's involvement with a select few high-value investors.

300. [REDACTED]. An email chain further demonstrates that Thieriot knew or should have known of the high levels of risk and customer's concerns associated with Cred's business practices:

[REDACTED]

⁸⁷ Ex. NN (February 2019 email chain with Thieriot, Steckel, and potential investor) (emphasis added).

⁸⁸ Ex. OO (February 2019 email chain between Thieriot, Schatt, and Alexander).



301. Thieriot attempted to persuade this individual to invest in CredEarn by describing MoKredit's purported ability to take advantage of China's "judicial blacklist" (the "Blacklist"), which Thieriot describes as an inability to renew licenses and passports, as a reason to feel secure in transferring cryptocurrency to Cred.

302. This Blacklist fallacy involved Cred and Uphold telling existing and prospective clients that, in China, MoKredit could deter customers from defaulting on their loans by threatening to "blacklist" them if they defaulted.

303. Supposedly, the Blacklist would severely restrict the lifestyle of defaulted creditors, including preventing the defaulting individuals from traveling or otherwise paying for things beyond their minimum basic needs.

304. In reality, the Blacklist process required petitioning a court and was too burdensome to use to enforce small loans.

305. In fact, MoKredit never actually put any of its borrowers on any Blacklist.

306. Schatt, Podulka, Wheeler, and Alexander each admitted that they did not know whether MoKredit actually placed any borrowers on the Blacklist.⁹⁰

⁸⁹ Ex. PP (May 4, 2020 email from Steckel) (emphasis added).

⁹⁰ *See, e.g.*, 2021 Schatt Dep. Tr. at 94:7-10 (Q: "You never looked closely at what the judicial blacklist process entailed?" A. "That's correct."); *see also* Wheeler Dep. Tr. at 202:10-13 (Q. "Are you aware that not a single moKredit customer was ever placed on the judicial blacklist?" A. "No.").

307. Schatt, Podulka, Wheeler, and Alexander also each admitted that no diligence was performed to determine whether MoKredit actually utilized this so-called Blacklist.⁹¹

308. Hua effectively admitted that MoKredit never actually placed anyone on the “judicial blacklist”:

Q. What’s the Judicial blacklist?

A. That one, that’s more like a marketing stuff.⁹²

309. Hua further testified that MoKredit only used the Blacklist process in a tiny percentage of MoKredit customer defaults:

Q. Okay. So how many borrowers – let’s say in 2019, how many borrowers did moKredit have?

A. I think the borrowers we have is like 300,000 to 400,000, something like that.

Q. Okay. And out of those 300,000 to 400,000, approximately how many defaulted?

A. This is where we have to like distinguish this. There is a timeframe before the pandemic and after the pandemic. So before the pandemic it’s actually the default rate is actually normally is around 5 percent, but after the pandemic, this skyrocket like to 60 to 70 percent, I will say that.

Q. Okay. So in 2019 or 2020, how many lenders, how many borrowers had defaulted on their loans to moKredit did moKredit take through this judicial blacklist process?

A. That’s a small percentage. It’s really a small percentage.

Q. Would you say it’s under 3?

A. Yeah. I would say that, uh-huh.⁹³

310. Thieriot knew of Cred’s dealings with MoKredit, but nonetheless sought to attract investors by making misrepresentations regarding Cred’s relationship with MoKredit.

⁹¹ See, e.g., Wheeler Dep. Tr. at 201:21-202:1 (Q. “Do you know if anybody from Cred asked anyone from moKredit to see the people that were put on the blacklist?” A. “No, I don’t – not aware of anybody who did.”).

⁹² Hua Dep. Tr. at 113:23-113:24.

⁹³ *Id.* at 120:10-121:5.

311. Yet, despite these repeated concerns—including as expressed by Uphold senior executives and directors—Uphold continued to market CredEarn to its customers and collect its 2% commission.

III. Uphold Earned Risk Free Commissions from the CredEarn Program

312. At the beginning of 2019, Uphold was driving nearly all of Cred’s customers to Cred, including by using the false marketing materials described above.

313. Schatt recognized in an internal Cred email that Cred “[was] 100% dependent on Uphold.”⁹⁴

314. By March 25, 2019, Uphold’s team identified [REDACTED]

”

315. Uphold also identified that the remaining [REDACTED]

⁹⁶

316. New customers were extremely valuable to Uphold. New customers to Uphold meant years’ worth of significant transaction fees.

317. Uphold driving customers to Cred was crucial to Cred’s early success. CredEarn also generated material profit to Uphold.

318. Schatt’s early forecasts of CredEarn’s performance indicated that CredEarn would be lucrative.

⁹⁴ Ex. QQ (March 15, 2019 email from Schatt).

⁹⁵ Ex. RR (March 25, 2019 email from Uphold team to McLoughlin).

⁹⁶ *Id.*

319. [REDACTED]

[REDACTED]

[REDACTED]⁹⁷

320. Uphold retained complete control over CredEarn, bore no risk, and stood to reap a 100% profit.

321. Schatt's email indicated that Uphold would have [REDACTED] profits of the below figures:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]⁹⁸

322. One month later, on March 25, 2019, the revenue forecasts increased dramatically based on new data from the CredEarn program. [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]⁹⁹

323. Schatt believed a more aggressive case could be made for Uphold's profit, stating in a March 25, 2019 email to Viroja [REDACTED]

[REDACTED]

[REDACTED]¹⁰⁰

⁹⁷ Ex. SS (February 25, 2019 email from Schatt).

⁹⁸ *Id.*

⁹⁹ Ex. TT (March 25, 2019 email from Viroja).

¹⁰⁰ *Id.* (emphasis added).

324. As correctly noted by Schatt, new customers were coming to Uphold because they were interested in CredEarn was “new money” to Uphold.

325. Uphold stood to generate substantial transaction fees from those new customers in addition to the 2% commissions paid by Cred.

326. Schatt believed the annual profit for Uphold based on data at the time could be double than what Viroja’s forecast projected.

327. Cred could profit only if it earned more interest from MoKredit than Cred owed customers (many times upwards of 9-12%), including Uphold’s 2% commission.

328. Whether Cred actually profited—or whether Cred could even pay back its loans to customers—did not matter to Uphold. Uphold still charged its commission and stood to make its 100% profit regardless of how Cred performed.

329. Uphold sought to take full advantage of its profitable position. As Thieriot explained to Schatt, “the ‘credit and yield’ products I’m interested in developing are 100% tied to Cred.”¹⁰¹

330. Uphold’s CFO, Hansen, recognized that [REDACTED]

[REDACTED]¹⁰²

331. Uphold successfully attracted new customers by offering the opportunity to earn yield with CredEarn.

332. Yield earning programs linked to cryptocurrency exchanges is more commonplace now. But in 2019 and 2020, CredEarn gave Uphold a competitive advantage over many cryptocurrency exchanges.

¹⁰¹ Ex. UU (November 22, 2019 email from Thieriot).

¹⁰² Ex. VV (November 28, 2019 email from Hansen).

333. New Uphold customers were extremely valuable as Uphold charges significant transaction fees for all cryptocurrency transactions on the Uphold Platform.

334. While the exact number is unknown at this time, Uphold likely earned millions of dollars in transaction fees from new customers who joined Uphold because of the CredEarn program.

335. Uphold also promoted CredEarn to prospective equity investors in Uphold.

336. For example, in 2018, McLoughlin stated:

[REDACTED]

337. Later in March of 2019, McLoughlin used projections of revenue from CredEarn to attract potential investors, stating [REDACTED]

[REDACTED] 104

338. Uphold was also dependent on Cred for steady income due to Uphold's own cash flow problems. In fact, Uphold needed a bridge loan from Cred in 2019. Schatt testified:

- Q. What was this concept was Cred going to lend money to Uphold?
- A. Can you – I believe that's the case. They were looking for a loan.
- Q. At this time on March 16, 2019, you were a director of Uphold and Cred. Right?
- A. Right.
- Q. And Karen Wong, that was the former CFO?
- A. That's right.
- Q. Karen Wong is saying that well, we would be earning less by lending to Uphold than we would by lending to moKredit. Right?
- A. Correct.
- Q. And you are sale telling Karen Wong we should lend money to Uphold anyway?

¹⁰³ Ex. WW (September 26, 2018 email from McLoughlin).

¹⁰⁴ Ex. XX (March 25, 2019 email from McLoughlin).

- A. We should. Yeah. To – yeah, we should take other factors into consideration too, the overall partnership.
- Q. Okay. So at all the board meetings you had with Uphold, you ever never once discussed this potential loan to Uphold?
- A. I don't believe it came to the board level no, no, we never discussed this.
- Q. What about not the board meeting, did you ever discuss with Uphold at all the potential for this loan?
- A. Oh, yes, because it was I think it was originally proposed by Uphold, I believe.
- Q. When you say "proposed," this was proposed to you. Right?
- A. Correct.
- Q. And who at Uphold would have proposed this to you?
- A. It would have been JP Thieriot, their CEO.¹⁰⁵

339. The loan was a \$5 million line of credit that Cred provided to Uphold in April of 2019 (the "Uphold LOC").¹⁰⁶

340. Discussions regarding the potential loan began in March 2019. Cred's former CFO, Karen Wong ("Wong"), was asked to provide an analysis on the potential loan.

341. On March 15, 2019, Wong analyzed the Uphold LOC and indicated that it was a bad deal for Cred that it should not execute.

342. Wong reasoned that compared to the terms of existing loans between Cred and MoKredit, Cred would "be foregoing \$130k in revenue for the 6 month term by lending \$4.6m to Uphold vs. mokredit" even if the Uphold loan include a waiver of fees and costs.¹⁰⁷

343. Wong went on to state to Schatt, "I propose we get better terms from Uphold," including increasing the interest rate from 14% to 20% "in order to breakeven Given our cash situation . . . I think this is a fair ask."¹⁰⁸

¹⁰⁵ 2021 Schatt Dep. Tr. 241:21-243:8.

¹⁰⁶ Ex. YY (May 1, 2019 Loan and Security Agreement).

¹⁰⁷ Ex. QQ (March 15, 2019 email from Schatt).

¹⁰⁸ *Id.*

344. Only three hours earlier, Wong emailed Schatt outlining Cred's cash needs through April 2019, which reflected a shortfall of \$430,000.

345. Schatt rejected Wong's recommendation that Cred forego the Uphold LOC or get better terms from Uphold. In clear violation of Schatt's duty of loyalty to Cred, Schatt rejected Wong's recommendations in favor of being "good partners" to Uphold – Schatt was an Uphold director at the time:

[W]e do need to be good partners to Uphold to help them raise their Series D and there are some optics of lending at more than 14%. We are 100% dependent on Uphold for our revenue at this time, and that's another important reason to help them. I think we'll quickly find another \$5 million that we can use with Lu's generous 36% in the future, so I wouldn't look at this as a "revenue loss" as much as an opportunity cost that will give us continued business leverage over Uphold for the next 6 months.¹⁰⁹

346. Cred and Uphold agreed that Cred would provide the Uphold LOC, and Cred began providing assets to Uphold before any formal writing commemorated the exact terms and conditions of the Uphold LOC.

347. [REDACTED]

[REDACTED]¹¹⁰

348. The proposed loan was originally intended to be a direct loan from Cred to Uphold.¹¹¹ However, Cred executives decided to provide the loans through the Trading Firm.

¹⁰⁹ *Id.*

¹¹⁰ Ex. ZZ (April 25, 2019 Uphold line of credit term sheet).

¹¹¹ *Id.*

349. The Trading Firm lent assets to Uphold through a Master Sale and Repurchase Agreement (the “Repo Agreement”), that the Trading Firm entered into with Uphold. Pursuant to the Repo Agreement, Uphold was loaned cryptocurrency in tranches.¹¹²

350. Cred guaranteed the loans that the Trading Firm lent to Uphold under the Repo Agreement by lending the same amount of assets to the Trading Firm. As part of this arrangement, Cred acknowledged that “[Trading Firm’s] obligations hereunder, including [Trading Firm’s] obligation to pay Management Fees when due and to re-deliver the Number of Tokens at maturity is expressly conditioned upon Purchaser receiving Management Fees and taking redelivery of the Number of Tokens from Uphold Inc, pursuant to a Swap and Tranche Agreement executed between [Trading Firm] and Uphold Inc on or about May 1, 2019.”¹¹³

351. To hedge against this liability, Alexander continued to push for some form of security or collateralization from Uphold on the loan.

352. On April 30, 2019, Alexander sent Uphold a proposed Loan and Security Agreement, which [REDACTED]

[REDACTED].¹¹⁴

353. On May 1, 2019, Cred made a loan to Uphold through the Trading Firm.

354. Each time Uphold drew down on the Repo Agreement, Cred was forced to draw down on Cred’s own Master Sale and Repurchase Agreement with the Trading Firm to cover the loans to Uphold.

¹¹² Ex. AAA (Repo Agreement)

¹¹³ Ex. VVV (May 1, 2019 Tranche Agreement between Cred and Trading Firm).

¹¹⁴ Ex. YY (May 1, 2019 Loan and Security Agreement).

355. After the first tranche under the Repo Agreement was lent to Uphold, Alexander continued to make proposals to Uphold to secure Cred's liabilities.

356. On May 1, 2019, Alexander proposed an alternative option to the Loan and Security Agreement—a pledge agreement—stating: “I am trying to propose a solution without knowing much about your balance sheet or overall ability to provide a guarantee or collateral. So it would be helpful if you could propose a solution.”¹¹⁵ It was critical that a solution be reached because Cred had already drawn down the assets to fill Uphold's loan.¹¹⁶ For that reason, Alexander asked Uphold to confirm that any guarantee or security be retroactive to May 1, 2019.¹¹⁷ Uphold did not agree and never entered into an agreement with Cred to secure Uphold's obligations under the Uphold LOC.

357. Uphold continuously utilized and relied on the Uphold LOC, and informally arranged for additional tranches, extensions on repayments, and loan funds as needed.

358. As of the date of this filing, Uphold has not repaid the entire balance under the Uphold LOC.

359. The Uphold LOC was crucial to Uphold because Uphold was experiencing cash flow issues.

360. Several communications from Uphold management demonstrate Uphold's desperate need for cash.

¹¹⁵ Ex. BBB (May 1, 2019 email from Alexander).

¹¹⁶ *Id.*

¹¹⁷ *Id.*

361. On August 25, 2019, Thieriot emailed the Uphold Board stating, [REDACTED]

[REDACTED] 118

362. Uphold's CFO Hansen emailed Uphold's outside counsel stating, [REDACTED]

[REDACTED] 119

363. Finally, an email from Hansen to Thieriot expressed concern at the ongoing financial woes at Uphold, stating:

[REDACTED]

364. Uphold had every reason to take advantage of the revenue it received from Cred because Uphold needed that revenue to overcome Uphold's own cash flow challenges.

365. Uphold also believed that it could take advantage of such revenue risk free because the SOW allocated all of the CredEarn program risk to Cred.

IV. Uphold's and Cred's Co-Dependent and Intertwined Relationship Continued Through Cred's Financial Crisis and Collapse

366. Since inception, Cred's liabilities exceeded its assets and its financial situation never meaningfully improved.

367. Cred continued to take on more and more debt, suffering loss after loss in trading, hacks, and thefts.

¹¹⁸ Ex. CCC (August 26, 2019 email from Thieriot).

¹¹⁹ Ex. DDD (February 14, 2020 email from Hansen).

¹²⁰ Ex. EEE (June 2, 2021 email from Hansen) (emphasis added).

368. Schatt and Hua had fiduciary duties to Cred to avoid incurring debts in excess of what Cred could reasonably service.

369. However, with every new customer, Cred increased its debts. Schatt and Hua continued to load new and unserviceable debt onto Cred by accepting new customers, in violation of their fiduciary duties to Cred.

370. Uphold substantially assisted these breaches of fiduciary duties and continued to promote CredEarn and pursue its fees despite Uphold's knowledge of Cred's highly risky business plan and financial turmoil.

371. Uphold did so because, again, it had off-loaded its risk onto Cred. Irrespective of Cred's financial condition and customers' risk of loss, Cred LLC (and after May 2020 Cred Inc.) paid Uphold HQ, Inc. a 2% commission each time an Uphold customer enrolled in CredEarn.

372. Because Uphold controlled CredEarn and the terms of the CredEarn offering under Section 2.2.1 of the SOW, only Uphold had the ability to mitigate Cred's financial troubles.

373. Uphold exerted contractual and actual control over CredEarn and Cred.

374. Uphold was in a position of trust and power over Cred.

375. Uphold should have acted in the best interests of Cred and the CredEarn customers.

376. CredEarn generated 100% profit for Uphold with no risk to Uphold.

377. Accordingly, Uphold never allowed the CredEarn offering to change regardless of Cred's financial condition.

378. The CredEarn business model was structured so that Cred plunged deeper into debt with each new CredEarn customer.

379. Cred also funnelled over 90% of the cryptocurrency it received under the CredEarn program to MoKredit.

380. As early as February 2019—just two months after Cred’s inception and one month after the launch of the CredEarn Program—Cred executives expressed concerns about Cred’s solvency.

381. On February 27, 2019, Cred’s then-CFO Wong wrote to Schatt, Hua, and Alexander via email concerning Cred’s desperate need for cash through March 2019.¹²¹ Wong explained that Cred could not satisfy its debts as they came due and needed at least “140k more by March 8 to cover the invoices due on week of March 11”:

We have \$387k in invoices past due and immediately due. To highlight the most pressing ones, this includes:

\$30k in BCLP invoices from 2018 that Dan wants paid immediately

Our first instalment of \$25k monthly on the \$450 PwC invoice from 2018

\$74k for our D&O insurance premium which is due and MUST be paid immediately to avoid cancellation of the policy

\$57k in past due payments to Dentons and Paul Hastings from 2018

\$80k payments to our ongoing support teams at InnReg, [the Trading Firm], and India including past due portions

\$8k in past due payment for the ERP system (I’ve already worked out the best payment plan for this. We are paying in 4 instalment [sic] vs. the vendor’s preference of payment up front for the entire year.)

We need \$140k more by March 8 to cover the invoices due on week of March 11 including the March 15 Payroll which will be ~\$120k ...

If you guys are wondering (as I did for a moment) whether this will leave a surplus of funds at Citi, it won’t. ***We have only \$7k in the Citibank account today so if you sum up all of the above we would actually still be short ~10k.*** Plus the above doesn’t include the additional \$67k in March expenses that can be paid in the beginning of April or any projections for Dentons, Paul Hastings, or Atlassian services for Jan-Mar. ...

¹²¹ Ex. FFF (February 27, 2019 email from Wong).

Also, just a heads up that unless we do something drastically different or sufficient Alliance ICO proceeds come in by the week of March 25, we will unfortunately be having this conversation again for the \$400k in projected expenses for April...¹²²

382. Despite these cash flow concerns, just two weeks after Wong sent this email, Uphold approached Cred for the Uphold LOC, which Cred agreed to provide and fund.

383. Uphold had difficulties repaying the Uphold LOC. [REDACTED]

[REDACTED]¹²³

384. Schatt's willingness to extend the loan with no penalties, while Cred was hemorrhaging cash, breached his fiduciary duties of care and loyalty to Cred.

385. On October 8, 2019, Alexander emailed Podulka and Wheeler, stating that monies owed by Cred to the Trading Firm needed to be paid "immediately."

386. Alexander explained that the Trading Firm had been accommodating and making interest payments on "hedge swaps" on behalf of Cred but that the Trading Firm was "unwilling" to continue carrying the expense.¹²⁴

387. If the Trading Firm would no longer pay those expenses, then Cred was at risk of defaulting on those hedges.

388. Alexander further explained that, absent significant reserves—which Alexander described as "still negative"—the Trading Firm was Cred's only source of liquidity for capital markets activities.

¹²² *Id.* (emphasis added).

¹²³ Ex. GGG (September 23, 2019 email from Thieriot).

¹²⁴ Ex. HHH (October 8, 2019 email from Alexander).

389. During this time period in early October 2019, [REDACTED]

[REDACTED]¹²⁵

390. Despite Cred's precarious financial situation, Cred continued to loan Uphold money while Uphold collected commissions on CredEarn enrollees.

391. During this time, Schatt remained active on the Uphold Board attending a board meeting on October 25, 2019.

392. Circumstances worsened for Cred in March 2020.

393. Schatt testified that during the first quarter of 2020 Cred was in "desperate need of cash."¹²⁶

394. During the next few months of financial turmoil and uncertainty, Schatt continued to be an active board member for Uphold.

395. [REDACTED]

[REDACTED]¹²⁷

396. In early March 2020, there was a drop in the price of BTC, which caused a liquidation of Cred's highly leveraged hedging positions.

397. In a single day on March 13, 2020, Cred lost more than \$100,000,000 in cryptocurrency at today's prices. Because Cred lacked the cash or cryptocurrency to re-establish its hedging positions, the March 13, 2020 trading losses also left Cred exposed to significantly more losses if BTC and other cryptocurrencies increased in value.

¹²⁵ Ex. III (October 1, 2019 email from Alexander).

¹²⁶ 2021 Schatt Dep. Tr. at 152:23–153:1.

¹²⁷ Ex. JJJ (Uphold Board meeting minutes).

398. On March 13, 2020, the Trading Firm sent Cred the following email, which was referred to internally at Cred as the “Doomsday” email:

James, please see today’s risk report attached. As discussed, despite our best efforts, as a result of the drastic move in the market overnight, all of your BTC futures positions were liquidated. Some of your XRP futures were also liquidated. You still have ETH, BCH and LTC futures as well as some XRP/BTC futures. Please refer to the last two pages of your report for your positions ... ***You now have a short position equal to \$27,483,181. For every \$100 move in BTC, you will make or lose around \$400,000.***

Additionally, we have requested that you post an additional \$3mm of collateral with us for the outstanding repos you have with us. We need this case ASAP to meet margin calls with other counterparties.¹²⁸

399. Schatt and Wheeler both testified that Cred had suffered cryptocurrency trading losses of millions of dollars’ worth of cryptocurrency¹²⁹ and Schatt further testified that Cred “lost all of its hedging abilities.”¹³⁰

400. In an attempt to reinstate its hedge position, Alexander wrote to Hua on March 12, 2020. The subject of the email is “***Cash needs – urgent.***” Alexander wrote: “We need to recall cash urgently to support our hedge positions. ***Our immediate cash requirement is approximately \$10 million.***”¹³¹

401. In this email, Alexander attempted to recall \$10 million of the approximately \$38 million principal loan amount that Cred previously extended to MoKredit, which Cred was permitted to do under the Cred LSA. MoKredit refused.

402. On March 24, 2020, Hua proposed a repayment schedule for MoKredit as follows:

¹²⁸ Ex. KK (March 12, 2020 email from Trading Firm) (emphasis added).

¹²⁹ Wheeler Dep. Tr. at 257:1–7.

¹³⁰ 2021 Schatt Dep. Tr. at 148:13–14.

¹³¹ Ex. KKK (March 12, 2020 email from Alexander) (emphasis added).

April: Full payment of interest @ 20% [~\$650,000] + \$100,000 principal.
 May: Full payment of interest @ 20% [~\$650,000] + \$200,000 of principal.
 June: Full payment of interest @ 20% [~\$650,000] + \$4 million of principal.
 July: Full payment of interest @ 20% [~\$650,000] + \$4 million of principal.¹³²

403. Cred accepted this payment plan, and MoKredit made partial payments in April and May. Yet no further payments followed.

404. On April 5, 2020, Inamullah circulated a Liquidity Memo.¹³³ The Liquidity Memo reported the following:

several financial hedging instruments of Cred LLC were liquidated given the falling market prices. The resulting short position on BTC has a strike price of approximately \$5,900 – about 800 BTC was lost in the arrangement . . . The simultaneous decline in global liquidity created additional balance sheet issues for Cred LLC. Specifically, a principal recall of approximately \$10 million from a lending partner (MoKredit) was delayed given liquidity issues in the Chinese Consumer loan portfolio. As a result, it was not possible to reconstitute the appropriate hedging instruments at a more favorable market price.

405. The Liquidity Memo also explained that the Trading Firm “issued a margin call for outstanding swaps.”¹³⁴ Given the illiquidity of the loan portfolio, Cred was unable to acquire the funds to provide additional contributions. Cred negotiated a Loan Modification summary and executed the agreement with [the Trading Firm]” for a specific “workout plan.”¹³⁵

406. The Liquidity Memo outlined the sources of liquidity for Cred to include: (i) approximately \$350,000 in cash on the balance sheet; (ii) loans from the portfolio amounting to approximately \$2 million; (iii) revenue from generating net interest margin from the loan

¹³² Ex. LLL (March 24, 2020 email from Hua).

¹³³ Ex. MMM (Liquidity Memo).

¹³⁴ *Id.*

¹³⁵ *Id.*

portfolio amounting to approximately \$700,000 to \$1 million; and (iv) additional contributions to CredEarn.

407. The Liquidity Memo concluded: *“Based on the cash flow analysis, a potential cash liquidity issue is identified for May 2020 given the delay in receiving principal back from MoKredit and minimal working capital available on the balance sheet.”*¹³⁶

408. In reality, the Liquidity Memo grossly understated the amount of cryptocurrency trading losses Cred.

409. Although the Liquidity Memo reflected a loss of approximately 800 BTC, the Trading Firm records indicate that Cred suffered significantly higher losses. Schatt testified as follows:

- Q. Was some of the information [in the Liquidity Memo] that was incorrect an understatement of the amount of Bitcoin that was lost in March of 2020?
- A. No, not related to that. Related to the other numbers that are in there.
- Q. *You are aware that memo had a loss of 800 Bitcoin. Right?*
- A. *Yes.*
- Q. *And we showed to you today that there was actually loss in excess of 4,000 Bitcoin. Right?*
- A. *Yes.*¹³⁷

410. The Cred executive team also knew that MoKredit’s proposed repayment schedule was insufficient to satisfy its liquidity needs. The Liquidity Memo recommended that Cred request an additional \$3.3 million from MoKredit and an additional \$1 million if the cryptocurrency prices continued to increase.

411. The Liquidity Memo reflects cash flow concerns and a plan to buy immediately more cryptocurrency “hedgies” if Cred was able to obtain funds from MoKredit:

¹³⁶ *Id.* (emphasis added).

¹³⁷ 2021 Schatt Dep. Tr. at 288:1–13 (emphasis added).

Immediately: use cash from MoKredit return of principal to acquire 2,003 units of BCH (estimated total cost is 500K) Acquire 8,074 ETH with cash from MoKredit to acquire hedges for 27,298 of ETH. Also, use excess cash to repay initial 3,077 ETH (at today's market price this is a total of \$2.0 million for the hedges and a total of \$3.8 million for the entire payment) Request an additional \$3.3 million from MoKredit ... Request additional capital from MoKredit, assuming conditions for their underlying portfolio improve. *While the situation in China seems to be improving, there is little insight to the short term liquidity with MoKredit due to (i) the Chinese government's relaxation of debt repayment terms and (ii) uncertainty to the amount of cash that will be available.*¹³⁸

412. The Liquidity Memo also acknowledged that Cred was completely exposed to the rise in the price of cryptocurrency as such a rise would significantly increase the value that Cred owed its CredEarn customers:

It's important to note the key risk in the recommended strategy is a significant increase in cryptocurrency prices. With the strategy above, assuming a 75% increase in cryptocurrency prices by the end of 2020, an additional \$1 million will be needed from MoKredit (in addition to the current repayment schedule) in order to reconstitute the hedging program absent significant acceleration in growth of the loan portfolio. We believe an additional \$1 million should also be requested as buffer for the hedges and to opportunistically take advantage of downward movements in prices.¹³⁹

413. On April 5, 2020, Schatt forwarded the Liquidity Memo to Hua.

414. On April 25, 2020, Schatt followed up with Hua to ask if there were updates regarding MoKredit's repayment schedule because Cred was "looking for funds as soon as possible to rebuild the hedges."¹⁴⁰ Hua responded that there was "no change to the payment schedule since [they] discussed last time."¹⁴¹

¹³⁸ Ex. MMM (Liquidity Memo) (emphasis added).

¹³⁹ *Id.*

¹⁴⁰ Ex. NNN (April 25, 2020 email from Schatt).

¹⁴¹ *Id.*

415. Schatt testified that he made Uphold aware of the financial situation at Cred. Indeed, Schatt testified and submitted an errata stating that [REDACTED]

[REDACTED].¹⁴²

[REDACTED]¹⁴³

416. Despite having the sole authority to do so under the SOW,¹⁴⁴ Uphold did not amend the CredEarn offering. As a result, Cred's financial position continued to spiral downward.

417. During this time, Schatt remained active on the Uphold Board attending board meetings on April 21, 2020, and on April 30, 2020.

418. Despite Cred's financial situation in April 2020, Schatt and Hua continued to breach their fiduciary duties by continuing to utilize and promote CredEarn and increase Cred's debt.

419. Uphold continued to substantially assist these breaches by promoting CredEarn, and profited from the CredEarn program by taking commissions for each CredEarn enrollee.

420. At the same time, Uphold continued to market CredEarn as a safe and secure investment.

421. Inamullah testified that Cred would be shut down if Cred was unable to recover from MoKredit:

Q. And in your declaration, it states, Cred Capital recommended the course of action for wind-up operations as soon as possible [if] Cred was unable to bring equity capital or receive the liquidity back from moKred by June 30th, 2020. Do you remember that?

A. Yeah . . .

¹⁴² Ex. OOO (Errata of 2020 Schatt Dep. Tr.).

¹⁴³ 2020 Schatt Dep. Tr. at 251:7-9; Ex. OOO (Errata of 2020 Schatt Dep. Tr.).

¹⁴⁴ Ex. O (January 16, 2019 Statement of Work for CredEarn).

Q. *So you thought Cred should be shut down if moKredit doesn't give liquidity back by June 30th, 2020; right?*

A. *Yeah.*

Q. *And moKredit didn't give liquidity back by June 30, 2020, right?*

A. *No.*¹⁴⁵

422. To make matters worse, Alexander and others stole cryptocurrency from Cred.

423. In late April 2020, Alexander improperly transferred 224.98993 BTC and 204,567 USDC. Alexander directed the funds to be transferred to a cryptocurrency wallet belonging to a Cred consultant. Alexander subsequently took control of the funds himself.

424. Schatt testified that he informed Uphold of Alexander's theft and the resulting lawsuit.¹⁴⁶ Uphold continued to market CredEarn as safe and secure.

425. Alexander also introduced Cred executives to a fraudulent investment called "QuantCoin." Cred transferred 800 BTC to QuantCoin. Those 800 BTC were lost.

426. Cred purportedly suffered multiple incidents in which Cred's account with a cryptocurrency exchange was hacked. One hack resulted in losses of \$1.3 million in cryptocurrency, which given today's prices, equates to USD values approximately 4-5 times that amount.

427. During all of these hacks and losses, MoKredit remained in default on its obligations under the Cred LSA.

428. In May of 2020, Hua communicated that MoKredit would not be able to repay the two \$4 million principal payments to Cred for June and July—totalling \$8 million, all of which Cred desperately needed to continue operating.

429. In May 2020, Cred executives knew that Cred's financial condition remained dire.

¹⁴⁵ Inamullah Dep. Tr. at 222:5-20 (emphasis added).

¹⁴⁶ 2021 Schatt Dep. Tr. at 250:10-12.

430. As Wheeler explained to one outside consultant: “[t]his is where the solvency analysis stands. *The memo, which I will send when I put it in Word format, sets a minimum \$4 million capital raise by June 30.*”¹⁴⁷ Cred did not raise or otherwise receive \$4 million between May 2020 and June 30, 2020.

431. That same month, Alexander wrote to Wheeler that “[b]ased on the recent solvency analysis *I’m not sure Cred can continue as a going concern.*”¹⁴⁸

432. Schatt kept Uphold abreast as to Cred’s financial situation in May of 2020, and Uphold made no changes to the CredEarn program.

433. Schatt remained active on the Uphold Board during this time, including attending a board meeting on May 15, 2020.

434. Schatt and Hua also continued to operate CredEarn and incur more debt for Cred.

435. Meanwhile, Uphold substantially assisted Schatt and Hua’s breaches, continuing to market CredEarn and profit from the program by taking commissions for each CredEarn enrollee.

436. In a memorandum titled Liquidity Analysis and Plan to Overcome Current Undercapitalization from Schatt dated June 1, 2020, he wrote:

As of June 1, 2020, Cred’s current liabilities exceeded its invested assets and current assets by approximately \$19.5 million or 19% of the total principal balance of liabilities . . . *Cred does not have the capacity to repay the full liabilities if assets were liquidated today* . . .¹⁴⁹

437. On November 7, 2020 (the “Petition Date”), Cred commenced the Chapter 11 Cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

¹⁴⁷ Ex. PPP (May 28, 2020 email from Wheeler) (emphasis added).

¹⁴⁸ Ex. QQQ (May 26, 2020 email from Alexander) (emphasis added).

¹⁴⁹ Ex. RRR (June 1, 2020 Liquidity Analysis Memo from Schatt) (emphasis added).

V. After Cred’s Collapse, Uphold Issues Misleading Press Releases in an Attempt to Distance Itself From Cred

438. On October 23, 2020, Uphold received an inquiry from a journalist at a cryptocurrency news site, CoinDesk, about a story concerning Cred “losing several million in client funds.”

439. As a result of an anticipated CoinDesk article, Uphold decided to distance itself from Cred and terminated its relationship on October 25, 2020.

440. As part of this termination, Uphold issued a statement to its customers stating “Uphold has discontinued its relationship with third-party crypto lending provider Cred.”¹⁵⁰

441. Cred and Uphold continued to work on certain public messaging regarding the relationship’s end, but ultimately, Uphold tried to distance itself from Cred as much as Uphold could.

442. After being contacted by a member of the media for comment about Cred, Uphold issued a series of false public statements disclaiming its knowledge of any wrongdoings or failures at Cred prior to October 23, 2020. For example, Uphold stated:

On October 23, Uphold became aware for the first time that there was a potential balance sheet shortfall at Cred that may affect the firm’s ability to honour its financial obligations to customers. On that day, it became apparent that Cred had covered the situation for months and had attempted to trade itself out of difficulties by attracting more customer deposits.¹⁵¹

443. Uphold knew well before October 23, 2020, that Cred was in financial distress.

¹⁵⁰ Uphold, *Uphold has discontinued its relationship with third-party crypto lending provider Cred*, available at: <https://support.uphold.com/hc/en-us/articles/360051081112-Uphold-has-discontinued-its-relationship-with-third-party-crypto-lending-provider-Cred->.

¹⁵¹ Uphold, *Cred Chapter 11 Bankruptcy Protection and how Uphold plans to help you*, available at: <https://support.uphold.com/hc/en-us/articles/360052308611-Cred-Chapter-11-Bankruptcy-Protection-and-how-Uphold-plans-to-help-you>.

444. As discussed above, Schatt testified that he told Uphold about hedging losses, MoKredit's failure to pay under the LSA, and Alexander's theft long before October 23, 2020.¹⁵²

445. Uphold's announcement of Cred's Chapter 11 Cases stated Cred "is apparently unable to meet its customer obligations owing to a hole in its balance sheet, which we believe results from the alleged actions of a former executive of Cred."

446. But Uphold knew about Alexander's theft by the time the lawsuit against Alexander was filed publicly by July 15, 2020, and knew about the potential balance sheet shortfall.

447. On October 25, 2020, Schatt was removed from Uphold's Board.

448. Schatt testified that this decision was mutual, after a discussion with Thieriot:

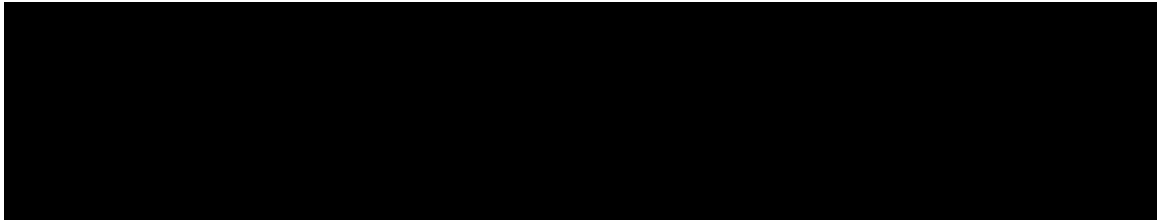
Q. Did you resign from the board?

A. I heard a – sorry. Was that the – was there more to the question?

Q. No. I'm done. The first question is: Did you resign from the board?

A. It was – after a conversation with the CEO, cofounder, and a board member, it was mutually agreed that there needed to be separation between Cred and Uphold, including my board position, yeah.

449. Uphold's messaging also claimed that its financial position remained unchanged by the relationship's end, despite Uphold's previous dependence on Cred for cash flow:



450. Uphold also wasted no time in trying to remove and destroy marketing materials promoting Cred.

¹⁵² 2020 Schatt Dep. Tr. at 251:7-9; Ex. EEE (Errata of 2020 Schatt Dep. Tr.).

¹⁵³ Ex. SSS (October 2020 email chain between Uphold executives).

451. On November 2, 2020, in a group text message between Uphold executives Thieriot, McLoughlin, and other executives Marinho and Ribeiro, Marinho [REDACTED]

[REDACTED] 154

452. Despite Marinho's warning, McLoughlin responded to these text messages by directing the team to [REDACTED] 155

453. Less than one week after these messages were exchanged, Uphold attempted further damage control and communicated to customers its intention to sue Cred (which Uphold never did).

454. After Cred's downfall, Uphold's senior management discussed the need to change its policies. Specifically, McLoughlin wrote in an email that the [REDACTED]

[REDACTED] 156

¹⁵⁴ Ex. A (text messages between Uphold executives).

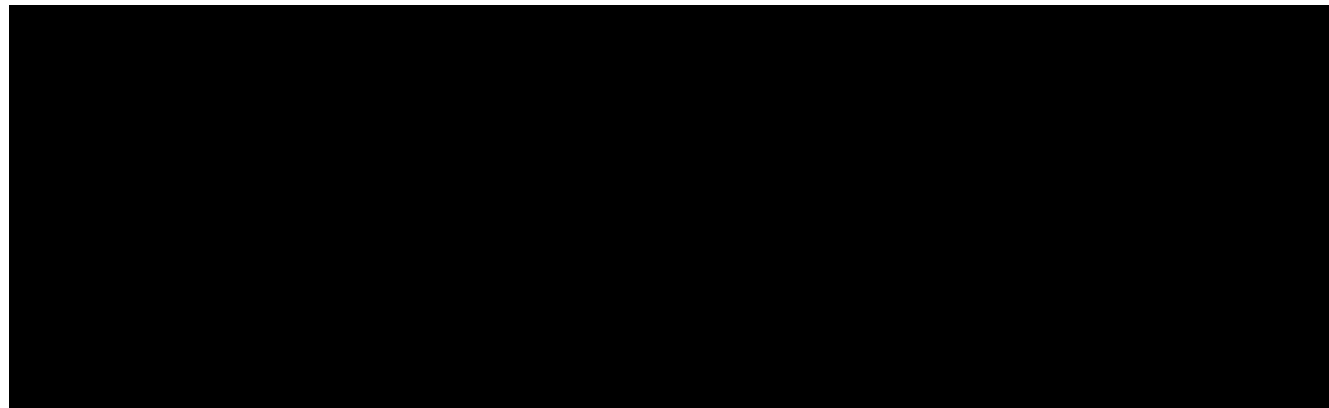
¹⁵⁵ *Id.* at 167 (emphasis added).

¹⁵⁶ Ex. TTT (November 5, 2020 email from McLoughlin).

VI. CredEarn Customers React to Uphold's Coverup

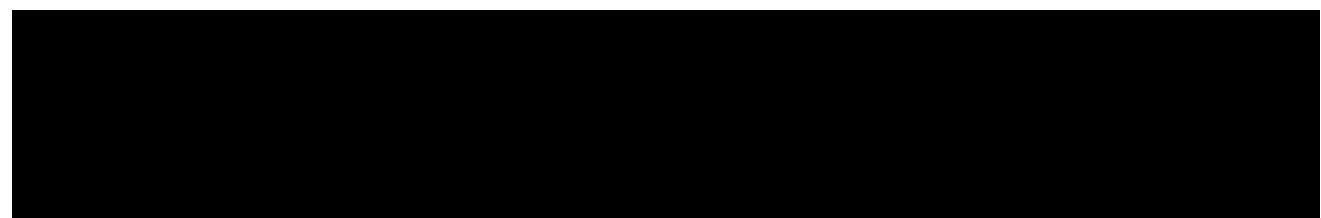
455. Upon receiving notice of the termination of Uphold and Cred's relationship, customers began to approach Uphold expressing outrage over being misled by Uphold.

456. On October 26, 2020, one customer wrote to their Uphold Senior Account Executive:¹⁵⁷

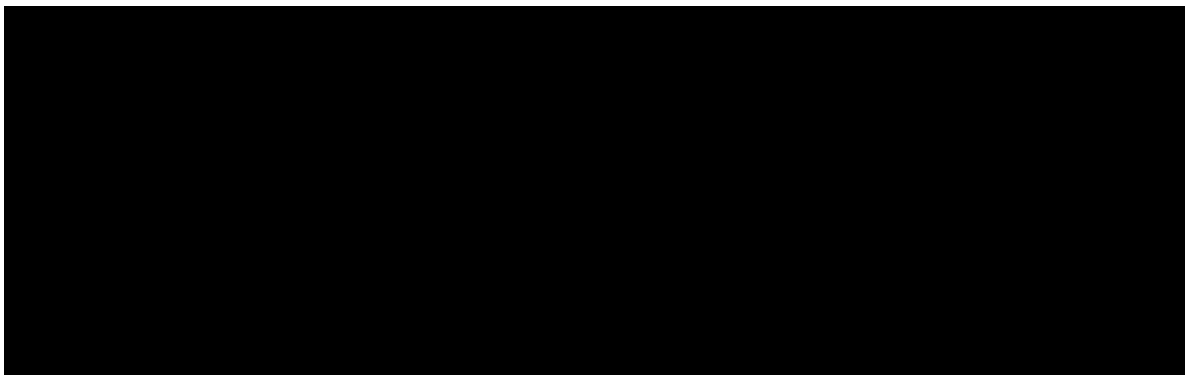


457. The same customer later expressed frustration that 

.¹⁵⁸



458. This customer also detailed exactly how Uphold drove him to Cred:



¹⁵⁷ Ex. C (October 2020 email chain between customer and Uphold).

¹⁵⁸ *Id.* (emphasis added).



459. Customers also took to social media to express their confusion and frustration with Uphold and its promotion of Cred. Some posts from customers include:

- a. ***Uphold is guilty as Cred:*** As a lot of people here, I'm very frustrated, all this situation with Cred seems like a nightmare and pitifully Uphold is guilty as Cred is, Uphold should have had better knowledge about its partner, demand real proves [sic] about his business and how it was managed. I trusted on Cred because of Uphold but not one else.¹⁶⁰
- b. ***Uphold customers lost all money sent to their trusted partner Cred: Uphold promoted and advertised Cred (they called it "UpholdEarn"), as a safe platform for customers to invest their cryptocurrency [sic] and earn a small interest.*** Suddenly, Uphold terminated their partnershit [sic] with Cred. Shortly afterwards, Cred filed for bankruptcy [sic].... Relevant fact: Cred's CEO was in Uphold's board of directors!¹⁶¹
- c. [Uphold] went on a lame initial PR campaign to distance themselves from Cred, but when that was proven to be untenable with digital receipts they've gone radio-silent to their customers.¹⁶²

¹⁵⁹ To sign up for CredEarn, Customers were directed to Cred from the Uphold Platform. When a customer navigated to Cred's website from Uphold, Uphold provided a "disclaimer" to customers stating they were being taken to a third-party website. The disclaimer also stated that "Uphold will not be a party or third-party beneficiary to any agreement you may have with CRED LLC[.]" This "disclaimer" was misleading to customers, as Uphold substantially benefited from every CredEarn customer contract based on the collection of its fees.

¹⁶⁰ See Ex. B (Trustpilot reviews of Uphold, available at <https://uk.trustpilot.com/review/uphold.com?search=Cred>).

¹⁶¹ *Id.*

¹⁶² *Id.*

460. Despite customers' frustration and concern, Uphold reaped the benefit of its commissions while Cred and CredEarn customers lost everything.

VII. Cred Suffered Substantial Losses And Incurred Significant Liabilities To CredEarn Customers

461. The Trust reviewed records and data from Cred's Ledger (the "Cred Ledger") to estimate total losses, including the liabilities and obligations resulting from Cred's collapse.

462. The Cred Ledger contains over 6,000 Cred users.

463. The Cred Ledger contains each Uphold customer's investment balance in various forms of cryptocurrency that the customer loaned to Cred through CredEarn.

464. The Cred Ledger indicates that CredEarn losses are approximately \$783,946,276.¹⁶³ Through ongoing claims reconciliation, interviews with former Cred employees, and an ongoing investigation of Cred's records, however, the actual losses appear to be significantly higher.

465. Cred maintained contemporaneous records of the value of new and existing CredEarn customer accounts.

466. This CredEarn recordkeeping included funds pledged from institutional investors from program inception through September 1, 2020 and retail investors from program inception through August 15, 2020. The Cred Ledger also included whether those funds flowed through an Uphold customer. For the months September and October 2020, the Trust estimated potential Uphold losses by applying the monthly averages of the CredEarn program values enrolled by the institutional and retail investors during the first eight months of 2020. The value of new and

¹⁶³ This figure was determined using the market value of various forms of cryptocurrency enrolled in the CredEarn program, as of November 8, 2021, representing the highest intermediate value of cryptocurrency after Cred's collapse.

existing CredEarn customer accounts formed the basis of the 2% fee Uphold charged Cred for such referrals.

467. A comprehensive analysis of these records utilizing the highest intermediate value of cryptocurrency losses reveals the full scope of the damages suffered through the CredEarn program. The Trust estimates total CredEarn losses are approximately \$783,946,276.

468. Uphold's knowledge and substantial assistance of Schatt and Hua's breaches of fiduciary duties caused far more loss than what is accounted for in the Cred Ledger or other Cred files.

469. Uphold's marketing and delivery of its customers to Cred allowed Cred to become a popular yield earning platform and expand its services.

470. Uphold's marketing efforts assisted in establishing Cred's name in the space and resulted in non-Uphold customers enrolling with Cred.

471. Uphold's efforts to drive customers to Cred greatly increased Cred's debts and obligations both internally through Uphold customer enrolment and externally.

472. Uphold's misconduct was a major cause of these losses. Schatt and Hua would never have achieved their goals of obtaining hundreds of millions of dollars of retail customer cryptocurrency and diverting it to MoKredit without Uphold's marketing engine and access to Uphold's thousands of customers.

473. By aiding and abetting Schatt's, Podulka's, Wheeler's, Alexander's and Hua's breaches of fiduciary duties, Uphold is jointly and severally responsible for all of Cred's losses.

474. Utilizing the highest intermediate value of cryptocurrency after the Petition Date, the total losses to Cred caused by Uphold is an amount to be proven at trial, but are no less than the equivalent of \$783,946,276, plus interest, and costs.

475. At all relevant times, Cred was insolvent and thus the Uphold Fees received in connection with CredEarn and CredBorrow were actual and constructive fraudulent transfers.

476. The Uphold Fees also represent the amount that Uphold unjustly benefitted to the detriment of Cred and its customers. The Uphold Fees are an amount to be proven at trial, but are no less than the equivalent of \$1,402,929.

CAUSES OF ACTION

Count I

Aiding and Abetting Breach of Fiduciary Duty – Duty of Care

477. The Trust re-alleges the allegations set forth in the above paragraphs.

478. Schatt, Hua, Podulka, Wheeler, and Alexander were executives and officers who owed the fiduciary duty of care to Cred. Schatt and Hua also owed the fiduciary duty of care to Cred as Cred's directors. Such duties included obligations to exercise good business judgment and to act prudently in the operation of Cred's business.

479. Schatt, Hua, Podulka, Wheeler, and Alexander breached their duties of care to Cred through their mismanagement of Cred, with no formal diligence or oversight policies or procedures regarding investment decisions, accounting, and compliance.

480. Schatt, Hua, Podulka, Wheeler, and Alexander breached their duty of care to Cred by seeking to obtain more CredEarn debt than Cred could reasonably service.

481. Schatt and Hua breached their duties of care to Cred by using false marketing materials to obtain more CredEarn debt than Cred could reasonably service.

482. Uphold knew or reasonably should have known and was provided notice that Schatt, Hua, Wheeler, Podulka, and Alexander acted in violation of their respective fiduciary duties.

483. Uphold also substantially assisted each directors' breach of fiduciary duties by designing and controlling the CredEarn program and its terms. Uphold maintained such control and refused to allow changes to the CredEarn offering even when Cred experience financial turmoil. Uphold also continuously facilitated the CredEarn program despite poor investments, lack of recordkeeping, and Cred's deepening insolvency and distress.

484. Uphold knew or reasonably should have known Cred's business model and that the marketing materials created by Schatt and Uphold were misleading to the public.

485. Uphold knowingly, or with reckless indifference, participated in Schatt's, Hua's, Wheeler's, Podulka's, and Alexander's breaches of the fiduciary duty of care by approving and disseminated false marketing materials and communications to Uphold's customers to drive more CredEarn debt to Cred than Cred could reasonably service.

486. Uphold knowingly, or with reckless indifference, approved and disseminated marketing materials that did not disclose the existence of MoKredit, and instead Uphold stated that Cred made loans to "reputable companies."

487. Uphold knowingly, or with reckless indifference, and disseminated marketing materials that falsely claimed that CredEarn was "safe," "secured," "insured," and "fully hedged."

488. As a result of Uphold's knowing participation in Schatt's, Hua's, Podulka's, Wheeler's, and Alexander's breaches of their fiduciary duty of care, Cred suffered damages in an amount to be determined at trial, but in no event less than \$783,946,276, plus interest and costs.

Count II
Aiding and Abetting Breach of Fiduciary Duty – Duty of Loyalty

489. The Trust re-alleges the allegations set forth in the above paragraphs.

490. Schatt and Hua, as directors and executive officers of Cred owed fiduciary duties of loyalty to Cred.

491. Schatt also owed fiduciary duties of care, loyalty, and good faith as a member of the Uphold Board. The duties owed to Uphold often conflicted with the duties Schatt owed to Cred.

492. Hua also owed fiduciary duties of care, loyalty, and good faith as the founder of MoKredit. The duties that Hua owed to MoKredit often conflicted with the duties that Hua owed to Cred.

493. Schatt and Hua breached their duties of loyalty and good faith by, among other things, creating and disseminating false marketing materials and making misrepresentations about the safety of Cred and CredEarn.

494. Schatt breached his duty of loyalty and good faith because he was an Uphold director and entered into a business relationship between Cred and Uphold that disproportionately benefitted Uphold to the detriment of Cred.

495. Hua breached his duty of loyalty and good faith because he was the founder of MoKredit and entered into a business relationship between Cred and MoKredit that disproportionately benefitted MoKredit to the detriment of Cred.

496. Uphold knew or reasonably should have known that Schatt and Hua were acting in violation of their fiduciary duties.

497. Uphold also knew or reasonably should have known Cred's business model and the marketing materials created by Schatt and Uphold were misleading to the public.

498. Uphold substantially assisted Schatt's breach of fiduciary duties by using its position of power, and Schatt's conflicting interests, to negotiate terms of Cred and Uphold's arrangement that benefitted Uphold to Cred's detriment.

499. Uphold substantially assisted Schatt's breach of fiduciary duties by designing the CredEarn program with Schatt to be such that every new customer plunged Cred into further debt, while providing Uphold with additional Uphold Fees.

500. Uphold substantially assisted Schatt's breach of fiduciary duties by maintaining control over the CredEarn program even when Cred faced financial turmoil.

501. Uphold substantially assisted Schatt's breach of fiduciary duties by continuing to use its position of power, and Schatt's conflicting interests, to negotiate terms of Cred and Uphold's arrangement that benefitted Uphold to Cred's detriment.

502. Uphold knowingly, or with reckless indifference, participated in Schatt's and Hua's breaches of fiduciary duties by approving and disseminated misleading marketing materials and communications to Uphold's customers.

503. Uphold knowingly, or with reckless indifference, created, approved, and disseminated marketing materials that did not disclose the existence of MoKredit and instead made false statements claiming that Cred made loans to "reputable companies."

504. Uphold also knowingly, or with reckless indifference, approved and disseminated marketing materials that falsely claimed that CredEarn was "safe," "secured," "insured," and "fully hedged."

505. As a result of Uphold's knowing participation in Schatt's and Hua's breaches of their fiduciary duty of loyalty, Cred has suffered damages in an amount to be determined at trial, but in no event less than \$783,946,276, plus interest and costs.

Count III Unjust Enrichment

506. The Trust re-alleges the allegations set forth in the above paragraphs.

507. Uphold was knowingly and unjustly enriched to the detriment of Cred.

508. Uphold facilitated the CredEarn program and directed its customers to invest in that program.

509. Uphold benefitted from the structure of the CredEarn program by maintaining complete control of the CredEarn offering while unreasonably assigning all risk to Cred.

510. Uphold also benefitted from the structure of CredEarn as it received the Uphold Fees for every CredEarn customer it drove to Cred, despite how CredEarn actually performed.

511. Uphold benefitted from CredEarn because, as Uphold executives admitted, CredEarn drove Uphold's walletholder growth.

512. Uphold generated transaction fees from customers who joined Uphold through CredEarn, and collected the additional Uphold Fees directly from Cred.

513. Moreover, new Uphold customers were extremely valuable as Uphold charges significant transaction fees for all cryptocurrency transactions on the Uphold Platform.

514. While the exact number is unknown at this time, Uphold likely earned millions of dollars in transaction fees from new customers who joined Uphold because of the CredEarn program.

515. Every CredEarn customer that Uphold drove to Cred provided Uphold a monetary fee and plunged Cred further into debt.

516. The economic benefits derived by Uphold as a result of the Uphold Fees it generated through CredEarn, collected from Cred, and the fees it generated as a result of the investment accounts held by its customers, are a direct and proximate result of Uphold's deceptive marketing practices that in turn harmed Cred and customers.

517. Uphold's collection of fees were not justified because Uphold obtained such fees by directing customers to CredEarn, causing Cred to plunge further into debt.

518. It would be inequitable and unjust for Uphold to retain any portion of the profits, fees, or revenues resulting from Uphold's facilitation of the CredEarn program.

519. Uphold should be required to provide restitution and to disgorge the Uphold Fees that it unjustly received from Cred, and proceeds derived from accounts of Uphold customers who joined Uphold in order to participated in the CredEarn program, in an amount to be determined at trial but in no event less than \$1,402,929 for the Uphold Fees and proceeds derived from Uphold customers who joined Uphold to participate in CredEarn, plus interest and costs.

Count IV
Actual Fraudulent Transfer
(11 U.S.C. § 548(a)(1)(A))

520. The Trust repeats and re-alleges each of the allegations set forth in the above paragraphs.

521. Cred LLC and Cred Inc.¹⁶⁴ executed Uphold Fee payments with the actual intent to hinder, delay, or defraud its creditors.

522. Cred LLC and Cred Inc. had the actual intent to hinder, delay, or defraud its creditors demonstrated through the badges of fraud, including, but not limited to close relationship, consideration for conveyance, insolvency, and proximity of the transfer to Cred LLC's and Cred Inc.'s collapse.

523. Uphold and Cred LLC and Cred Inc. were closely related since Cred's inception, as Schatt and Uphold launched Cred while Schatt was Cred's CEO and one of two Cred directors as well as an active Uphold Board member.

524. Schatt remained an active Uphold Board member throughout Cred's existence.

¹⁶⁴ Cred LLC converted to Cred Inc. on May 13, 2020. Transfers made prior to May 13, 2020 were executed by Cred LLC, while transfers made after May 13, 2020 were made by Cred Inc.

525. Cred LLC and Cred Inc. entered into the SOW with Uphold with intent to gain hundreds of millions of dollars' worth of assets through referrals and investors.

526. Cred LLC and Cred Inc. received no consideration for the transfers, as with every CredEarn customer received from Uphold, Cred LLC and Cred Inc. plunged further into debt.

527. On the dates Cred LLC and Cred Inc. paid Uphold's invoices, Cred LLC and Cred Inc. were insolvent and remained insolvent as a result of Uphold continuing to drive substantial business and collect fees, had unreasonably small capital, and incurred or intended to incur debts beyond its ability to pay as such debts matured.

528. Cred LLC and Cred Inc.'s payment of the Uphold Fees demonstrates close proximity to Cred's collapse. As the number of CredEarn customers increased, the Uphold Fees increased along with Cred's debt.

529. Uphold regularly invoiced Cred LLC and Cred Inc. for payment of the Uphold Fees despite how Cred actually performed. Thus, the more Uphold Fees generated, the closer Cred plummeted to bankruptcy.

530. The Trust is entitled to avoid the Uphold Fees transferred by Cred LLC and Cred Inc. pursuant to Bankruptcy Code § 548(a)(1)(A).

531. The Uphold Fees are an amount to be proven at trial, but are in no event less than the equivalent of \$1,402,929.

532. Cred LLC and Cred Inc. transferred Uphold Fees to Uphold as part of the CredEarn program as detailed in the SOW. The transfer of Uphold Fees was a transfer of property of Cred LLC and Cred Inc. to and for the benefit of Uphold and is avoidable as a "transfer" within the meaning of Bankruptcy Code § 101(54).

533. Uphold collected the Uphold Fees within two years before the Petition Date.

534. Accordingly, the Uphold Fees are avoidable as an actual fraudulent transfer pursuant to Bankruptcy Code § 548(a)(1)(A).

Count V
Actual Fraudulent Transfer
(6 Del. C. §§ 1304(a)(1) and 11 U.S.C. § 544(b))

535. The Trust repeats and re-alleges each of the allegations set forth in the above paragraphs.

536. Cred LLC and Cred Inc. executed Uphold Fee payments with the actual intent to hinder, delay, or defraud its creditors.

537. Cred LLC and Cred Inc. had actual intent to hinder, delay, or defraud its creditors demonstrated through the badges of fraud, including, but not limited to close relationship, consideration for conveyance, insolvency, and proximity of the transfer to Cred LLC's and Cred Inc.'s collapse.

538. Uphold and Cred LLC and Cred Inc. were closely related since Cred's inception, as Schatt and Uphold launched Cred while Schatt was Cred's CEO and one of two Cred directors as well as an active Uphold Board member.

539. Schatt remained an active Uphold Board member throughout Cred's existence.

540. Cred LLC¹⁶⁵ entered into the SOW with Uphold with intent to gain hundreds of millions of dollars' worth of assets through referrals and investors. Cred only gained debt.

541. Cred LLC and Cred Inc. received no consideration for the transfers, as with every customer CredEarn received from Uphold, Cred plunged further into debt.

542. On the dates Cred LLC and Cred Inc. paid Uphold's invoices, Cred was insolvent

¹⁶⁵ Cred LLC converted to Cred Inc. on May 13, 2020. Transfers made prior to May 13, 2020 were executed by Cred LLC, while transfers made after May 13, 2020 were made by Cred Inc.

and remained insolvent as a result of Uphold continuing to drive substantial business and collect fees, had unreasonably small capital, and incurred or intended to incur debts beyond its ability to pay as such debts matured.

543. Cred LLC's and Cred Inc.'s payment of the Uphold Fees demonstrates close proximity to Cred's collapse. As the number of CredEarn customers increased, the Uphold Fees increased along with Cred's debt.

544. Uphold regularly invoiced Cred LLC and Cred Inc. for payment of the Uphold Fees despite how Cred LLC and Cred Inc. actually performed. Thus, the more Uphold Fees generated, the closer Cred LLC and Cred Inc. plummeted to bankruptcy.

545. The Uphold Fees are an amount to be proven at trial, but are in no event less than the equivalent of \$1,402,929.

546. The Uphold Fees were transferred by Cred LLC and Cred Inc. to Uphold within four years of the Petition Date.

547. At all times material hereto, Cred LLC and Cred Inc. had at least one general unsecured creditor holding an allowed claim who, but for Cred LLC's and Cred Inc.'s bankruptcy filings, would have standing to bring claims to avoid Uphold's fee payments, including, but not limited to, general unsecured creditors that filed proofs of claims in the Chapter 11 Cases.

548. Accordingly, actual fraudulent transfers are avoidable pursuant to Bankruptcy Code § 544(b) and other applicable law, including the Delaware Uniform Fraudulent Transfer Act, 6 Del. C. § 1301, *et seq.*

549. Accordingly, the Uphold Fees are avoidable as an actual fraudulent transfer pursuant to 6 Del. C. § 1304(a)(1) and Bankruptcy Code § 544(b).

Count VI
Constructive Fraudulent Transfers
(11 U.S.C. § 548(a)(1)(B))

550. The Trust re-alleges the allegations set forth in the above paragraphs.

551. The Trust is entitled to avoid the Uphold Fees pursuant to Bankruptcy Code § 548(a)(1)(B).

552. The Uphold Fees are an amount to be proven at trial, but are in no event less than the equivalent of \$1,402,929.

553. The Uphold Fees were transferred by Cred LLC and Cred Inc. to Uphold within two years before the Petition Date.

554. Cred LLC and Cred Inc. received no value from paying the Uphold Fees, because with every customer Cred received from Uphold, Cred plunged further into debt. Cred thus never had the ability to provide services to CredEarn customers.

555. Cred LLC and Cred Inc. were insolvent as early as February 2019 and was unable to pay its debts as they became due. At that time, Cred LLC and Cred Inc. immediately incurred \$387,000 in past due invoices and needed an influx of cash.

556. Cred LLC and Cred Inc.'s liquidity constraints worsened over time as a result of fraud, theft, hacks, and MoKredit's ongoing defaults.

557. On the dates Cred LLC and Cred Inc. paid Uphold's invoices, Cred LLC and Cred Inc. were insolvent and remained insolvent as a result of Uphold continuing to drive substantial business and collect fees, had unreasonably small capital, and incurred or intended to incur debts beyond its ability to pay as such debts matured.

558. Accordingly, the Uphold Fees are avoidable as a constructive fraudulent transfer pursuant to Bankruptcy Code § 548(a)(1)(B).

Count VII
Constructive Fraudulent Transfer
(6 Del. C. §§ 1304(a)(2) and 1305(a) and 11 U.S.C. § 544(b))

559. The Trust re-alleges the allegations set forth in the above paragraphs.

560. The Uphold Fees are an amount to be proven at trial, but are in no event less than the equivalent of \$1,402,929.

561. The Uphold Fees are avoidable as “transfers” within the meaning of 6 Del. C. § 1301(12) and Bankruptcy Code § 101(54).

562. The Uphold Fees were transferred by Cred LLC and Cred Inc. to Uphold within four years before the Petition Date.

563. At all times material hereto, Cred LLC and Cred Inc. had at least one general unsecured creditor holding an allowed claim who, but for Cred LLC and Cred Inc.’s bankruptcy filings, would have standing to bring claims to avoid Uphold’s fee payments, including, but not limited to, general unsecured creditors that filed proofs of claims in the Chapter 11 Cases.

564. Cred LLC and Cred Inc. received no value from paying the Uphold Fees, because with every customer Cred LLC and Cred Inc. received from Uphold, Cred LLC and Cred Inc. plunged further into debt. Cred LLC and Cred Inc. thus never had the ability to provide services to CredEarn customers.

565. Cred LLC and Cred Inc. were insolvent as early as February 2019 and was unable to pay its debts as they became due. At that time, Cred LLC and Cred Inc. immediately incurred \$387,000 in past due invoices and other expenses and needed an influx of cash.

566. Cred LLC and Cred Inc.’s liquidity constraints only worsened over time as a result of fraud, theft, hacks, and MoKredit’s ongoing defaults.

567. On the dates Cred LLC and Cred Inc. paid Uphold’s invoices, Cred LLC and Cred Inc. were insolvent and remained insolvent as a result of Uphold continuing to drive substantial

business and collect fees, had unreasonably small capital, and incurred or intended to incur debts beyond its ability to pay as such debts matured.

568. Accordingly, the Uphold Fees are avoidable as a constructive fraudulent transfer pursuant to 6 Del. C. §§ 1304(a)(2) and 1305(a), and Bankruptcy Code § 544.

Count VIII
Breach of Uphold LOC

569. The Trust re-alleges the allegations set forth in the above paragraphs.

570. Pursuant to Cred's loan offer to Uphold, the parties entered into the Uphold LOC, where Cred loaned funds to Uphold and Uphold agreed to repay the loan with interest.

571. Cred and Uphold implemented the Uphold LOC and upheld all material portions thereof.

572. Uphold continuously relied on the Uphold LOC. Cred continuously performed under the Uphold LOC, and provided funds, extended repayments, and otherwise informally entered into new tranches as Uphold required.

573. The Uphold LOC was enforceable and supported by valid consideration.

574. As of the date of this filing, Uphold has not paid the entire balance of the Uphold LOC.

575. As a result of Uphold's failure to repay the Uphold LOC, Cred has suffered actual monetary damages, in the amount of the unpaid balance of the Uphold LOC, plus interest and costs.

PRAYER FOR RELIEF

WHEREFORE, the Trust as Plaintiff requests that this Court grant the following relief against Defendants:

A. On Counts I and II, enter judgment in favor of the Trust and against Uphold for actual and compensatory damages in an amount sufficient to compensate the Trust for the damages suffered as a consequence of Uphold's aiding and abetting the breaches of fiduciary duties of Schatt, Hua, Podulka, Wheeler, and Alexander, in an amount to be determined at trial, but not less than \$783,946,276.

B. On Count III, enter judgment in favor of the Trust and against Uphold for actual and compensatory damages in an amount sufficient to compensate the Trust for the damages suffered as a consequence of Uphold's unjust enrichment, including all fees Uphold generated and/or receive by facilitating the CredEarn program, in an amount to be determined at trial, but not less than \$1,402,929, plus all transaction fees derived from Uphold customers who joined Uphold as a consequence of the CredEarn program.

D. On Counts IV-VII, enter judgment in favor of the Trust and against Uphold, avoiding the Uphold Fees pursuant to Bankruptcy Code §§ 544(b) and 548 and 6 Del. C. §§ 1304(a)(1)-(2) and 1305(a) and directing Uphold to return the Uphold Fees to the Trust in an amount to be determined at trial, but not less than \$1,402,929.

E. On Count VIII, enter judgment in favor of the Trust and against Uphold for actual and compensatory damages in an amount sufficient to compensate the Trust for the damages suffered as a consequence of Uphold's breaches under the Uphold LOC, in an amount to be proven at trial but not less than the unpaid balance under the Uphold LOC.

F. The award of statutory, exemplary, treble, and/or punitive damages and/or penalties to the Plaintiffs.

G. Reasonable attorney's fees and costs of this action and pre-judgment interest under the state consumer protection statutes.

H. Such other relief as this Court may deem just and proper.

Dated: Wilmington, Delaware
July 22, 2022

MCDERMOTT WILL & EMERY LLP

/s/ David R. Hurst

David R. Hurst (I.D. No. 3743)
1007 North Orange Street, 10th Floor
Wilmington, DE 19801
Telephone: (302) 485-3900
Facsimile: (302) 351-8711

– and –

Darren Azman (admitted *pro hac vice*)
Andrew B. Kratenstein (admitted *pro hac vice*)
Joseph B. Evans (admitted *pro hac vice*)
1 Vanderbilt Avenue
New York, NY 10017
Telephone: (212) 547-5400
Facsimile: (212) 547-5444

Counsel to the Cred Inc. Liquidation Trust

Exhibit A

Filed Under Seal

Exhibit B

**Uphold**

2.0 ⓘ

In the [Non-bank financial service](#) category uphold.com

Visit this website

[Write a review](#)

They've shown their true colours over the last couple of months when their partner and co-founder in the Universal Protocol Alliance, Uphold Earn / Cred, showed astoundingly irresponsible and possibly fraudulent behaviour in losing millions of dollars across several thousand investors' accounts. I myself have lost the proceeds of about two year's worth of savings. Imagine that... everything I didn't spend on the basic necessities over the course of two years was lost to the UPA's mismanagement; and for some, it was much worse.

The response of Uphold in all of this? Promising to split the profits of a lawsuit against a bankrupt company (lol) with their users. They are a cryptocurrency company that has been around since the days when Bitcoin was under \$1000. If they wanted to, with their track record, they could move the money around and/or make arrangements to ensure the people they made money disappear from by referring them to their alliance partner Cred be made whole.

Instead, they went on a lame initial PR campaign to distance themselves from Cred, but when that was proven to be untenable with digital receipts they've gone radio-silent to their customers.

There are so many vibrant, positive, customer-friendly crypto exchanges in the world; DO NOT use this one. I wanted to give them the benefit of the doubt over the last few months and hope they were working behind the scenes to come up with a plan, but they've demonstrated nothing in this regard and are ignoring their customers in favour of hoping this blows over. Imagine losing your life's savings and being given this message: "... all the profit from our legal proceedings against Cred will be returned to Uphold customers. We know the uncertainty is scary... [so check our blog]."

Finally, to the CEO JP Thieriot; this is the result of your lack of leadership and oversight. You

are ranked rock bottom or very close to it in all of the categories your company is present in on TrustPilot. Blame whomever you want, but you're a failure in every sense of the word. Dig

**Uphold**

2.0 ⓘ

In the [Non-bank financial service](#) category uphold.com

Visit this website

[Write a review](#)

Hi Lance,

We feel deeply for anyone worrying about their loans at Cred. We will do anything that we reasonably can to help affected customers and you can see the updates on how Uphold plans to help here: <https://support.uphold.com/hc/en-us/articles/360052308611>

Kind regards,

Uphold team

Our 2022 Transparency Report has landed

[Take a look](#)[Show reviews in all languages. \(6,346 reviews\)](#)

About Uphold

Information written by the company

Uphold is reimagining the world of money and finance from the ground up. We want to change and transform the splintered world of finance -- from basic banking needs, payment and money transfer networks to the global financial ecosystem itself. We are building towards a future where every person on earth has access to safe, transparent, fair and affordable financial services.

Contact

 marketing@uphold.com United States

Categories ⓘ



Looks like you're in the United States. [Go to the American Trustpilot site](#)



Review of [Uphold](#)



Alejandro

3 reviews VE



16 Dec 2020

Uphold is guilty as Cred

As a lot of people here, I'm very frustrated, all this situation with Cred seems like a nightmare and pitifully Uphold is guilty as Cred is, Uphold should had a better knowledge about its partner, demand real proves about his business and how it was managed. I trusted on Cred because of Uphold but not one else.



Useful 3



Share



Reply from Uphold

17 Dec 2020

Hi Alejandro,

We feel deeply for anyone worrying about their loans at Cred. Please refer to this page for more information about how Uphold plans to help you:

<https://support.uphold.com/hc/en-us/articles/360052308611>

Kind regards,

Uphold Team



Choose country



United Kingdom





Looks like you're in the United States. [Go to the American Trustpilot site](#)



Review of [Uphold](#)



Wladston Ferreira Filho

2 reviews  CH



16 Dec 2020

Uphold customers lost all money sent to their trusted partner Cred

Uphold promoted and advertised Cred (they called it "UpholdEarn"), as a safe platform for customers to invest their cryptocurrency and earn a small interest. Suddenly, Uphold terminated their partnership with Cred. Shortly afterwards, Cred filed for bankruptcy. It seems customers will ultimately receive nearly nothing out of their investment through Uphold. Uphold didn't assume any responsibility and did nothing to help their customers, months into the debacle. Relevant fact: Cred's CEO was in Uphold's board of directors!



Useful 9



Share



Reply from Uphold

17 Dec 2020

Hi Wladston,

We feel deeply for anyone worrying about their loans at Cred - we will do what we reasonably can to help affected customers. Please refer to this page for more information about how Uphold plans to help you and updates on the situation:

<https://support.uphold.com/hc/en-us/articles/360052308611>

Kind regards,

Uphold Team

Exhibit C

Filed Under Seal

Exhibit D

Filed Under Seal

Exhibit E

Delaware

The First State

Page 1

*I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY THAT THE ATTACHED IS A TRUE AND
CORRECT COPY OF THE CERTIFICATE OF CONVERSION OF A DELAWARE
LIMITED LIABILITY COMPANY UNDER THE NAME OF "CRED LLC" TO A
DELAWARE CORPORATION, CHANGING ITS NAME FROM "CRED LLC" TO "CRED
INC.", FILED IN THIS OFFICE ON THE THIRTEENTH DAY OF MAY, A.D.
2020, AT 1:40 O`CLOCK P.M.*



Jeffrey W. Bullock, Secretary of State

6884278 8100V
SR# 20203842153

Authentication: 202924893
Date: 05-13-20

You may verify this certificate online at corp.delaware.gov/authver.shtml

State of Delaware
Secretary of State
Division of Corporations
Delivered 01:40 PM 05/13/2020
FILED 01:40 PM 05/13/2020
SR 20203842153 - File Number 6884278

STATE OF DELAWARE
CERTIFICATE OF CONVERSION
FROM A LIMITED LIABILITY COMPANY TO A
CORPORATION PURSUANT TO SECTION 265 OF
THE DELAWARE GENERAL CORPORATION LAW

1. The jurisdiction where the limited liability company first formed is **Delaware**.
2. The jurisdiction immediately prior to filing this Certificate is **Delaware**.
3. The date the limited liability company first formed is **May 14, 2018**.
4. The name of the limited liability company immediately prior to filing this Certificate is **Cred LLC**.
5. The name of the Corporation as set forth in the Certificate of Incorporation is **Cred Inc**.

IN WITNESS WHEREOF, the undersigned being duly authorized to sign on behalf of the converting limited liability company has executed this Certificate on the 13th day of **May**, 2020.

Cred LLC
(a Delaware limited liability company)

DocuSigned by:

Dan Schatt

91B4E836EB01468
Dan Schatt, Chief Executive Officer

Delaware

The First State

Page 1

*I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE DO HEREBY CERTIFY THAT THE ATTACHED IS A TRUE AND
CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "CRED
INC." FILED IN THIS OFFICE ON THE THIRTEENTH DAY OF MAY, A.D.
2020, AT 1:40 O`CLOCK P.M.*



Jeffrey W. Bullock, Secretary of State

6884278 8100V
SR# 20203842153

You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 202924893
Date: 05-13-20

State of Delaware
Secretary of State
Division of Corporations
Delivered 01:40 PM 05/13/2020
FILED 01:40 PM 05/13/2020
SR 20203842153 - File Number 6884278

CERTIFICATE OF INCORPORATION OF CRED INC.

The undersigned, a natural person (the “Sole Incorporator”), for the purpose of organizing a corporation to conduct the business and promote the purposes hereinafter stated, under the provisions and subject to the requirements of the laws of the State of Delaware hereby certifies that:

I.

The name of this corporation is Cred Inc. (the “Corporation”).

II.

The address of the registered office of the Corporation in the State of Delaware is 1209 Orange Street, in the City of Wilmington, County of New Castle, 19801. The name of its registered agent at such address is The Corporation Trust Company.

III.

The purpose of this Corporation is to engage in any lawful act or activity for which a corporation may be organized under the Delaware General Corporation Law (“DGCL”).

IV.

This Corporation is authorized to issue Common Stock. The total number of shares that the Corporation is authorized to issue is One Million (1,000,000) shares of Common Stock, each having a par value of \$0.001.

V.

The management of the business and the conduct of the affairs of the Corporation shall be vested in its Board of Directors. The number of directors that shall constitute the whole Board of Directors shall be fixed by the Board of Directors in the manner provided in the bylaws of the Corporation.

VI.

The Board of Directors may from time to time adopt, amend, alter, supplement, rescind or repeal any or all of the bylaws of the Corporation without any action on the part of the stockholders; provided, however, that the stockholders may adopt, amend or repeal any bylaw adopted by the Board of Directors, and no amendment or supplement to the bylaws adopted by the Board of Directors shall vary or conflict with any amendment or supplement adopted by the stockholders.

VII.

A. A director of the Corporation shall, to the fullest extent permitted by the DGCL as it now exists or as it may hereafter be amended, not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL, or (iv) for any transaction from which the director derived any improper personal benefit. If the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

B. Any repeal or modification of this Article VII shall be prospective and shall not affect the rights under this Article VII in effect at the time of the alleged occurrence of any act or omission to act giving rise to liability or indemnification.

VIII.

The Corporation is authorized to indemnify its officers and directors, and may provide for reimbursement of the expenses of such persons, to the fullest extent provided by Section 145 of the DGCL. To the fullest extent permitted by applicable law, the Corporation is authorized to provide indemnification of (and reimbursement of expenses to) agents of the Corporation (and any other persons to which State law permits the Corporation to provide indemnification) through bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and reimbursement otherwise permitted by Section 145 of the DGCL, subject only to limits created by applicable Delaware law (statutory or non-statutory), with respect to actions for breach of duty to the Corporation, its stockholders, and others.

Any amendment, repeal or modification of the foregoing provision of this Article VIII shall not adversely affect any right or protection of a director, officer, agent, or other person existing at the time of, or increase the liability of any director of the Corporation, with respect to any acts or omissions of such director, officer or agent occurring prior to, such amendment, repeal, modification or adoption.

IX.

The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon the stockholders herein are granted subject to this reservation.

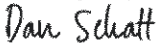
X.

The name and the mailing address of the Sole Incorporator is as follows:

Dan Schatt
3704 Wilshire Avenue
San Mateo, CA 94403

(Signature on following page)

IN WITNESS WHEREOF, this Certificate of Incorporation has been executed this 13th day of May, 2020 by the undersigned, who affirms that the statements made herein are true and correct.

DocuSigned by:


Dan Schatt, Sole Incorporator

Exhibit F

Filed Under Seal

Exhibit G

Filed Under Seal

Exhibit H

Filed Under Seal

Exhibit I

Filed Under Seal

Exhibit J

To: Rawdon Messenger[rawdon@uphold.com]
Cc: Simon mcloughlin[simon@uphold.com]; Michelle Quinn-O'Connor[michelle@uphold.com]; Alistair Morrison[alistairmorrison@btinternet.com]
From: Meghan Gardler[meghan@mycred.io]
Sent: Wed 10/17/2018 2:27:17 PM (UTC-04:00)
Subject: Re: Uphold Join Campaign

Perfect, yes please send over any collateral or drafts you have and I'll take a look. Is there a press release planned to announce the strategic partnership on your end?

Thanks,

Meghan Gardler

Director of Marketing

Cred

m: +16107643514

w: mycred.io e: meghan@mycred.io

From: Rawdon Messenger <rawdon@uphold.com>
Sent: Wednesday, October 17, 2018 11:25:18 AM
To: Meghan Gardler
Cc: Simon mcloughlin; Michelle Quinn-O'Connor; Alistair Morrison
Subject: Re: Uphold Join Campaign

Hi Meg,
Great news!
We will be adding "Powered by Cred" to our product and marketing in appropriate spots going forward.
There is an email going out to our userbase today that will include this.
Also, the Cred logo is on our join.uphold.com landing page.
I'll send you a draft of the email that has updated messaging on the referral offer.
I'd be delighted to jump on a call to review details. LMK.

Thanks,

Rawdon

On Wed, Oct 17, 2018 at 10:41 AM Meghan Gardler <meghan@mycred.io> wrote:

Hi Rawdon,

I have solidified a strategy to start a campaign to drive traffic to join.uphold.com through email, social media, and our Telegram channel. My problem before I do that is that much of the messaging still has no mention of Cred. Dan is currently in New York for meetings and people have been asking him if Uphold is a competitor because there is little to no mention of Cred on the platform.

Before I start pushing our users to Uphold, we need to clear up any disconnect. I will be releasing a blog post tomorrow

about our strategic partnership, but I also need the Uphold side to edit the emails, blog post, and messaging so that any time it says Uphold Earn and Uphold Borrow, there needs to be (powered by Cred) after. I know Simon has been working on clearing this up, but I don't see the updates in effect yet.

Thank you,

Meghan Gardler

Director of Marketing

Cred

m: +16107643514

w: mycred.io e: meghan@mycred.io

Rawdon Messenger

CHIEF GROWTH OFFICER

voice: [\(323\) 401-1721](tel:(323)401-1721) • email: rawdon@uphold.com

Join us at [Uphold.com](https://uphold.com).

This message and attachments might contain privileged and/or confidential information, which should not be disclosed to third parties. If you received this email in error, please advise me and delete this email immediately. Any distribution, use or copying of this email or information it contains by other than the intended recipient is unauthorized.

Exhibit K

Filed Under Seal

Exhibit L

Case 2:22-cv-00398-JTB Doc 1-12 Filed 07/22/22 Page 2 of 6

To: Rawdon Messenger[rawdon@uphold.com]
Cc: JuanPablo Thieriot[jpablo@uphold.com]; Simon mccloughlin[simon@uphold.com]
From: Dan Schatt[dan@mycred.io]
Sent: Thur 10/18/2018 5:30:02 PM (UTC-04:00)
Subject: Re: Welcome to Uphold Early Access!

Thanks for your understanding Rawdon. Let's operate as one team as much as possible. Takes a bit longer to get everyone's feedback, but well worth it.

Sent from my iPhone

On Oct 18, 2018, at 5:04 PM, Rawdon Messenger <rawdon@uphold.com> wrote:

Hi Dan,

My apologies - I understood that we just needed to mention "Powered by Cred".

Beyond specific communications about Borrow/Earn (eg Product Launches and Updates), It would be much easier to agree on the boilerplate text we need to include whenever we mention Uphold Earn or Uphold Borrow for legal and marketing purposes. Thus we could avoid having to go through an approval process everytime we mention the products.

In terms of messaging, we want to avoid mentioning Powered By Cred next to every mention as it gets a bit heavy - hence using the asterisk.

Either way, I agree we can do better here. I will reach out to Meghan directly.

Regards,

Rawdon

On Thu, Oct 18, 2018 at 1:49 PM Dan Schatt <dan@mycred.io> wrote:

Rawdon - I'm getting complaints from the Cred team that some marketing, such as this are not shared with the Cred team prior to release. We need your help to ensure we have strong communication between the teams. This is an Uphold email, but Cred needs to vet as well:

- as lender of record Cred needs to make sure it is compliant with public messaging involving lending and yield

- as a business partner Cred needs to ensure any mentions of Cred fit within Cred's brand guidelines

- as a marketing partner, Cred can ensure it is in synch to amplify the messaging with its community.

Please make sure to solicit Meghan's feedback prior to emails involving Cred, she is the point person for Cred's compliance, marketing and business feedback.

Thanks,
Dan

Sent from my iPhone

Hi Meghan.

We are going to add an asterisk to the first mention of Earn/Borrow* in our emails. with the clarification:

*Uphold Borrow and Uphold Earn are powered by [Cred](#).

The update email is still being tweaked due to legal inputs. Will send shortly.

Thanks,

Rawdon

----- Forwarded message -----

From: **Meghan Gardler** <meghan@mycred.io>

Date: Thu, Oct 18, 2018 at 11:34 AM

Subject: Fw: Welcome to Uphold Early Access!

To: Simon mcloughlin <simon@uphold.com>, Rawdon Messenger <rawdon@uphold.com>

Cc: Dan Schatt <dan@mycred.io>

Hi guys, still seeing zero Cred branding on any messaging coming from Uphold. I need a concrete ETA when this will be done because I was originally told it would be changed over by the beginning of this week and it still hasn't happened.

I also never received the draft of the email marketing that was going to be sent.

Thanks,

Meghan Gardler

Director of Marketing

Cred

m: +16107643514

w: mycred.io e: meghan@mycred.io

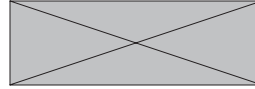
From: Uphold <noreply@uphold.com>

Sent: Thursday, October 18, 2018 11:30 AM

To: Meghan Gardler

Subject: Welcome to Uphold Early Access!





Hello!

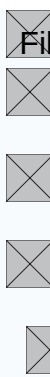
Congratulations, you're on the list! We'll be in touch soon with details about early access to our new mobile app, our Universal Dollar Giveaway, plus *Uphold Earn/Borrow*.

Don't forget - the more people you refer, the more you can earn from our \$500k UPUSD giveaway*. Use this unique link to share with your friends and move up the list: <https://join.uphold.com/?kid=S7B47>

Cheers,

The Uphold Team

*The Universal Dollar (UPUSD) is a new stablecoin from the Universal Protocol Alliance. The Universal Dollar may be redeemed for US Dollars at Uphold (and other exchanges in the future). The more qualified referrals you make, the more Universal Dollars you can earn. Payouts will be made on March 31st, 2019. We will release full details about our dynamic leaderboard on Monday, October 15th.



Copyright © 2018 UPHOLD INC., All rights reserved.

You are receiving this email because you opted in at our waiting list.

Our mailing address is:

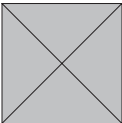
Uphold
900 Larkspur Landing Cir Ste 209
Larkspur, CA 94939-1724

[Add us to your address book](#)

Want to change how you receive these emails?

You can [update your preferences](#) or [unsubscribe from this list](#).

--



Rawdon Messenger

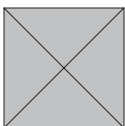
CHIEF GROWTH OFFICER

voice: [\(323\) 401-1721](tel:3234011721) • email: rawdon@uphold.com

Join us at [Uphold.com](https://uphold.com).

This message and attachments might contain privileged and/or confidential information, which should not be disclosed to third parties.
If you received this email in error, please advise me and delete this email immediately.
Any distribution, use or copying of this email or information it contains by other than the intended recipient is unauthorized.

--



Rawdon Messenger

CHIEF GROWTH OFFICER

voice: [\(323\) 401-1721](tel:3234011721) • email: rawdon@uphold.com

Join us at [Uphold.com](https://uphold.com).

This message and attachments might contain privileged and/or confidential information, which should not be disclosed to third parties.

Exhibit M

Filed Under Seal

Exhibit N

To: JuanPablo Thieriot[jp.thieriot@uphold.com]; Simon mccloughlin[simon@uphold.com]
Cc: Maxim Rokhline[maxim@mycred.io]; Lu Hua[lu@mycred.io]
From: Dan Schatt[dan@mycred.io]
Sent: Fri 12/21/2018 10:48:43 PM (UTC-05:00)
Subject: Uphold Earn!
[MO9 Introduction.pdf](#)
[Cred -- Enhanced Yield Agreement - Uphold customer.docx](#)
[moKredit Review Paper_20181217_V1.5.docx](#)
[Cred Referral Agreement - Uphold.docx](#)

Gentlemen,

Great speaking with you both today. As discussed, over the next 4-6 weeks Cred will be focusing exclusively on the Earn product. I've attached the following:

- An early screen shot of the Earn product (we can make this for BTC, UP tokens, Fiat...and put together an Uphold branded version)
- Introduction to Mo9: Lu Hua's very successful mobile lending platform for gamers.
- Cred Enhanced Yield Agreement: This is the agreement Uphold customers will sign, reviewed by our legal counsel and Francesco
- Referral agreement: Cred will pay Uphold 2% referral fees on all BTC, USD, Universal Dollar, Universal Euros placed

Please confirm you are on board with proposal below:

The Proposed High-Level Plan:

1. We put C-LOC on hold and put 100% of our efforts on an **early to mid-January rollout** of Uphold Earn, capped at \$20m
2. We leverage Cred engineering & design resources as much as possible to alleviate Uphold engineering / product bandwidth concerns
3. We craft a very tight, coordinated, integrated PR and marketing plan that will support the launch of UP USD, UP EURO and the ICO.
4. We resume with an automated Uphold Earn and Borrow product to launch in Q1 2019

Dec 24 – Jan 4:

- Maxim will propose an operational plan to Rui and Tiago.
- Meghan will work with Michelle and Addison on a coordinated PR, Marketing, Community Plan
- Dan/Simon/JP to connect on strategy & messaging vis a vis ICO + UP Token Launch

Jan 7-18

- All required design/engineering work from Cred team completed, e.g.
 - custom email templates
 - co-branded web pages
 - customer support
- All marketing messaging completed
- Marketing --- "Get ready to EARN" campaign kicked off
- "Bittrex joins UP Alliance" press release
- BTC offer opened – "Earn 10%"
- USD and Euro offer opened "Earn 5%"
- Announcing launch of Universal Dollar and Universal Euro – Earn 10% for a limited time
- ICO Announcement – begins January 28

Jan 21-25:

- All funds swept to Cred account – 6 month period
- Final pre-sale, preparations for ICO

Jan 28-31:

- **ICO!**
- Review of Manual Uphold Earn, plan to automate

About Uphold Earn *Powered by Cred*

Cred currently offers financial returns on various crypto, fiat and stablecoin assets. Customers can lock in their digital assets for a period of six months, which can be renewed in six months increments. Interest revenue is paid to customers on a quarterly basis. Cred provides its returns to customers by lending to a variety of customer segments, including Crypto Miners, digital asset companies, crypto investment funds and retail investors.

Cred's current rates and structure are as follows:

Uphold Earn - Bitcoin

- Minimum investment: \$5,000 or 1 BTC
- Minimum investment period: 6 months
- Annualized return: 10%
- Interest paid quarterly in USD or Universal Dollar
- Principal returned at end of period in Bitcoin
 - Example 1: Invest 1 BTC @ \$4,000. Receive \$100 interest in three months and receive \$100 interest plus 1 BTC in six months.
 - Example 2: Invest \$4,000 directly (assume 1 BTC=\$4,000). Receive \$100 interest in three months and receive an additional \$100 plus 1 BTC in six months.

Uphold Earn - Bitcoin allows customers to benefit from their Bitcoin investment whether the market moves up or down.

- In a down market, customers will still receive USD or Universal Dollar interest payments based on the price of Bitcoin at time of the initial investment.
- In an up market, customers benefit from the full price appreciation of their initial BTC investment.

Uphold Earn - Universal Dollar or Universal Euro

- Minimum investment: \$5,000
- Minimum investment period: 6 months
- Annualized return: 5%
- Interest paid quarterly in USD or Universal Dollar
- Principal returned at end of period in USD, or Universal Dollar
 - Example: Invest \$10,000. Receive \$500 interest in three months and receive an additional \$500 interest plus \$10,000 in six months.

Wealth Management

0

Yesterday's interest: + 0

Total interest: + 0

No LBA?

[Exchange now](#)



Earn interest with your crypto

LBA Savings

3.00%

Expected annual interest

Minimum amount: 100 LBA

Make a deposit now to start earning interest on 2018/08/24

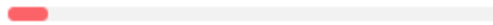
[Make a deposit](#)

30-day LBA Term Deposit

Offer ends: 2018/08/28 07:59:59

5.00%

Expected annual interest



Total amount
2,000,000 LBA

Sold
8.43%

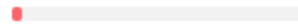
[Purchase now](#)

60-day LBA Term Deposit

Offer ends: 2018/08/28 07:59:59

5.50%

Expected annual interest



Total amount
2,000,000 LBA

[Purchase now](#)

Exhibit O

STATEMENT OF WORK NO. 3 – CRED EARN

THIS STATEMENT OF WORK NO. 3 – CRED EARN SERVICES (“SOW #3”) is issued pursuant to and governed by that certain Master Services Agreement dated July 13, 2018 (“**MSA**”) between Uphold HQ, Inc., a South Carolina corporation (“**Provider**”) and Cred LLC (f/k/a Libra Credit LLC), a Delaware limited liability company (“**Customer**”), and describes Provider’s arrangement for the work and services, with reference to Exhibit A attached hereto (the “**Cred Earn Offering**”).

1. **Scope of Work.** The scope of services to be performed by Provider under this SOW #3 shall be set forth below and in Exhibit A, attached hereto. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the MSA. In the event of any conflict between this SOW #3 and the MSA, the terms of the SOW #3 will govern and control, but only for the work and services performed under this SOW #3.

2. **Compensation.** The compensation payable by Customer to Provider shall be set forth in the following fee schedule (“**Fees**”):

Services	Service Fees
Cred Earn - Existing Uphold Members with existing funds available on Uphold Platform	The greater of (a) 2% of total credit extended by End Users by funding Cred Earn Accounts via Uphold Platform, or (b) the historical % yield on the assets committed to Cred Earn Accounts via Uphold Platform*
Cred Earn - New Uphold Members or Existing Uphold Members with newly added funds equal to the amount of credit extended to Cred Earn	2% of total credit extended by End Users by funding Cred Earn Accounts via Uphold Platform.

The following fees apply specifically for the Cred Earn program prior to the launch of Cred Borrow. Uphold and Cred plan to launch an Uphold Borrow program and a new fee schedule for Cred Earn will be agreed to and applied via an SOW specific to Cred Borrow.

*Uphold will calculate the average monthly revenue yield on the assets committed by the Uphold user based on the immediately preceding time period equal to the term of the loan (or such shorter period if the End User has not been a Member for that period of time), and invoice Cred on a rolling quarterly basis for the average monthly yield per month for the duration of the loan term (including any renewals or roll-overs). Uphold and Customer agree to collaborate on this data analysis to optimize the Cred Earn specifications (e.g., deposit amount limits) in order to maximize mutual benefit.

3. **Customer Obligations.** Customer shall comply with all its obligations as set forth in Exhibit A, attached hereto.

4. **Term; Work Schedule and Milestones.** The term of this SOW #3 shall commence upon execution (the "**SOW #3 Effective Date**") and is effective for thirty-six (36) months, provided that Fees for loans extending beyond this period shall continue to be due according to the terms of this SOW. This SOW #3 shall automatically renew for successive twelve (12) month terms unless Customer provides Provider at least thirty (30) days' notice before the next renewal term that it does not wish to renew this SOW #3.

5. **Project Managers.** The project manager designated by Provider for this SOW #3 is Rui "Penso" Silva. The project manager designated by Customer for this SOW #3 is Maxim Rokhline.

6. **Legal Terms and Conditions.** This SOW #3 and the MSA constitute the entire agreement between Provider and Customer with respect to the subject matter of this SOW #3 and the Specifications. This SOW #3 may not be amended or modified except by a written document signed by both parties and made in accordance with the MSA.

IN WITNESS WHEREOF, the parties hereto have executed this SOW #3 to be effective as of the SOW #3 Effective Date.

CUSTOMER:

Cred LLC (f/k/a Libra Credit LLC)
a Delaware limited liability company

By: Dan Schatt
Name: Dan Schatt
Title: President
Date: January 16, 2019

Notices should be addressed to:

Cred LLC
2121 South El Camino Real
San Mateo, CA 94403
Attn: Dan Schatt
E-Mail: dan@mycred.io

PROVIDER:

Uphold HQ, Inc.
a South Carolina corporation

By: 
Name: Robin O'Connell
Title: CRO
Date: January 16, 2019

Notices should be addressed to:

Uphold HQ, Inc.
6 W. 18th St., 3rd Floor
New York, NY 10011
Attn: Ben Sherwin
E-Mail: legal@uphold.com

STATEMENT OF WORK NO. 3 – CRED EARN – EXHIBIT A

CRED EARN OFFERING

Provider shall provide End Users (defined below) who are verified members of both Provider's and Customer's respective platforms the opportunity to participate in the "Cred Earn" program as further described below (the "Cred Earn Offering").

1. **Description of Cred Earn Offering.** Customer will offer to certain members of the Uphold Platform ("Members") that are also qualifying end users of Cred ("End Users") the opportunity to receive interest ("Interest") based on such End User's extension of a loan of certain cryptocurrency assets or fiat currency assets to Customer (the "Cred Earn Offering"). The Cred Earn Offering shall only be made to Members who are not U.S. Persons (as such term is defined in 17 CFR 230.902(k)), and shall not be offered to U.S. Persons without the prior written approval of Provider. Customer agrees and acknowledges that Provider shall have no obligation to offer the Cred Earn Offering to Members that are not End Users. Interest and repayment of principal will be made available to End Users via such End User's Uphold account in good standing at the direction of Customer. The Cred Earn Offering is further described in the "Cred Earn: Product Requirements" documentation attached hereto as Appendix 1.

- 1.1. **KYC.** Provider represents and warrants that each Member has passed its "know your customer" due diligence ("KYC") requirements to be a qualified user of the Uphold Platform. Customer represents and warrants that each End User has passed its KYC requirements to be a qualified user of the Cred Earn Offering. Customer will be responsible for performing KYC on all End Users who wish to participate in the Cred Earn Offering. Customer shall not be entitled to rely on KYC verification provided by Provider, though both Provider and Customer agree that they may share KYC information with each other, subject to applicable privacy laws and any required End User consents. Each of Provider and Customer represent and warrant that their KYC procedures are sufficient to comply with applicable law, including relevant fair lending and sanctions programs.

- 1.2. **Restrictions.** Each party will notify the other in writing of all jurisdictions in which it is restricted from offering the Cred Earn Offering to End Users, and will promptly notify the other of any updates during the Term.

2. Customer's Obligations.

- 2.1. **Obligations with respect to End Users.** Customer shall be obligated to, and shall be solely responsible for:

- 2.1.1. setting all requirements necessary for an End User to participate in the Cred Earn Offering, and all terms of the Cred Earn Offering (the "End User Agreement", the initial version of which is attached hereto as Appendix 2) including any minimum required funding of a dedicated account ("Cred Earn Account") or any minimum time periods;

- 2.1.2. setting the rate of Interest offered to each End User, and the criteria by which such rate may be changed;
- 2.1.3. return of principal and payment of Interest to participating End Users at the agreed upon rates;
- 2.1.4. servicing End Users as part of the Cred Earn Offering, including setting and notifying End Users of all terms of the Cred Earn Offering and any Interest offered to them thereunder (which may be provided online via the Uphold Platform in addition to other formats where permitted by law); providing End Users with account statements as required by law or more frequently as agreed between Customer and End Users; fielding, managing and responding to all questions regarding Customer's KYC process, Cred Earn Offering requirements, and Interest rates. Provider shall field, manage and respond to all questions from End Users directly relating to the Uphold Platform. Each party shall promptly refer End Users (or promptly refer any received questions) initially fielded by one party that are properly directed to the other; and
- 2.1.5. ensuring the Cred Earn Offering is made in compliance with applicable law.

2.2. Customer Covenants and Agreements. Customer covenants and agrees that:

- 2.2.1. Customer will not change its requirements under the Cred Earn Offering or the End User Agreement without the prior written consent of Provider;
- 2.2.2. all risk of loss of principal loaned by Customer from End Users' Accounts shall be borne by Customer; and
- 2.2.3. it will comply with all applicable laws, rules and regulations pertaining to its operations and in connection with its performance of its obligations hereunder in each jurisdiction in which the Cred Earn Offering will be offered.

3. Additional Representations and Warranties; Indemnity. In addition to the representations and warranties set forth in the MSA, Customer hereby represents and warrants to Provider that: (i) it has such registrations and licenses to enable it to perform its obligations under this SOW in each jurisdiction in which the Cred Earn Offering will be offered, and it will make any required filings or disclosures required in a timely fashion; (ii) there is no regulatory proceeding pending or threatened that could reasonably be expected to have a material adverse effect on the performance of Customer's obligations hereunder; (iii) it is solvent and has sufficient capital (or immediately available liquid access thereto) to perform its obligations under this SOW and make the Cred Earn Offering available to End Users as contemplated herein; and (iv) it is the owner of its Marks and has the right, power and authority to license to Provider the use of the its Marks in connection with the Cred Earn Offering. Customer shall indemnify, defend and hold harmless Provider and its subsidiaries, officers, directors, employees, agents and representatives, as applicable, from and against all claims, losses, liabilities, damages, costs and expenses (including, without limitation, reasonable attorneys' fees) arising from a claim, suit or proceeding brought against such party by a third

party arising out of or related to (a) a breach or alleged breach of the representations and warranties set forth herein, or (b) fraud of any End Users.

4. **Fees.** All Fees with respect to an individual End User shall be paid within thirty (30) days of the end of the month that is every three (3) months from the date principal is loaned by such End User to the date it is returned. For example, if an End User commits assets on a six-month term commencing on February 15, Fees with respect to such assets would be due on June 30 and September 30. All Fees shall be payable in USD or UPUSD. End Users may be directly charged separate fees for transactions (withdrawals, exchanges, transfers, etc.) by Provider pursuant to the Uphold Platform's standard rates.
5. **Suspension.** Provider may temporarily suspend or revoke Customer's access to or use of any portion or all of the Uphold Platform, or suspend or revoke the offering of the Cred Earn Offering to one or more End Users, if Provider reasonably determines or suspects that: (i) there is a threat or attack on the Uphold Platform or other event that may create a risk to the Uphold Platform, any Member, End User, Customer or any other client of Provider, (ii) Customer's or End Users' use of the Uphold Platform disrupts or poses a security risk to the Uphold Platform, any Member, or any other Provider client, (iii) there is an error, defect or bug in any software, data or information provided by Customer, (iv) either Customer or the End Users are using the Uphold Platform for fraudulent or illegal activities, or (v) continued provision of the Uphold Platform, the Cred Earn Offering, or any portion thereof would violate any applicable law, rule or regulation or registration or licensing requirement (collectively, "Service Suspensions"). Provider will provide written notice of any Service Suspension to Customer and provide updates regarding resumption of the Uphold Platform or Cred Earn Offering, as appropriate, following any Service Suspension. Customer will not be entitled to any refund of fees or service credits for any Service Suspension. If any Service Suspension lasts for more than thirty (30) days, either party may terminate this SOW or portion thereof relating to the Service Suspension.
6. **Most Favored Nations.** For a period of six (6) months from the SOW #3 Effective Date, Customer will not make the Cred Earn Offering or any service offering directly competitive with the Cred Earn Offering utilizing a third party to perform services to be provided by Provider hereunder on terms more favorable to such third party than those terms set forth herein. To the extent that Customer does so, the more favorable terms of such third party agreement will automatically be deemed to apply to this SOW #3 as of the date of such other agreement.
7. **Marketing/Promotion.** Customer shall be responsible for the marketing and promotion of the Cred Earn Offering, subject to prior written approval of Provider with respect to the description of the Uphold Platform. Each party hereby grants to the other a limited, revocable, non-exclusive, royalty-free, worldwide license to use its trademarks, service marks, names and logos ("Marks") in a form approved by the Marks' owner for the sole purpose of marketing and promoting the Cred Earn Offering as mutually agreed.
8. **Privacy.** Each party hereby agrees to be bound by a mutually acceptable Data Processing Addendum within thirty days of the SOW #3 Effective Date.

APPENDICES:

Appendix 1 – Cred Earn: Product Requirements

Appendix 2 – End User Agreement

Exhibit P

Case 2:25-cv-0398-JTD Doc 1-16 Filed 07/22/22 Page 2 of 5

To: Michelle O'Connor[michelle.oconnor@uphold.com]
Cc: JuanPablo Thieriot[jp.thieriot@uphold.com]; Meghan Gardler[meghan@mycred.io]; Simon mcloughlin[simon@uphold.com]
From: Dan Schatt[dan@mycred.io]
Sent: Wed 1/23/2019 10:11:42 PM (UTC-05:00)
Subject: Re: CredEarn Email Marketing

Excellent!! Now in 92 countries!!!



From: Michelle O'Connor <michelle.oconnor@uphold.com>
Date: Wednesday, January 23, 2019 at 6:29 PM
To: Dan Schatt <dan@mycred.io>
Cc: JuanPablo Thieriot <jp.thieriot@uphold.com>, Meghan Gardler <meghan@mycred.io>, Simon mcloughlin <simon@uphold.com>
Subject: Re: CredEarn Email Marketing

Congratulations!!!

I would be happy to help - my hands are somewhat tied re: email, for now I've locked in placement in the newsletter.

Co-marketing we will absolutely support and drive, Meghan let's connect tomorrow and I'll Share what I have planned to roll out ASAP!

On Wed, Jan 23, 2019 at 16:51 Dan Schatt <dan@mycred.io> wrote:
Hi all –

Today, we hit our 1,000th customer today with very little marketing!

We now need your help to start marketing together. Similar to Brave, and other Uphold marketing campaigns, can we put together an integrated marketing plan/schedule for Cred Earn on Uphold that would include the items below.

- **Email marketing**

- Use of the Join.uphold waitlist
- “Earn on your crypto” emails- an Uphold blast to all non-US regions.
- One targeted to customers that generate little/no revenue for Uphold
- One targeted to customers of specific holdings that generate few transactions
- One Included in the newsletter/digest emails
- One Added to UP USD / UP EURO campaigns

- **Twitter**

- Positive, direct tweets about CredEarn, similar to BAT (beyond answering customer questions)
- “How-to” and educational tweets about the product
- Add influencers in the XRP / BTC community
- Include the rates that will be offered on UP USD and UP EURO
- Include LBA now as a true utility that result in increased yields

- **Blogs**

- “How-to” use Earn – video of screens
- Write-up on the merits of earning / interview
- Earning with UP USD / UP EURO

- **PR**

- Placement of story with non-US publications
- Include Earn on UP USD / UP EURO stories

Simon- By Jan 31, we'll have a full set of underwriting / risk management criteria we use in determining how we lend customer money. We should be able to turn this into a strength when discussing with media outlets.

Thank you,
Dan

From: Meghan Gardler <meghan@mycred.io>

Date: Tuesday, January 22, 2019 at 9:54 AM

To: Dan Schatt <dan@mycred.io>, Michelle O'Connor <michelle.oconnor@uphold.com>

Cc: Michelle O'Connor <michelle@uphold.com>, Simon mcloughlin <simon@uphold.com>

Subject: Re: CredEarn Email Marketing

Hi, just following up. Any word on timing?

Thanks,

Meghan Gardler

Director of Marketing

m: +16107643514

w: mycred.io e: meghan@mycred.io

From: Dan Schatt
Sent: Monday, January 21, 2019 9:44:16 PM
To: Michelle O'Connor
Cc: Meghan Gardler; Michelle O'Connor; Simon mcloughlin
Subject: Re: CredEarn Email Marketing

Thanks Michelle, ideally, the email could go out this Wednesday to get everyone introduced to Cred Earn. Then, when we announce UP USD is live on Thursday, we can add that you can earn a return through the earn app...and again next week when UP EUR is announced...

Sent from my iPhone

On Jan 21, 2019, at 12:05 PM, Michelle O'Connor <michelle.oconnor@uphold.com> wrote:

Hi there,

Great work last week!

I will connect with our team on emails, and where we are at with regard to proactive email marketing, expect an update EOD latest early tomorrow.

On Mon, Jan 21, 2019 at 10:51 Meghan Gardler <meghan@mycred.io> wrote:

Hi all!

Thank you for all of your support on the successful launch of CredEarn last week. I wanted to follow up on plans or dates for email marketing to begin on the Uphold side. I know you were having ESP problems but haven't heard an update on the timeline for release since last week. I understood that at the least, those who signed up on the waitlist would not be an issue to send email marketing too but maybe that has changed.

I put together some content that you can use, in an effort trying to make it as frictionless as possible to get these emails out. You can find the google doc [here](#).

I know that we're not your only partner and there is a lot going on with the Uphold side, so I understand the time and bandwidth constraints. Any update would be much appreciated!

Meghan Gardler

Director of Marketing

m: +16107643514

w: mycred.io e: meghan@mycred.io

--

Michelle O'Connor

VP OF COMMUNICATIONS AND COMMUNITY

This message and attachments might contain privileged and/or confidential information, which should not be disclosed to third parties. If you received this email in error, please advise me and delete this email immediately. Any distribution, use or copying of this email or information it contains by other than the intended recipient is unauthorized.

--

Michelle O'Connor

VP OF COMMUNICATIONS AND COMMUNITY

This message and attachments might contain privileged and/or confidential information, which should not be disclosed to third parties. If you received this email in error, please advise me and delete this email immediately. Any distribution, use or copying of this email or information it contains by other than the intended recipient is unauthorized.

Exhibit Q



Menu 

CredEarn

Become an Uphold member for a chance to earn up to 10% interest on the loan of your digital assets with CredEarn.

[Learn more](#)



We use cookies to personalise content and ads, provide social media features, and analyse our traffic. To learn more check our [cookies policy](#).

Accept

Decline

1

Sign up for an Uphold account

Create an Uphold account to authorize the CredEarn app.

Sign up

2

Verify your ID

Please submit your residency address and a valid ID document to verify your identity.

Verify ID

3

Deposit funds

Connect your **bank account** and/or **credit card** to fund your Uphold account.

Deposit funds

4

Continue to CredEarn

Congratulations! You are ready to get started with CredEarn.

Go to CredEarn

Uphold is not a lender, loan broker, or loan arranger and is not offering anyone advice or assistance in obtaining a loan.

We use cookies to personalise content and ads, provide social media features, and analyse our traffic. To learn more check our [cookies policy](#).

Accept

Decline

Personal About
Business Careers
Partners Press
Blog

Help

Social



FAQ & Support

Facebook

English US



Platform Status

Twitter

Cryptionary

Instagram

Pricing

LinkedIn

Legal

Uphold Europe Limited, Reg No. 09281410, Registered Office: Suite A, 6 Honduras Street, London, England, EC1Y 0TH

Uphold HQ Inc. NMLS ID No. 1269875

© Uphold 2020. All Rights Reserved.

[Agreements](#)

[Privacy & Data Policy](#)

[California Privacy](#)

[Cookie Policy](#)

English US



We use cookies to personalise content and ads, provide social media features, and analyse our traffic. To learn more check our [cookies policy](#).

Accept

Decline

**Earn with Cred** NEW

Start earning up to 10% on your digital assets

Buy and sell digital currencies easily.

From Dollar to Bitcoin in seconds.

Enter your email

Get startedDownload on the
App StoreGET IT ON
Google Play

Personal

Business

Partners



Sign in

Sign up

Menu



We use cookies to personalise content and ads, provide social media features, and analyse our traffic. To learn more check our [cookies policy](#).

Accept**Decline**

fiat currencies

cryptocurrencies
and utility tokens

stablecoins

precious metals



Easy funding

Link your wallet to your bank account or debit card.



Instant conversion

Seamless exchange between major digital and fiat currencies.



Blockchain access

Transact with any wallet on seven crypto networks.



Earn

NEW

Access a 3 - 10% return on your digital currency holdings.*



Borrow

SOON

Access low cost credit, secured by your digital currency holdings.*



Debit cards

SOON

Spend your balances with physical and virtual cards.*

Personal

Business

Partners



Sign in

Sign up

Menu



We use cookies to personalise content and ads, provide social media features, and analyse our traffic. To learn more check our [cookies policy](#).

Accept

Decline

Personal

Business

Partners



Sign in

Sign up

Menu



We use cookies to personalise content and ads, provide social media features, and analyse our traffic. To learn more check our [cookies policy](#).

Accept

Decline

Exhibit R

Exhibit 39

To: Karen Wong[karen@mycred.io]
 Cc: Dan Schatt[dan@mycred.io]; Heidi Ng[Heidi@mycred.io]
 From: James Alexander
 Sent: Tue 2/12/2019 9:41:22 PM
 Subject: Re: Cred E&O Follow up
[CredEarn Sample Contract.docx](#)
[CredBorrow Sample Contract.docx](#)
[MoKredit Cred Credit Agreement.docx.pdf](#)
[CredEarn Process Overview - Internal.pdf](#)
[image001.png](#)
[image002.jpg](#)
[image003.jpg](#)

Hi Karen,

Here are requested documents.

Regarding hedging, we accomplish this through forward contracts. In other words, the commitment to buy or sell certain amounts of digital assets—notably BTC or XRP—at a future date. We enter into these forward contracts with exchanges, for example Bitmex for BTC. We hedge to avoid market risk (ie. Changes in price) because we are contractually obliged to re-deliver an equivalent amount of crypto assets as we received at the time we entered into CredEarn agreement with client.

@Heidi Ng are you comfortable sharing the attached Process Overview? Or maybe you have another doc. specifically focused on the hedging aspect? @Karen Wong please don't send this internal document until we are sure its ready for distribution. I don't want to create more questions than answers.

James

From: Karen Wong <karen@mycred.io>
Date: Tuesday, February 12, 2019 at 1:16 PM
To: James Alexander <James.alexander@mycred.io>, Heidi Ng <Heidi@mycred.io>, Dan Schatt <dan@mycred.io>
Subject: FW: Cred E&O Follow up

Hi guys,

Could you please help with the below request from the insurance broker? This is required to obtain Errors & Omissions coverage which protects the company should there be a complaint / lawsuit from our customers. They're requesting response within a couple of days. I appreciate if you could turn around quickly or point me in the right direction.

--kw

From: "Coe, Lindsay" <L.Coe@lockton.com>
Date: Tuesday, February 12, 2019 at 11:10 AM
To: Karen Wong <karen@mycred.io>
Cc: "Koo, Jeff" <JKoo@lockton.com>, "Soliman, Vanessa" <VSoliman@lockton.com>, "Merlo, Blake" <BMerlo@lockton.com>, "Medak, Rachel" <RMedak@lockton.com>
Subject: Cred E&O Follow up

Hello Karen,

We have been working diligently to get CRED E&O quotes. The current D&O carrier is having a hard time getting comfortable with the CredEarn piece of the business. In order to get them more comfortable, they are requesting the below information. Could you get this to us in the next couple of days?

- CredEarn Sample Contract/Operating Agreement with Clients
- CredBorrow Sample Contract/Operating Agreement with Clients
- Cred's contract in place with MoKredit

- Additional information on the hedging policy in place for CredEarn (apologies, as I know this was addressed on the call, but any documentation available would be useful)

Let me know if you have any questions or concerns. Cheers!

Lindsay Coe
Senior Account Manager
Lockton Financial Services
Lockton Insurance Brokers, LLC
400 Capitol Mall, Suite 2600
Sacramento, CA 95814
Tel: 415.565.4036
Email: L.Coe@lockton.com





Enhanced Yield Agreement

When you sign this Agreement and fund your Enhanced Yield Account, you are agreeing to extend a loan of assets to CRED LLC. The purpose of the loan is to allow you to earn an enhanced yield on your Bitcoin, payable in Bitcoin, US dollars or other Stable Coin as specified in this Agreement. The loan from you to CRED LLC functions in some ways like a bank deposit account but CRED LLC is not a bank and the funds in your Enhanced Yield Account are not insured by the FDIC.

How to contact us:

Email us at support@mycred.io

Call us at (213) 262-6000

Important Terms of Your Enhanced Yield Account

The Yield You Will Earn	
Annual Rate	12% is the interest rate per annum (the "Yield") applicable to your Enhanced Yield Account on the day you fund that account. (the "Funding Date"). Interest is paid in Bitcoin on the last business day of every calendar quarter after Funding Date, or on the date on which your Enhanced Yield Account matures (the "Closure Date"). We may increase or decrease the Yield in our sole discretion 30 days after notifying you of the change (a "Yield Change Notice"). If you do not notify CRED of your decision to close your Enhanced Yield Account within 15 days of receiving a Yield Change Notice (a "Closure Notice"), then this Agreement will remain in effect and you cannot withdraw your funds until the Closure Date. If you deliver a Closure Notice within 15 days of after we send you a Yield Change Notice, then we will either not change your Yield or we will close your account and return your funds. We will do so within 45 days after CRED receives your Closure Notice, and during which time the previously agreed Annual Rate will apply to your Account.
Initial Term of Your Enhanced Yield Account	

NOT FDIC-insured

Initial Term	Your Enhanced Yield Account will mature as follows: ☒ on or about August 31, 2019 (calendar month end, 6 months after Funding Date) However, your Enhanced Yield Account will mature sooner if you timely deliver a Closure Notice as described above or in the Event of Default section below. If you do not withdraw your funds within 15 days after the scheduled maturity date, we will either extend your account for another period equal to the original period or close your account and return your funds.
Loan Assets	You are lending Bitcoin to CRED. Bitcoin should be transferred to Cred's BTC wallet at its paying agent ("Paying Agent Wallet") using the following address. Please send an initial small-value test transfer, and after confirmation of receipt transfer the balance: 3MXVTPasaHSAF91wohZDy3UbFdcLqVGx3U Assets will be credited to your Enhanced Yield Account upon confirmation of receipt to the Paying Agent Wallet.
Commitment Amount	You agree to initially lend CRED ~~(up to 1,250)~~ Bitcoin, which must be fully funded to CRED's Paying Agent Wallet on the Funding Date. Future Loan Assets are subject to a Tranche Agreement, found in Exhibit 1 of this Agreement.
Funding Date	Expected on ~~February 15, 2019~~. The actual Funding Date will be the date CRED confirms receipt of the Loan Assets into Cred's BTC Paying Agent Wallet.

Additional Terms of Your Enhanced Yield Account

Introduction	
About your Enhanced Yield Agreement	This document is referred to as the Enhanced Yield Agreement (the "Agreement") between you and CRED LLC with respect to your Enhanced Yield Account. This Agreement documents a loan of assets from you to us, not a deposit relationship, although we refer to the relationship between you and us as an "account" or specifically as an "Enhanced Yield Account." When you fund your Enhanced Yield Account, you agree to the terms of this Agreement.
Changing the Agreement	We may change this Agreement in our discretion, subject to applicable law. We may do this in response to the business, legal or competitive environment. This written Agreement is a final expression of the agreement governing the Enhanced Yield Account. The written Agreement may not be contradicted by any alleged oral agreement. Changes to some terms may require advance notice, and we will tell you in the

	notice if you have the right to reject a change.
Words we use in the Agreement	"We", "us", "our" and "CRED" mean CRED LLC. "You" and "your" mean the person who applied for and funded your Enhanced Yield Account. By funding your Enhanced Yield Account, you loan those funds to CRED subject to the terms and conditions of this Agreement. "Loan" or "Lend" means the loan you extend to CRED by funding your Enhanced Yield Account.
Electronic Account	
Your account is all electronic	Your Enhanced Yield Account is all electronic. This means that you will not receive any paper notifications, statements or disclosures. You can request any statement or other notice in paper form within 180 days of the date of the notice. To receive a paper copy of any notice that has been previously provided to you electronically, please contact member support at support@mycred.io. Future notices will continue to be delivered electronically unless you specifically inform us that you wish to withdraw your consent to receive electronic documents. If you decide to withdraw your consent, the legal effectiveness, validity or enforceability of prior electronic notices will not be affected; we may decide to close your Enhanced Yield Account.
About using your credit line	
Account credentials	Keep your Enhanced Yield Account information safe and don't let anyone else access your Enhanced Yield Account. If your Enhanced Yield Account is being used without your permission, contact us right away. You may not use your Enhanced Yield Account for illegal activities, or any transaction that is illegal in the state where you live or the state where you are making your transaction.
The loan	When you fund your Enhanced Yield Account, you are agreeing to lend to us all funds in the account. We agree to repay, with interest, all amounts we borrow from you, subject to provisions of this Agreement that allow us to deduct certain fees in some circumstances. We calculate interest on a simple interest basis based on the number of days amounts are drawn and outstanding. Our calculations as to the amounts we have borrowed and repaid, the amounts of accrued and paid interest, and all other calculations and determinations we make are binding on you and conclusive for all purposes unless you obtain a final, non-appealable judgment to the contrary. Interest payments not received by you within three business days after due will accrue a late fee equal to 10% annualized, calculated daily. In the event CRED fails to pay any amounts due or to return any digital currency hereunder, CRED shall pay you upon demand all reasonable costs and expenses, including without limitation, reasonable attorneys' fees and court costs incurred by you in connection with the enforcement of its rights hereunder.
Hard fork	In the event of a hard fork in the relevant digital currency blockchain, lender shall provide email notification to borrower. There will be no immediate termination of loans due to hard fork. Lender will receive the benefit of any incremental tokens generated as a result of a hard fork in the relevant digital currency protocol that results in a second token (the "New Token") being created.

	For purposes of this agreement, a hard fork will have been deemed to have occurred if any two of the following four conditions are met: • Hash Power: the average hash power mining the New Token on the 30th day following the occurrence of the fork (calculated as a 30-day average on such date) is at least 5% of the hash power mining the relevant digital currency on the day preceding the hard fork (calculated as a 3-day average of the 3 days preceding the hard fork). The source for the relevant digital currency hash power will be blockchain.info (or, if blockchain.info does not provide the required information, bitinfocharts.com, and if neither provides the required information, the parties shall discuss in good faith to mutually agree upon another data source) and the source for the hash power of the New Token will be bitinfocharts.com (or, if bitinfocharts.com does not provide the required information, the parties shall discuss in good faith to mutually agree upon another data source prior to the 30-day mark of the creation of the New Token). • Market Capitalization: the average market capitalization of the New Token (defined as the total value of all New Tokens) on the 30th day following the occurrence the hard fork (calculated as a 30-day average on such date) is at least 5% of the average market capitalization of the relevant digital currency (defined as the total value of the relevant digital currency) (calculated as a 30-day average on such date). The source for the relevant digital currency market capitalization will be blockchain.info (or, if blockchain.info does not provide the required information, bitinfocharts.com, and if neither provides the required information, the parties shall discuss in good faith to mutually agree upon another data source) and the source for the market capitalization of the New Token will be (or, if bitinfocharts.com does not provide the required information, the parties shall discuss in good faith to mutually agree upon another data source prior to the 30-day mark of the creation of the New Token). • 24-Hour Trading Volume: the average 24-hour trading volume of the New Token on the 30th day following the occurrence the hard fork (calculated as a 30-day average on such date) is at least 1% of the average 24-hour trading volume of the relevant digital currency (calculated as a 30-day average on such date). The source for the relevant digital currency 24-hour trading volume will be blockchain.info (or, if blockchain.info does not provide the required information, bitinfocharts.com, and if neither provides the required information, the parties shall discuss in good faith to mutually agree upon another data source) and the source for the 24-hour trading volume of the New Token will be (or, if bitinfocharts.com does not provide the required information, the parties shall discuss in good faith to mutually agree upon another data source prior to the 30-day mark of the creation of the New Token). • Wallet Compatibility: the New Token is supported by at least one wallet among Uphold, BitGo or Ledger wallets within 30 days of the hard fork. If the hard fork meets the criteria above, borrower will have up to 60 days from the hard fork to pay lender. Borrower can reimburse lender for the value of the New Tokens with any combination of a one-time digital currency payment of the relevant digital currency reflecting the amount of the New Token due using the agreed upon spot rate at the moment of repayment, returning the loaned digital currency so that lender can split the tokens themselves, sending the New Tokens directly to lender, or a U.S. Dollar cash payment at the agreed upon spot rate of the New Token at the time of repayment.
Periodic statements	Each month or quarter we may create a statement with that period's transactions on it. We may provide this statement to you electronically or you may need to log in to your account to see it. We may not provide a statement if there has been no

	activity in your Enhanced Yield Account or if it is not required by law.
Other important information	
Changing your contact information	You must notify us immediately if you change: - the e-mail address to which we send notices, statements and other information; - your phone number that you designate for communicating with us; - your mailing address; or - any linked bank account or wallet from which you send or receive funds. If you have more than one account with us, you need to notify us separately for each account. We may update your contact information if we receive information that it has changed or is incorrect. If you change your contact information and do not notify us, and we are unable to reach you or confirm delivery of information, or we are unable to process transfers between your Enhanced Yield Account and your bank account or wallet, we will assess (and collect via set off) a monthly fee of up to 1% of your account balance per month during such period that we are unable to make contact with you or process transfers.
Event of default	The following defaults shall constitute events of default hereunder and are hereinafter referred to as an "Event of Default" or "Events of Default": (a) the failure of the Borrower to return any borrowed amount or pay any borrowing fees when due hereunder; (b) a material default in the performance of any of the other agreements, conditions, provisions or stipulations contained in any of the loan documents; (c) any bankruptcy, insolvency, reorganization or liquidation proceedings or other proceedings for the relief of debtors or dissolution proceedings shall be instituted by or against the Borrower and shall not be dismissed within thirty (30) days of their initiation; or (d) any representation or warranty made in any of the loan documents proves to be untrue in any material respect as of the date of making or deemed making thereof. Upon the occurrence and during the continuation of any Event of Default, the lender may, at its option (a) declare the entire borrowed amount outstanding hereunder immediately due and payable, (b) terminate this agreement by delivery of a Closure Notice to Borrower, and (c) exercise all other rights and remedies available to the lender hereunder, under applicable law, or in equity; provided, that upon any Event of Default the borrowed amount and the amount of any borrowing fee then outstanding hereunder shall automatically become and be immediately due and payable.
Sending you notices	Whenever possible, we will send you notices via email, text message, or through the mobile application, subject to applicable law. Any notice that we send to you in those ways is deemed to be given when sent. We may also mail you notices through the U.S. mail, postage prepaid, and address them to you at the latest billing address on our records. Any notice that we send you this way is deemed to be given when deposited in the U.S. mail.
We may contact you	If we need to contact you to process a transfer or otherwise service your account, you authorize us (and our affiliates, agents and contractors) to contact you at any number you provide, from which you call us, or at which we believe we can reach you. We may contact you in any way, such as calling, text messaging, through the mobile application, or email.

	We may monitor and record any calls between you and us.
Assigning the Agreement	We may sell, transfer or assign this Agreement and your Enhanced Yield Account. We may do so at any time without notifying you. You may not sell, assign or transfer your Enhanced Yield Account or any of your rights, benefits, duties or obligations under this Agreement.
Rights and remedies cumulative	No delay or omission by the lender in exercising any right or remedy hereunder shall operate as a waiver of the future exercise of that right or remedy or of any other rights or remedies hereunder. All rights of the lender stated herein are cumulative and in addition to all other rights provided by law, in equity.
Severability	If at any time after the date of this Agreement, any of the provisions of this Agreement, with the exception of the mandatory arbitration provision below, which is governed by a separate severability provision, are held by any court of competent jurisdiction to be illegal, void or unenforceable, such provision shall be of no force and effect, but the illegality and unenforceability of such provision shall have no effect upon and shall not impair the enforceability of any other provisions of this Agreement.
Governing law	All extensions of credit are made by us in the state of Utah. Utah law and federal law govern this Agreement and your Enhanced Yield Account. They govern without regard to internal principles of conflicts of law.
Dispute resolution	
How to resolve a mistake	If you think we made a mistake in how we have handled your account, email us at support@mycred.io, call our support line at (213) 262-6000 or write to us at: CRED LLC 2121 S. El Camino Real, 5th floor San Mateo, CA 94403 In your email or letter, please provide: • your name and your telephone number or email address associated with your Enhanced Yield Account; • the dollar amount of the suspected error; and • a description of the error and why you believe it is a mistake. You must contact us within 30 days after the error appeared on any statement, notice or other communication from us to you or will waive your objection. Within 30 days of receiving your call, email, or letter, we will confirm that we received your call, email, or letter and we will notify you if we have already corrected the error. Within 90 days of receiving your call, email, or letter, if we have not already resolved the error, we will correct the error or explain to you why we believe the statement is correct.
Mandatory arbitration	PLEASE READ THIS ARBITRATION PROVISION CAREFULLY AS IT AFFECTS YOUR RIGHTS AND WILL IMPACT HOW LEGAL CLAIMS YOU BRING AGAINST CRED LLC OR THAT CRED LLC BRINGS AGAINST YOU ARE RESOLVED. You and we agree that any claim or dispute at law or equity that has arisen or may arise between us will be resolved in accordance with the provisions set forth in this mandatory arbitration provision. Contact CRED First If you have a dispute regarding your Enhanced Yield Account, we encourage you to contact us first at support@mycred.io or (213) 262-6000 to try resolving your problem directly with us.

Agreement to Arbitrate

Except as explicitly provided in this Agreement, any dispute or claim arising out of or relating to this Agreement, or relating in any way to your Enhanced Yield Account, your loan, or the use of any of our products, websites, web applications, or mobile applications that cannot be resolved directly between you and us, including without limitation, any claims based in contract, statute, tort, fraud, misrepresentation or any other legal theory, shall be resolved by non-appearance based binding arbitration, rather than in court. You may also assert claims in small claims court, if your claims qualify and so long as the matter remains in such court and advances only on an individual (non-class, non-representative) basis. The Federal Arbitration Act and federal arbitration law apply to this Agreement. There is no judge or jury in arbitration and court review of an arbitration award is limited, but an arbitrator can award an individual the same damages and relief as a court and must apply and follow the terms of this Agreement as a court would. YOU UNDERSTAND THAT ABSENT THIS PROVISION, YOU WOULD HAVE THE RIGHT TO SUE IN COURT AND HAVE A JURY TRIAL.

Except as explicitly provided in elsewhere in this Agreement, all claims you or we bring must be resolved in accordance with this mandatory arbitration provision. Any claim filed or brought contrary to this mandatory arbitration provision shall be considered improperly filed.

Arbitration Procedures

Either you or we can initiate arbitration through the alternative dispute resolution provider the American Arbitration Association (the "AAA") under its rules and procedures and, where appropriate, the then-current Supplementary Procedures for Consumer Related Disputes (the "Consumer Rules"), as modified by this mandatory arbitration provision. The AAA's rules and Consumer Rules are available at the AAA website www.adr.org.

The arbitration shall be conducted by telephone or electronic means and/or shall be solely based on written submissions, the specific manner of which shall be chosen by the party initiating the arbitration. The arbitration shall not involve any personal appearance by the parties or witnesses unless the arbitrator determines that an in-person hearing is necessary based on the request of one of the parties. The arbitrator will make a decision in writing, and shall provide a statement of reasons if requested by either party. The arbitrator will decide the substance of all claims in accordance with applicable law, including recognized principles of equity, and will honor all claims of privilege recognized by law. Any judgment on the award rendered by the arbitrator shall be final and may be entered in any court of competent jurisdiction.

Costs of Arbitration

Your arbitration fees and your share of arbitrator compensation shall be governed by the AAA rules and, where appropriate, limited by the AAA Consumer Rules. If such costs are determined by the arbitrator to be excessive, we will pay all arbitration fees and expenses.

Prohibition of Class and Representative Actions and Non-Individualized Relief

YOU AND WE EACH AGREE THAT ANY DISPUTE RESOLUTION PROCEEDINGS WILL BE CONDUCTED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS, CONSOLIDATED OR REPRESENTATIVE ACTION, UNLESS BOTH YOU AND WE AGREE OTHERWISE. THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN MORE THAN ONE PERSON'S OR PARTY'S CLAIMS AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A

CONSOLIDATED, REPRESENTATIVE, OR CLASS PROCEEDING. ALSO, THE ARBITRATOR MAY AWARD RELIEF ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY'S INDIVIDUAL CLAIM(S). ANY RELIEF AWARDED CANNOT AFFECT OTHER CRED CUSTOMERS.

If for any reason a claim proceeds in court rather than in arbitration, we each waive any right to a jury trial and agree to proceed only on an individual basis and not in a class, consolidated, or representative action.

Exceptions

You and we agree that the following disputes are not subject to the above provisions concerning informal negotiations and binding arbitration: (1) any case we file to collect assets you owe under this Agreement (however, if you respond to the collection lawsuit by claiming any wrongdoing, we may require you to arbitrate); (2) any disputes seeking to enforce or protect, or concerning the validity of, any of your or our intellectual property rights; and (3) any claim for injunctive relief.

We also both agree that you or we may bring suit in court to obtain interim or preliminary injunctive relief necessary to protect the rights or property of you or CRED and all of our partners, affiliates, shareholders, employees, and agents of any kind (together, our "Affiliates").

Severability

With the exception of any of the provisions in the subsection above entitled "Prohibition of Class and Representative Actions and Non-Individualized Relief", if a court decides that any part of this mandatory arbitration provision is invalid or unenforceable, the other parts of this mandatory arbitration provision shall still apply. If a court decides that any of the provisions in the subsection entitled "Prohibition of Class and Representative Actions and Non-Individualized Relief" is invalid or unenforceable, then the entirety of this mandatory arbitration provision shall be null and void. The remainder of the Agreement will continue to apply.

Opt-Out Procedure

Notwithstanding the above, you may choose to pursue your claim in court and not by arbitration if you opt out of this arbitration provision within 30 days from the date you accept this Agreement for the first time (the "Opt Out Deadline"). You may opt out of this mandatory arbitration provision by sending us a written notice that you opt out to the following address: CRED LLC, 2121 S. El Camino Real, 5th floor, San Mateo, CA 90403. Any opt-out received after the Opt Out Deadline (allowing three (3) additional days for mailing) will not be valid and you must pursue your claim in arbitration or small claims court. If you opt out of arbitration provisions, all other parts of this Agreement will continue to apply. Opting out of this mandatory arbitration provision has no effect on any previous, other, or future arbitration agreements that you may have with us.

Future Amendments to this Arbitration Provision

Notwithstanding any provision in this Agreement to the contrary, you and we agree that if we make any amendment to this mandatory arbitration provision (other than an amendment to any notice address, telephone number, or website link provided herein) in the future, that amendment shall not apply to any claim that was filed in a legal proceeding against us prior to the effective date of the amendment. The amendment shall apply to all other disputes or claims governed by the arbitration provisions that have arisen or may arise between you and us. We will notify you of amendments to this mandatory arbitration provision by posting the amended terms on www.cred.io at least 30 days before the effective date of the amendments and by providing notice through email. If you do not

agree to these amended terms, you may close your Enhanced Yield Account within the 30-day period and you will not be bound by the amended terms.

[Balance of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the Effective Date written below. It is specifically agreed and understood that this Agreement is not binding upon the parties until the date it is actually signed by CRED.

Effective Date: ~~February 15, 2019~~

Dan Schatt, President
For and on behalf of CRED LLC

~~[Lender]~~
For and on behalf of ~~[Entity - If any]~~

Lender

Borrower

Signature

Signature

Printed

Printed

Addresses for notices:

Addresses for notices:

~~Support@mycred.io~~
Cc: James Alexander
~~james.alexander@mycred.io~~

~~[Email of Lender for notices]~~

SAMPLE EXHIBIT 1 – TO BE COMPLETED FOR SUBSEQUENT INVESTMENTS**TRANCHE AGREEMENT No. [2]**

Borrower and Lender hereby agree as follows:

- 1) Each has elected to proceed with a new Tranche transaction involving additional Bitcoin loaned by You.
- 2) Each agrees that the Enhanced Yield Agreement, effective on or about _____ is incorporated by reference into this Tranche Agreement and that the following terms are part of the Agreement:

Loan Assets	☒ Bitcoin
Commitment Amount	_____ Bitcoin
Interest Rate	_____ % per annum for this Tranche, based on market conditions and Lender's adjustments to its normally-prevailing rates, which Lender modifies from time to time in its sole discretion.
Funding Date	_____ The actual Funding Date will be the date CRED confirms receipt of the Loan Assets into Cred's Paying Agent Wallet at the following address: 3MXVTpasaHSAP91wohZDy3UbFdcLqVGx3U
Initial Term	Your Enhanced Yield Account will mature as follows: ☒ on [_____] (calendar month end, 6 months after Funding Date) ☐ on _____ (days after the Funding Date) However, your Enhanced Yield Account will mature sooner if you timely deliver a Closure Notice as described above. If you do not withdraw your funds within 15 days after the scheduled maturity date, we will either extend your account for another period equal to the original period or close your account and return your funds.
Execution Date	_____, 20__

- 3) This Tranche Agreement No. [] documents a new Tranche and becomes a binding agreement on the Execution Date set forth above.

[Balance of page intentionally left blank.]

Dan Schatt, President
For and on behalf of CRED LLC

{Lender}

Borrower

Lender

Signature

Signature

Printed

Printed

MULTI-TRANCHE CREDIT AGREEMENT

This Multi-Tranche Credit Agreement (including the exhibits hereto, this "Agreement") is entered into by and between the undersigned individual or entity (the "Borrower") and CRED LLC having an address of 123 Mission Street, San Francisco, CA 94105 (the "Lender") as of the Effective Date specified on the signature page hereto.

RECITALS

WHEREAS, the Borrower desires to borrow money from time to time in Tranches and secure those borrowings by pledging an agreed amount of Tokens in the form of Bitcoin, Ethereum, XRP and other agreed-upon types of cryptocurrency to Lender, and Lender desires to lend in Tranches to Borrower, subject to agreed-upon terms and conditions;

WHEREAS, Lender will release pledged Tokens on the Maturity Date for a Tranche, subject to agreed-upon terms and conditions; and

WHEREAS, the parties intend that the benefit of any and all appreciation and any and all risk of loss from any depreciation resulting from a change in the price of the Tokens from the Closing Date for a Tranche to the Maturity Date for that Tranche in the normal, non-default course of business will accrue to the Borrower and not to the Lender,

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. DEFINITIONS. All the Terms Used in This Agreement Shall Have The Following Meanings:

- 1.1 "Advance Rate" means 50% of the Fair Market Price per the Closing Statement for XRP and 50% of the Fair Market Price per the Closing Statement for Ethereum unless otherwise specified in a Tranche Agreement.
- 1.2 "Balance Disbursement" for a Tranche means the Tranche Loan Amount for that Tranche minus (less) the initial Disbursement, if any, and any origination fees, costs or expenses, if applicable and then due and as set forth in the Closing Statement for that Tranche, not satisfied in cash by the Borrower on the Closing Date.
- 1.3 "Bitcoin" means Bitcoin pledged or transferred as specified in this Agreement and any related Bitcoin resulting from a "soft" or "hard" fork in the Bitcoin blockchain, a revision or upgrade to the Bitcoin software code, reclassification, or other like change of Bitcoin.
- 1.4 "Collateral" is defined in the Pledge Agreement.
- 1.5 "Contractual Currency" means USD unless otherwise specified in a Tranche Agreement.
- 1.6 "Closing Date" means the date on which a Tranche is consummated, as evidenced by a completed and accepted Closing Statement.
- 1.7 "Closing Statement" means a document in substantially the form of Exhibit 2 hereto relating to a particular Tranche, which document will be binding and conclusive for all purposes unless Borrower provides a detailed written notification to Lender within 3 business days of the date of transmission of the Closing Statement and that notification demonstrates with accurate supporting evidence that an error was made in the Closing Statement.
- 1.8 "Currency Exchange Price" the parties agree to calculate the Token exchange price based on the applicable Bloomberg United States Dollar Spot XBT or XET Currency page.
- 1.9 "Default" means any event, act or condition which, with notice or lapse of time or both, would constitute an Event of Default.
- 1.10 "Default Floor" means, initially and with respect to a particular Tranche, 75% of the Fair Market Price for Ethereum per the Closing Statement and 75% of the Fair Market Price for XRP per the Closing Statement. Following the cure of a Valuation Event for a Tranche, Default Floor means that the Fair Market Price for pledged Collateral at that time is less than 80% of the then-outstanding balance of the Tranche Loan Amount plus any interest, fees and other amounts then due and payable with respect to that Tranche.
- 1.11 "Default Notice" is defined in Section 7.2.
- 1.12 "Deficiency" means with respect to a Valuation Event and a particular Tranche, the amount measured in USD by which the Default Floor for that Tranche exceeds the Fair Market Price for the Tokens pledged in that Tranche.

- 1.13 "Digital Wallet" means a software program that stores public and private keys and interfaces with the Token blockchain in order to allow users to send and receive Tokens.
- 1.14 "Electronic Messaging System" means an electronic system for communication capable of reproducing communication in hard copy form, including email.
- 1.15 "Equivalent Tokens" means with respect to a particular Tranche, Tokens equivalent (the same type, name, category and technical specifications) to the Tokens pledged by Borrower in that Tranche.
- 1.16 "Ethereum" means Ethereum pledged or transferred as specified in this Agreement and any related Ethereum resulting from a "soft" or "hard" fork in the Ethereum blockchain, a revision or upgrade to the Ethereum software code, reclassification, or other like change of Ethereum.
- 1.17 "Event of Default" is defined in Section 7.1.
- 1.18 "Exchange Business Day" means any day that is a trading day and a price is posted on the applicable Bloomberg United States Dollar Spot XBT or XET Currency page.
- 1.19 "Fair Market Price" means with respect to a Token, the average of the last USD sale price for that Token on 2 consecutive Exchange Business Days (although 3 consecutive Exchange Business Days is used in pricing a Tranche, as will be reflected in the initial Closing Statement for that Tranche) quoted using the Bloomberg Generic Price as posted by Bloomberg on the applicable United States Dollar Spot XBT or XET Currency page.
- 1.20 "Initial Disbursement" means for a particular Tranche, the portion in USD of the Tranche Loan Amount for that Tranche specified in the Tranche Agreement.
- 1.21 "Maturity Date" means with respect to a particular Tranche, 3-year anniversary of the Closing Date for that Tranche unless otherwise agreed in the Tranche Agreement.
- 1.22 "Pledge Agreement" means the Pledge Agreement (Cryptocurrency) attached as Exhibit E, entered into by Borrower and Lender and incorporated by reference herein.
- 1.23 "Special Default Notice" is defined in Section 6.3.
- 1.24 "Tranche Loan Amount" means with respect to a particular Tranche, the amount Lender agrees to lend based on the Tokens to be pledged by Borrower to secure that Tranche. The Tranche Loan Amount is calculated as the product of (1) the per-Token Fair Market Price (calculated using the Verification Date as the first day of pricing) of the Tokens being pledged in that Tranche and (2) the number of Tokens being pledged.
- 1.25 "Tranche Repayment Amount" means with respect to a particular Tranche, the aggregate amount to be paid by Borrower to Lender on the Maturity Date to pay and satisfy all of Borrower's obligations, debts and liabilities with respect to that Tranche.
- 1.26 "Tokens" means the type of cryptocurrency specified in a Tranche Agreement, which will be either Bitcoin, Ethereum or XRP.
- 1.27 "Tranche" means a particular loan transaction entered into pursuant to this Agreement and a particular Tranche Agreement and Closing Statement.
- 1.28 "Tranche Agreement" means an agreement in substantially the form of Exhibit F hereto containing such terms and conditions as Borrower and Lender may agree upon in writing at the time to evidence a particular Tranche.
- 1.29 "Transaction Documents" means collectively, this Agreement, the Pledge Agreement, the Tranche Agreements, the Closing Statements, and any other agreements, documents, instruments, exhibits or financial statements delivered in connection with Tranches. All such documents must be contemporaneously executed and read and construed together in a manner so as to give meaning and effect to all their provisions.
- 1.30 "USD" means United States Dollars.
- 1.31 "Valuation Event" means with respect to a particular Tranche that the Fair Market Price of the Tokens pledged in that Tranche has fallen below the Default Floor.
- 1.32 "Verification Date" means the day after the Tokens are received in Lender's Digital Wallet prior to the Closing Date for a particular Tranche.

2. TOKEN DELIVERY AND DISBURSEMENT ON TRANCHE CLOSING DATE**2.1 Tranche Loan Amount.**

- (a) Subject at all times to all of the terms and conditions of this Agreement, Lender agrees to send to Borrower funds equal to the Tranche Loan Amount for a particular Tranche as set forth in the applicable Tranche Agreement in the form of Exhibit 1 and Closing Statement in the form of Exhibit 2, both of which exhibits are incorporated herein by reference. The Tranche Loan Amount must be funded in the Contractual Currency no later than the Closing Date.
- (b) In addition to the first Tranche Agreement which must be executed contemporaneously with this Agreement, Borrower and Lender may each elect to enter into additional Tranche Agreements for additional Tranche Loan Amounts secured by Tokens in the chosen type of Token for each Tranche Agreement. Lender will make its best efforts to complete additional Tranche Agreements contingent upon market conditions such as the price, trading volume, number of Tokens issued and outstanding and the number of Tokens in the float. All Tranches and Tranche Agreements are subject to the terms and conditions of this Agreement, although the parties may agree in writing in each Tranche Agreement upon such additional or different terms and conditions as set forth in the Tranche Agreement. Each Tranche transaction must be memorialized using the Tranche Agreement and Closing Statement forms attached hereto as Exhibit 1 and Exhibit 2.
- (c) Lender has the discretion and right to elect to not proceed with any Tranche with the Borrower up until the expected Closing Date for that Tranche. If Lender elects not to proceed with a Tranche, Lender will return the Tokens delivered by Borrower related to that Tranche within 5 business days.

2.2 Origination Fee; Interest Calculation.

- (a) Contemporaneous with the funding of the Tranche Loan Amount by Lender on the Closing Date for a particular Tranche, Borrower must pay an origination fee equal to that Tranche Loan Amount multiplied by the Origination Fee Percentage applicable to a Tranche Loan Amount of that amount, as specified below:

Origination Fee Percentage	Tranche Loan Amount
3.00%	All Tranche Loan Amounts, unless otherwise specified in a Tranche Agreement and agreed to in writing by Lender.

Lender may deduct such origination fee from the Tranche Loan Amount.

- (b) Each Tranche will accrue interest at the annual rate specified in the Tranche Agreement from and including the date of disbursement until and including the date repayment is received by Lender. Interest will be computed on a 360-day year for the actual number of days elapsed and will be due and payable monthly or quarterly in arrears on the last day of each month or quarter, as specified in the Tranche Agreement. However, during the continuance of an Event of Default hereunder, all outstanding amounts will accrue interest at an annual rate equal to 7% plus the annual rate otherwise applicable to that outstanding amount.

2.3 Pledge Agreement; Security Interest; Lender Control of Tokens.

- (a) Pledge Agreement. Borrower acknowledges and agrees that Borrower is pledging Collateral to secure Borrower's obligations under this Agreement and by signing this Agreement, Borrower is also signing and agreeing to the Pledge Agreement (Cryptocurrency) provided to Borrower in connection with this Agreement. Borrower acknowledges receipt of a copy of that Pledge Agreement (Cryptocurrency) and agrees that it is incorporated by reference herein.
- (b) Lender control of Collateral. Borrower acknowledges that the Lender has all rights, title, ownership and interest associated with the Tokens and the Collateral for a particular Tranche during the term of that Tranche Agreement.

2.4 Payment Provisions.

- (a) **Maturity.** With respect to each Tranche, the Borrower agrees to pay to Lender the Tranche Repayment Amount plus any other Borrower obligations due on the Maturity Date.
- (b) **Extensions and Refinancings.** With respect to each Tranche, the Maturity Date may be extended or the Tranche refinanced by Lender if Borrower requests an extension or refinancing at least 30 days in advance and Lender agrees in writing. A fee in the minimum amount of 1% of the Tranche Repayment Amount is due and payable on (i) the original Maturity Date if Lender agrees to extend such Maturity Date or (ii) on the date of refinancing if Lender agrees to provide refinancing on terms acceptable to Lender at that time in its sole discretion.
- (c) **Late Fees.** If Lender has not received any payment when due hereunder from Borrower, including receipt of the Tranche Repayment Amount and all other obligations from Borrower then due in immediately available funds before the close of business (Pacific time) 3 Exchange Business Days after the Maturity Date, Borrower must pay to Lender a late charge equal to 5% of the portion of the payment, including but not limited to the Tranche Repayment Amount, that is then due. Such late charge is in addition to and cumulative with all other obligations, rights, benefits and remedies available to Lender under the Agreement on account of any default by the Borrower.
- (d) **Prepayment.** There is no prepayment of the Tranche Repayment Amount permitted prior to the Maturity Date, other than as necessary to cure a Valuation Event. Borrower acknowledges that, if the Tranche Repayment Amount is paid or other prepayments are made for any reason prior to the Maturity Date other than to cure a Valuation Event, Lender will incur losses and damages.
- (e) **Automatic Electronic Payments.** If Borrower consented to automatic payment on Exhibit 2 and thereby authorized Lender to debit by ACH transfer the bank or credit union account (the "Account") at the financial institution (Borrower's "Financial Institution") specified on Exhibit 3 for the amount of each payment due on each due date, then Lender will do so. If there is more than one Borrower obligated to repay the Outstandings and the Borrowers designate more than one Account for purposes of making electronic payments, then Borrower agrees that Lender will first attempt to debit the primary borrower's account up to two times and, if either of those debits is returned or rejected for any reason, then Lender may debit the other Accounts designated by the borrowers in any order and Lender may debit multiple Accounts for portions of the minimum payment then due. Borrower agrees that Lender will give Borrower prior notice of a payment/debit that varies in amount from the amount of the previous payment/debit or from the preauthorized amount only if the payment/debit varies by more than \$2,500 from the amount of the previous payment or from the preauthorized amount. This authorization does not affect Borrower's obligation to pay when due all amounts payable hereunder, whether or not there are sufficient funds therefore in such accounts. The foregoing authorization is in addition to, and not in limitation of, any rights of setoff Lender may have. With regard to payments made by automatic withdrawal, Borrower may stop payment of automatic withdrawals or revoke Borrower's prior authorization for automatic withdrawals by notifying Borrower's Financial Institution at least 3 business days before the scheduled date of transfer. Borrower must notify Lender of the exercise of Borrower's right to stop a payment or revoke Borrower's authorization for automatic withdrawals at least 3 business days before the scheduled date of transfer.
- (f) **When Borrower's payment will be credited to Borrower's account.** Lender credits payments as of the date received, if the payment is: (1) (a) received by 12 p.m. Pacific time in the form, manner and at the place or address designated by Lender for payment; or (b) paid with a check drawn in U.S. dollars on a U.S. financial institution or a U.S. dollar money order; or (2) by means of a preauthorized ACH transfer. Payments by check received after 12 p.m. Pacific time at the address specified by Lender on any day including the payment due date, but that otherwise meet the above requirements for checks, will be credited as of the next day. Credit for payments not made by ACH transfer as specified above may be delayed up to five business days.
- (g) **Application of Payments.** Lender will apply all payments first to fees, expenses and other amounts (other than principal and interest) Borrower owes Lender, then to accrued interest and the balance to outstanding principal. However, if a Default occurs, Lender will apply payments to Borrower's obligations as Lender determines in Lender's sole discretion.
- (h) **Other payment terms.** Lender can accept late payments, partial payments, or payments with any restrictive writing without losing any of Lender's rights under this Agreement. This means that no payment, including those marked with paid in full or with any other restrictive words, will operate as an accord and satisfaction without the prior written approval of one of Lender's senior officers. Borrower may not use a postdated check to make a payment. If Borrower does postdate a payment check, Lender may elect to honor it upon presentment or return it uncredited to the person that presented it, without in either case waiting for the date shown on the check. Lender is not liable to Borrower for any loss or expense arising out of the action Lender elects to take.

2.5 Pre-Closing Deliveries. With respect to each Tranche, Borrower must have delivered to Lender on or before the Closing Date for that Tranche:

- (a) this Multi-Tranche Credit Agreement executed by Borrower;
- (b) the Pledge Agreement;
- (c) a Tranche Agreement completed and executed by Borrower; and
- (d) the Tokens in the type and number specified in the Tranche Agreement. Delivery instructions for the wallet-to-wallet transfer of the Tokens to Lender, including Lender's Digital Wallet address for receiving the Tokens will be provided at the time of transfer of the Tokens.

2.6 Legal Matters. All matters and all documentation and other instruments in connection with each Tranche and all matters hereunder must be satisfactory in form and substance to Lender and its counsel, and counsel to Lender shall have received copies of all documents which it may reasonably request in connection with such transactions.

2.7 Closing of each Tranche. With respect to each Tranche:

- (a) Borrower must deliver the Tokens to Lender's Digital Wallet address(es) as provided by Lender in an encrypted email. Borrower acknowledges that the process of sending the Tokens to Lender may be interrupted or subject to errors. Failure to properly use the Borrower's Digital Wallet software may result in errors and Lender not receiving the Tokens. Borrower should take great care to verify the accuracy of Lender's Digital Wallet address(es) before sending the Tokens. Borrower understands and assumes the risk that any Tokens sent to an incorrect Digital Wallet address may never be recovered.
- (b) Promptly following receipt of the Tokens by Lender, but no later than 5 pm Eastern Standard Time on the Exchange Business Day of receipt, Lender will transfer any Initial Disbursement to the Borrower's account specified on Exhibit 3.
- (c) The Closing Date must occur no later than 5 Exchange Business Days from the Verification Date, assuming the conditions to Lender's obligations set forth in Section 2.5 herein are satisfied. The Balance Disbursement must be paid on the Closing Date. Lender must provide the Closing Statement to Borrower prior to the Closing Date. The Balance Disbursement must be settled (paid) to the Borrower's account specified on Exhibit 3.

2.8 Redelivery of the Tokens. Within 5 business days of the Borrower's satisfaction of all obligations under this Agreement with respect to a Tranche as confirmed by Lender, Borrower will specify a Digital Wallet address for redelivery of the Tokens and Lender will deliver Equivalent Tokens to such address in an amount equal to the Tokens originally delivered by Borrower at such time as Lender is reasonably capable of doing, consistent with Lender's rights to maintain possession of the Collateral beyond the time of repayment and satisfaction of the Outstandings, as set forth in the Pledge Agreement. It is Borrower's responsibility to ensure the Digital Wallet address provided to Lender is accurate and capable of receiving the return of the Tokens. Borrower understands and acknowledges that the loss of any requisite private key(s) associated with Borrower's Digital Wallet will result in loss of access to any Tokens returned to such address. Moreover, any third party that gains access to such private key(s), including by gaining access to login credentials of a hosted wallet or vault service Borrower uses, may be able to misappropriate Borrower's Tokens. Lender is not responsible for any such losses.

3. PAYMENT AND TRANSFER

- 3.1 Unless otherwise agreed, all money paid hereunder must be in immediately available freely convertible funds of the relevant currency. All Tokens to be transferred hereunder must be (i) unrestricted and free trading and in available form for transfer and must be accompanied by duly executed instruments of transfer or assignment in book (where required for transfer) and such other documentation as the transferee may reasonably request, or (ii) transferred through the book entry system of Euroclear or Clearstream, or (iii) transferred through any other agreed similar electronic book entry Tokens clearance system, or (iv) transferred by any other method mutually acceptable to Borrower and Lender.
- 3.2 Unless otherwise agreed, all money payable by one party to the other in respect of any transaction must be paid free and clear of, and without withholding or deduction for, any taxes or duties of whatsoever nature imposed, levied, collected, withheld or assessed by any authority having power to tax, unless the withholding or deduction of such taxes or duties is required by law. In that event, unless otherwise agreed, the paying party shall pay such additional amounts as will result in the net amounts receivable by the other party (after taking account of such withholding or deduction) being equal to such amounts as would have been received by it had no such taxes or duties been required to be withheld or deducted.

- 3.3 Notwithstanding the use of expressions such as "Tranche Repayment Amount" which are used to reflect terminology used in the market for transactions of the kind provided for in this Agreement, all right, title and interest in and to Tokens and money transferred or paid under this Agreement shall pass to the transferee upon transfer or payment.

4. CONTRACTUAL CURRENCY

- 4.1 All the payments must be made in the Contractual Currency. Notwithstanding the foregoing, the payee of any money may, at its option, accept tender thereof in any other currency, provided, however, that to the extent permitted by applicable law, the obligation of the payer to pay such money will be discharged only to the extent of the amount of the Contractual Currency that such payee may, consistent with normal banking procedures, purchase with such other currency (after deduction of any premium and costs of exchange) for delivery within the customary delivery period for spot transactions in respect of the relevant currency.
- 4.2 If for any reason the amount of any payment received by a party falls short of the amount in the Contractual Currency due and payable, the party required to make the payment will, as a separate and independent obligation, immediately transfer such additional amount in the Contractual Currency as may be necessary to compensate for the shortfall so as to assure full payment.

5. REPRESENTATIONS. Borrower represents and warrants that:

- 5.1 **No Liens or Restrictions.** Borrower has the absolute right to assign, convey, transfer and deliver the Tokens to the transferee free and clear of any and all mortgages, pledges, security interests, liens or other encumbrances or charges of any kind or nature. The transferor is in sole possession of the private keys associated with the Tokens and has not previously sold, conveyed, transferred, assigned, participated, pledged or otherwise encumbered the Tokens or its beneficial interest therein.
- 5.2 **Consents.** This Agreement and all the other Transaction Documents executed by and to be executed by Borrower constitute valid and binding obligations of Borrower enforceable in accordance with its respective terms and are to be construed and interpreted as a whole, the same being part of an integrated transaction. No consent of any other person and no consent, license, approval, or authorization of any governmental authority is required in connection with the pledging by Borrower of Collateral hereunder and under the Pledge Agreement, the execution, delivery and performance of this Agreement, and any of the other Transaction Documents executed or to be executed in connection herewith.
- 5.3 **No Conflicts.** The execution and delivery by Borrower of this Agreement and any other Transaction Document executed and to be executed by Borrower, do not and will not (a) conflict with or violate any law or governmental order applicable to Borrower or (b) conflict with, result in any breach of, constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, or result in the creation of any encumbrance on any Token (if applicable) pursuant to, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which Borrower is a party or by which Borrower or the Token (if applicable) are bound or affected or which would have an effect on the ability of Borrower to consummate the transactions contemplated by the Transaction Documents.
- 5.4 **No Default.** Borrower is not in default under any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which Borrower is a party or by which the pledgor of the Tokens (if applicable) are bound or affected or which would have an effect on the ability of Borrower to consummate the transactions contemplated by this Agreement.
- 5.5 **No Additional Liens.** The Borrower covenants that so long as a Tranche or any obligations to Lender remain outstanding and unpaid, the Borrower will not create, assume or suffer to exist any lien of any kind upon any of the Tokens Borrower transferred to Lender.
- 5.6 **Anti-Money Laundering Program.** Borrower represents and warrants that it will comply with anti-money laundering laws and regulations that apply to Borrower. At the request of Lender, Borrower must provide such written further assurances as Lender may reasonably request to confirm that Borrower maintains an anti-money laundering program if it is required to do so.
- 5.7 **OFAC.** Borrower hereby agrees and acknowledges that it will continue to comply with rules and regulations enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") that are applicable to Borrower. Borrower represents and warrants that neither it nor any person who controls Borrower bears a name that appears on the List of Specially Designated Nationals and Blocked Persons maintained by OFAC from time-to-time. Borrower hereby represents and warrants that none of the Tokens pledged to Lender hereunder came from a third party that violated, or otherwise would violate, the provisions of any rules, regulations, or laws administered by OFAC, or be subject to other restriction based on such relevant government lists as may be published from time-to-time.

- 5.8 **Source and Use of Tokens.** Borrower represents and warrants that (i) none of the Tokens pledged to Lender hereunder was sourced from a third party that is/has engaged in unlawful activities under state, federal or non-U.S. statutes (e.g., the Federal Controlled Substances Act) and (ii) any Tokens pledged to Lender hereunder has been lawfully obtained and has not been, is not, and will not be, used in any illegal activities. In addition, Borrower represents and warrants that neither it nor any person who controls Borrower resides in or who subscription funds are transferred from or through an account in a Non-Cooperative Jurisdiction. For purposes of this Agreement, a "Non-Cooperative Jurisdiction" means any country or territory that has been designated as non-cooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization, such as the Financial Action Task Force on Money Laundering, of which the United States is a member and with which designation the United States representative to the group or organization continues to concur.
- 5.9 **No Material Information.** There is no material fact known to the Borrower regarding any Token pledged to Lender hereunder which materially adversely affects or is likely or is anticipated to materially adversely affect such Token.
- 5.10 **Business Purpose.** Borrower represents and warrants that Borrower's purpose in incurring its debts, obligations and liabilities hereunder and entering into this Agreement is entirely for business or investment purposes and is not for personal, family, household or other consumer purposes.
6. **RISK FACTORS.** Borrower has carefully reviewed, acknowledged, understands and assumes the following risks, as well as all other risks associated with Tokens (including those not discussed herein), all of which could render the Tokens worthless or of little value:
- 6.1 **Liquidity.** There is no guarantee or representation of liquidity and/or transferability of Tokens in the future.
- 6.2 **Security.** Tokens may be subject to expropriation and/or theft, intentional or unintentional bugs or weaknesses that may negatively affect the Tokens or result in loss or ability to access the Tokens.
- 6.3 **Access to Private Keys.** Loss of private key(s) associated with Borrower's Digital Wallet or vault will result in loss of Tokens.
- 6.4 **Uncertain Regulatory Framework.** The regulatory status of cryptographic tokens, digital assets and blockchain technology is unclear and unsettled in many jurisdictions. It is difficult to predict how or whether governmental authorities will regulate such technologies. It is likewise difficult to predict how or whether any governmental authority may make changes to existing laws, regulations and/or rules that will affect cryptographic tokens, digital assets, blockchain technology and its applications. Such changes could negatively impact the Tokens in various ways.
7. **EVENTS OF DEFAULT**
- 7.1 **Events of Default.** An "Event of Default" shall exist if any one or more of the following shall occur:
- (a) Failure by Borrower to make when due, any payment or delivery under this Agreement required to be made by it if such failure is not remedied on or before the 3rd Exchange Business Day after notice of such failure is sent to Borrower; or
 - (b) If any representation or warranty made by Borrower in this Agreement or in any statement furnished at or in contemplation of the Closing Date or pursuant to this Agreement or any other Transaction Document shall prove to have been knowingly untrue or misleading in any material respect at the time made; or
 - (c) Default by Borrower in the performance of or observance of any covenant or agreement contained in this Agreement or default in any other Transaction Document which is not cured within a reasonable time; or
 - (d) If the Tokens cease to trade or are otherwise halted for more than 3 Exchange Business Days by a regulatory agency or for any other reason; or
 - (e) If Borrower makes a general assignment for the benefit of creditors or consents to the appointment of a receiver, liquidator, custodian, or similar official of all or substantially all of its properties, or any such official is placed in control of such properties, or Borrower admits its inability to pay its debts as they mature; or
 - (f) If documents shall at any time after their execution and delivery for any reason cease to be in full force and effect or are declared null or void, or the validity or enforceability thereof is contested by Borrower or by any other person; or

(g) If a Valuation Event occurs with respect to a Tranche and Borrower fails to cure such Valuation Event as set forth below:

(i) If a Valuation Event occurs, Lender will provide written notice thereof to Borrower. Borrower has 3 business days following receipt of such written notice to cure the deficiency by delivering to Lender either USD or additional Tokens in an amount equal to the Deficiency as set forth in the Default Notice. Lender may demand that cure be effected only in USD.

(ii) The cure of a Valuation Event will reduce, or buy down, the Default Floor to a new lower Default Floor for the Tokens and if effected in USD, will reduce the Tranche Repayment Amount dollar-for-dollar. If a cure is effected by delivering additional Tokens, then these Tokens must be delivered by Lender to Borrower at Maturity pursuant to Section 2.8 for that Tranche.

7.2 **Rights Upon An Uncured Event of Default.** If at any time an Event of Default has occurred and is continuing beyond any applicable cure period, the non-defaulting party shall issue a written notice to the defaulting party specifying the relevant Event of Default (a "Default Notice"). Lender will have all rights and remedies afforded by law and under the Transaction Documents. Matters set forth as fact in a Default Notice, including data and calculations, will be binding and conclusive unless Borrower provides a detailed written notification to Lender within 3 business days of the date of transmission of the Default Notice and that notification demonstrates with accurate supporting evidence that an error was made in the Default Notice.

8. NOTICES AND OTHER COMMUNICATIONS

8.1 Any notice or other communication to be given under this Agreement shall:

- (a) be in the English language, and except where expressly otherwise provided in this Agreement, must be in writing;
- (b) may be given in any manner described in subsection 8.2 below;
- (c) must be sent to the party to whom it is to be given at the address or number, or in accordance with the electronic messaging details, set out herein.

8.2 Any such notice or other communications will be deemed effective:

- (a) if in writing and delivered in person or by courier, at the time when it is delivered;
- (b) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), at the time when that mail is delivered or its delivery is attempted;
- (c) if sent by electronic messaging system, at the time that electronic message is received except that any notice or communication which is received, or delivery of which is attempted, after close of business on the date of receipt or attempted delivery or on a day which is not a day on which commercial banks are open for business in the place where that notice or other communication is to be given will be treated as given at the opening of business on the next following day which is such a day.

8.3 If:

- (a) there occurs in relation to either party an event which gives rise to the service of a Default Notice; and
- (b) the non-defaulting party, having made all practicable efforts to do so, including having attempted to use at least two of the methods specified in subsection 8.2 has been unable to serve a Default Notice by one of the methods specified in those subsections (or such of those methods as are normally used by the non-defaulting party when communicating with the defaulting party), then the non-defaulting party may sign a written notice (a "Special Default Notice") which:
 - (i) specifies the relevant event referred to by section which has occurred in relation to the defaulting party;
 - (ii) states that the non-defaulting party, having made all practicable efforts to do so, including having attempted to use at least two of the methods specified in subsections 8.2, has been unable to serve a Default Notice by one of the methods specified in those subsections (or such of those methods as are normally used by the non-defaulting party when communicating with the defaulting party);

- (iii) specifies the date on which, and the time at which, the Special Default Notice is signed by the non-defaulting party; and
- (iv) states that the event specified in accordance with subsection (i) above will be treated as an Event of Default with effect from the date and time as specified.

On the signature of a Special Default Notice the relevant event will be treated as effective from the date and time so specified as an Event of Default in relation to the defaulting party, and the Special Default Notice will be treated and accepted as an effective Default Notice. Any Special Default Notice should also be sent in a manner contemplated under Section 5.2.

- 8.4 All notices, requests or other communications to either of the parties by the other must be in writing, sent by overnight mail by a reputable commercial carrier, or by electronic mail and will be deemed duly given on the earlier of the date the same is received or when deposited in the mail, postage prepaid, to the address specified on the signature page hereto, as the same may be updated from time to time by following the notice requirements specified in this section.

9. ENTIRE AGREEMENT AND SEVERABILITY

- 9.1 This Agreement supersedes any existing communications, term sheets, or agreements between the parties containing general terms and conditions for transactions. Each provision and agreement herein will be treated as separate from any other provision or agreement herein and will be enforceable notwithstanding the unenforceability of any such other provision or agreement.
- 9.2 Each party acknowledges that, and has entered into this Agreement and will enter into each Tranche hereunder in consideration of and in reliance upon the fact that such transactions hereunder constitute a single business and contractual relationship and are made in consideration of each other. Accordingly, each party agrees: (i) to perform all of its obligations in respect to the entire transaction hereunder, and that a default in the performance of any such obligations shall constitute a default by it in respect to the entire transactions hereunder, and (ii) that payments, deliveries and other transfers made by either of them in respect of any transaction will be deemed to have been made in consideration of payments, deliveries and other transfers in respect to the entire transaction hereunder.

10. NON-ASSIGNABILITY

- 10.1 Neither party may assign, charge or otherwise deal with (including without limitation any dealing with any interest in or the creation of any interest in) its rights or obligations under this Agreement without the prior written consent of the other party. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the parties and their respective successors and assigns.

11. GOVERNING LAW

- 11.1 This Agreement and all instruments delivered hereunder will be governed by and construed in accordance with the laws of the State of Utah, excluding them from any principles of conflicts of laws. Except to the extent either party exercises its right to demand arbitration pursuant to Section 12 of this Agreement, any legal action, claim or lawsuit commenced by one party against the other arising out of or in connection with this Agreement, and all instruments or agreements delivered hereunder must be brought exclusively in the courts in Salt Lake City, Utah, and such courts will have the exclusive jurisdiction and venue for any such legal action, claim or lawsuit.

12. ARBITRATION

- 12.1 **Arbitration of Claims, Disputes, or Controversies.** Any claim, dispute, or controversy ("Claim") arising from or relating to this Agreement or the relationships resulting from this Agreement, wherever and by whomsoever commenced, shall, upon delivery of a written notice demanding arbitration to the other party (including a written notice after the commencement of a lawsuit or a notice contained in court filings in any such lawsuit), be resolved by binding arbitration pursuant to the Federal Arbitration Act, 9 USC §§ 1 et seq., and the applicable rules of the American Arbitration Association ("AAA") or JAMS in effect at the time of the written notice demanding arbitration. The term "Claim" as used in this Agreement is to be given the broadest possible meaning, and includes but is not limited to claims, disputes, or controversies arising from or relating to soliciting, originating, closing, or enforcing the transaction that is the subject of the Agreement.

Borrower may select which of AAA or JAMS to use for purposes of administering an arbitration governed by this Agreement. The address, telephone number, and web site containing applicable rules for each of these arbitration administrators is as follows:

AAA
Corporate headquarters

1633 Broadway, 10th Floor
New York, NY 10019
212-716-5800
www.adr.org

JAMS
71 South Wacker Drive
Suite 3090
Chicago, IL 60606
312-655-0555
www.jamsadr.com

If Borrower fails to select an arbitration administrator within 30 days from the date it or Lender delivers notice demanding arbitration, Lender will choose one. Any arbitrator must be a commercial lawyer with more than 10 years of experience in a regionally recognized law firm or a retired Federal judge or judge who served as a regular member of a state court of intermediate or final appellate jurisdiction.

Arbitrations seeking monetary relief less than \$100,000.00 in the aggregate will be held within the federal judicial district encompassing the city where Borrower resides or is located. Arbitrations seeking monetary relief of \$100,000.00 or more in the aggregate will be held in Salt Lake City, Utah.

Each party shall pay one-half of any fees charged by the arbitration administrator for Claim(s) asserted by a party in this arbitration.

THIS AGREEMENT IS FULLY BINDING IN THE EVENT THAT A CLASS ACTION OR SIMILAR LAWSUIT IS FILED IN WHICH BORROWER WOULD BE A CLASS REPRESENTATIVE OR MEMBER. BORROWER AND LENDER AGREE THAT THERE WILL BE NO CLASS OR CONSOLIDATED ARBITRATION OF ANY CLAIM. FURTHERMORE, CLAIMS BROUGHT BY OR ON BEHALF OF OTHER BORROWERS MAY NOT BE CONSOLIDATED WITH OR ARBITRATED IN ANY ARBITRATION PROCEEDING THAT IS CONSIDERING BORROWER'S CLAIMS UNLESS SAID OTHER BORROWERS ARE PARTIES TO THE SAME AGREEMENT. SIMILARLY, BORROWER MAY NOT JOIN WITH OTHER BORROWERS TO BRING CLAIMS IN THE SAME ARBITRATION PROCEEDING UNLESS ALL OF SUCH OTHER BORROWERS ARE PARTY TO THE SAME TRANSACTION.

13 INDEMNITY AND LIMITATION OF LIABILITY

- 13.1 Either party shall indemnify and hold the other party harmless against any and all claims, demands, proceedings, suits, actions, damages, liabilities, losses, expenses and costs (which shall include, but not limited to all costs of defense, investigation and accounting and legal fees) to which the other party may become subject as a result of the defaulting party's fraud, negligence, willful misconduct or breach of any obligation under this Agreement.
- 13.2 Neither party will be liable for any indirect, incidental or consequential fees or damages, including loss revenue or profits or losses arising from its normal course of business even if a party has been advised of the possibility of such damages.
- 13.3 Each provision of this Section operates independently and survives the expiration or termination of this Agreement.

- 14 **NO WAIVERS.** No express or implied waiver of any Event of Default by either party shall constitute a waiver of any other Event of Default and the failure or delay in the exercise of any remedy hereunder by any party shall not constitute a waiver of its right to exercise any other remedy hereunder. No modification or waiver of any provision of this Agreement and no consent by any party to a departure here from will be effective unless and until such modification, waiver or consent is in writing and duly executed by both of the parties hereto. The failure or delay to give any notice herein will not constitute a waiver of any right to do so at a later date.

15 COUNTERPARTS; AMENDMENTS

- 15.1 This Agreement may be executed in counterparts, each of which will be deemed an original.
- 15.2 None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the parties.

16 SECTION HEADINGS

The section headings used in this Agreement are for convenience of reference only and are not to affect the construction of the Agreement nor are they to be taken into consideration in interpreting this Agreement.

17 **SEVERABILITY.** If one or more provisions of this Agreement or the applicability of any such provisions to any set of circumstances is determined to be invalid or ineffective for any reason, such determination shall not affect the validity and enforceability of the remaining provisions or the applicability of the same provisions or any of the remaining provisions to other circumstances.

18 **CONFIDENTIALITY.** This Agreement and any other related documents are to be kept confidential and are not to be reproduced in any manner whatsoever for persons other than the parties hereto. Each party agrees not to circumvent the legitimate interests of the other party and to maintain this transaction in strict confidentiality. Each party agrees to maintain the confidentiality of any trade secrets, techniques, and contracts and contacts of the other party. Borrower agrees not to engage in unauthorized communications (i.e. telephone calls, written inquiries, etc.) with Lender's banks, insurers, contracting parties and contacts.

19 **TRANSLATION OF AGREEMENT.** If this Agreement is translated into a language other than English, such translation is intended to assist the Borrower in understanding the terms and conditions of this Agreement and is not intended, and shall not comprise, an enforceable Agreement. To the extent that any conflict exists between a translation of this Agreement and the English language version of this Agreement, the English language version shall prevail and be conclusive. All notices, communications or documents exchanged under this Agreement or delivered under it must be in the English language or accompanied by an English translation of it.

20. **NO RELIANCE**

20.1 Each party will be deemed to represent to the other party on the date on which it enters into this Agreement that (absent a written agreement between the parties that expressly imposes affirmative obligations to the contrary):

- (a) it is acting for its own account and it has made its own independent decisions to enter into this Agreement and as to whether the transaction contemplated by this Agreement is appropriate or proper for it based upon its own judgment and upon advice from such advisors (including its tax, legal, accounting and regulatory advisors) as it has deemed necessary;
- (b) it is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into the transaction contemplated by this Agreement, it being understood that information and explanations related to the terms and conditions of this Agreement shall not be considered investment advice or a recommendation to enter into the transaction contemplated by this Agreement;
- (c) no communication (written or oral) received from the other party will be deemed to be an assurance or guarantee as to the expected results of the transaction contemplated by this Agreement;
- (d) it is capable of assessing the merits of and evaluating and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of the transaction contemplated by this Agreement; and
- (e) it is also capable of assuming, and assumes, the financial and other risks contemplated by this Agreement.

21. **CONSENTS.**

21.1 **TCPA Consent.** Borrower expressly consents to receiving calls and messages, including auto-dialed and pre-recorded message calls and SMS messages (including text messages) from Lender and its successors, assigns, agents, attorneys and service providers (collectively, the "Lender Parties" and individually, a "Lender Party"), at any telephone numbers that Borrower have provided or may provide in the future (including any cellular telephone numbers). Borrower's cellular or mobile telephone provider will charge Borrower according to the type of plan Borrower carries. Borrower also agrees that any Lender Party may contact Borrower by email, using any email address Borrower has provided to Lender or that Borrower provides to Lender in the future. Any Lender Party may listen to and/or record phone calls between Borrower and Lender Party representatives without notice to Borrower as permitted by applicable law. For example, Lender and/or its vendors and service providers listen to and record calls for quality monitoring purposes.

21.2 **Consent to Sharing Data with Vendors.** Borrower consents to Lender sharing with its vendors and service providers all data Lender has related to Borrower, this Agreement and the transactions related hereto for the purpose of opening, supporting and servicing the transactions related to this Agreement. Borrower agrees to provide accurate and complete information for those purposes.

21.3 **Electronic Transactions.** This Agreement is fully subject to Borrower's consent to electronic transactions and disclosures, which consent is or will be set forth in the terms of use for Lender's website and mobile app. Borrower

expressly agrees that this Agreement is a "transferable record" for all purposes under the Electronic Signatures in the Global and National Commerce Act and the Uniform Electronic Transactions Act.

Utah Residents Only: As required by Utah law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

{Balance of page intentionally left blank.}

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the Effective Date written below. It is specifically agreed and understood that this Agreement is not binding upon the parties until the date it is actually signed by the Lender.

Effective Date: _____

"Lender":

CRED LLC

"Borrower":

Christopher xx

Signature

Signature

Printed

Printed

Title

Title

Notice address:

Don Schatz
CRED LLC
123 Mission Street
San Francisco, CA 94105
800.222.0000

Notice address:

EXHIBIT 1

TRANCHE AGREEMENT No. [REDACTED]

Borrower and Lender hereby agree as follows:

- 1) Each has elected to proceed with a new Tranche transaction involving the pledge of additional Tokens by Borrower.
- 2) Each agrees that the Agreement is incorporated by reference into this Tranche Agreement No. [REDACTED] and that the following terms are part of the Agreement:

Advance Rate	_____ % for this Tranche, based on market conditions and Lender's adjustments to its normally-prevailing advance rate of 50%, which Lender modifies from time to time in its sole discretion.														
Tokens	☐ Bitcoin ☐ Ethereum ☐ XRP														
Number of Tokens	_____ Tokens														
Origination Fee	_____ % (\$ _____ USD)														
Confirmation of LBA holdings	Lender has confirmed that Borrower holds LBA with a Fair Market Price of at least 3% of the Tranche Loan Amount: ☐ YES ☐ NO														
Interest Rate	_____ % per annum for this Tranche, based on market conditions and Lender's adjustments to its normally-prevailing rates, which Lender modifies from time to time in its sole discretion: <table border="1" data-bbox="568 1207 1299 1354"> <thead> <tr> <th>Term</th> <th>Discounted Rate (based on LBA holdings)</th> <th>Standard Rate</th> </tr> </thead> <tbody> <tr> <td>12 months</td> <td>11%</td> <td>14%</td> </tr> <tr> <td>24 months</td> <td>10%</td> <td>13%</td> </tr> <tr> <td>36 months</td> <td>9%</td> <td>12%</td> </tr> </tbody> </table>			Term	Discounted Rate (based on LBA holdings)	Standard Rate	12 months	11%	14%	24 months	10%	13%	36 months	9%	12%
Term	Discounted Rate (based on LBA holdings)	Standard Rate													
12 months	11%	14%													
24 months	10%	13%													
36 months	9%	12%													
Principal Amortization	☐ Principal is not payable until the Maturity Date. ☐ Principal is amortized over a [_____] month[s] [_____] year[s] period and payable on the same day on which interest is payable.														
Interest Payments	Interest is due and payable ☐ monthly ☐ quarterly and payable on the last business day of each month or quarter, as applicable.														
Initial Disbursement	\$ _____ USD														
Tranche No. [REDACTED] Maturity Date	_____, 20____														
Execution Date of Tranche Agreement No. [REDACTED]	_____, 20____														

3: This Tranche Agreement No. [REDACTED] documents a new Tranche and becomes a binding agreement on the Execution Date set forth above.

(Balance of page intentionally left blank)

EXHIBIT 2

Closing Statement – Tranche Agreement No. [REDACTED]

[REDACTED], 20[REDACTED]

Re: The Multi-Tranche Credit Agreement (the "Agreement") by and between CRED LLC ("Lender") and the Borrower referenced in the Agreement ("Borrower")

To: Borrower

From: CRED LLC
123 Mission Street San Francisco, CA 94105

This Closing Statement relates to Tranche Agreement No. [REDACTED]. Capitalized terms used but not defined herein have the meanings given to such terms in the Agreement and in Tranche Agreement No. [REDACTED].

On the date of delivery set forth below, Borrower delivered and posted Tokens in the number and type specified below to Lender's Digital Wallet pursuant to the Agreement. The average of three specific sale prices for the Tokens is set forth below. Accordingly, the Tranche Loan Amount, Closing Date, Balance Disbursement, and dates and amounts of regular payments related to Tranche No. [REDACTED] are set forth below and/or attached hereto.

Date of delivery and posting of the Tokens by Borrower to Lender's Digital Wallet	[REDACTED], 20[REDACTED]
Number of Tokens delivered and posted to Lender's Digital Wallet:	[REDACTED] Tokens ☐ Bitcoin ☐ Ethereum ☐ XRP LBA Utility [REDACTED] Tokens [REDACTED] purchased [REDACTED] delivered
Closing sales price of the Token on 3 consecutive Exchange Business Days beginning on the Verification Date of [REDACTED], 20[REDACTED]:	\$ [REDACTED] USD on [REDACTED], 20[REDACTED] \$ [REDACTED] USD on [REDACTED], 20[REDACTED] \$ [REDACTED] USD on [REDACTED], 20[REDACTED]
Average of the three closing sales prices	\$ [REDACTED] USD
Closing Date for Tranche No. [REDACTED]	[REDACTED], 20[REDACTED]
Tranche Loan Amount for Tranche No. [REDACTED]	\$ [REDACTED] USD
Balance Disbursement for Tranche No. [REDACTED]	\$ [REDACTED] USD
Origination Fee	\$ [REDACTED] USD

The Balance Disbursement will be transmitted to Borrower's account on the Closing Date in accord with Section 2.7 of the Agreement and Exhibit 3.

CRED LLC appreciates your business and please do not hesitate to contact us at any time should you have any questions or concerns.

{Attach amortization schedule and payment schedules}

EXHIBIT 3

Borrower's bank account information:

Bank/Institution Name	
SWIFT Code	
Account Number	
Routing Number	
Account Name	

Borrower understands that Lender may assess and collect a per-payment fee of up to \$15 per payment made by check or by methods other than electronic debit from Borrower's bank account.

Borrower consents to preauthorized (automatic) payment by Lender debiting Borrower's bank account above as set forth in Section 2.4(e) of the Agreement:

☐ YES

☐ NO

EXHIBIT A

Pledge Agreement (Cryptocurrency)

This Pledge Agreement (this "Agreement") is entered into by and between the undersigned individual or entity ("Borrower") and CRED (US), LLC ("Lender") as of the date set forth above and upon execution of the *Multi-Tranche Credit Agreement* to which this Agreement is attached and incorporated into.

1. **BUSINESS PURPOSE REPRESENTATION.** Borrower represents and warrants that Borrower's purpose in incurring the Obligations and entering into this Agreement is entirely for business or investment purposes and is not for personal, family, household or other consumer purposes.
2. **GRANT OF SECURITY INTEREST.** For valuable consideration, and in order to secure any and all Obligations and to induce Lender to enter into the Obligation Documents, Borrower grants to Lender a security interest in the Collateral and agrees that Lender has the rights stated in this Agreement with respect to the Collateral, in addition to all other rights which Lender may have by law.
3. **BORROWER'S OBLIGATIONS.** The word "Obligations" means any and all existing and future indebtedness and liabilities of every kind, nature and character, direct or indirect, absolute or contingent, liquidated or unliquidated, voluntary or involuntary, of Borrower now or hereafter owes to Lender under this Agreement and the Obligation Documents, including, without limitation, advances pursuant to any line of credit and any other extension of credit or financial accommodation of any nature, whether recovery thereon may be or hereafter becomes unenforceable or an allowed or disallowed claim under any proceeding commenced with respect to Borrower under conservatorship, bankruptcy, receivership, insolvency, or similar law from time to time in effect, including interest that accrues after the commencement by or against Borrower of any proceeding thereunder, including costs and expenses for which Borrower is responsible hereunder and thereunder. All Collateral secures all Obligations notwithstanding that Lender may allocate or reference a portion of Collateral to a particular portion of Obligations. Lender's books and records showing the amount of the Obligations will be admissible in evidence in any action or proceeding, and in the absence of manifest error, will be binding upon Borrower.
4. **PLEDGE OF COLLATERAL.**
 - 4.1 The word "Collateral" as used in this Agreement means all of Borrower's right, title and interest in and to the following, whether now owned or hereafter acquired and whether now existing or hereafter coming into existence:
 - (a) the cryptocurrency identified in the exhibits hereto and in related notices and confirmations to Borrower by Lender, whether that cryptocurrency is deemed to be commodities, currency, money, securities, securities entitlements or any other type or category of property or asset;
 - (b) the securities and security entitlements identified in the exhibits hereto;
 - (c) the digital wallet, deposit account(s), commodities account(s) and securities account(s) specified on the exhibits hereto (collectively, the "Collateral Account") and all funds, monies, securities, security entitlements and other financial assets and other property from time to time held therein or credited thereto, and any successor or replacement wallet or account;
 - (d) all additions to and substitutions for any of the foregoing (including, without limitation, any securities, security entitlements, instruments or other property delivered or pledged hereunder) (such additions and substitutions, the "Additions and Substitutions");
 - (e) all present and future renewals, replacements, income, cash and noncash proceeds, earnings, increases, and substitutions from or for the Collateral of every kind and nature, including without limitation all payments, interest, profits, distributions, benefits, rights, options, warrants, dividends, stock dividends, stock splits, stock rights, regulatory dividends, subscriptions, monies, claims for money due and to become due, proceeds of any insurance on the Collateral, shares of stock of different par value or no par value issued in substitution or exchange for shares included in the Collateral, and all other property Borrower is entitled to receive on account of such Collateral, including accounts, documents, instruments, chattel paper, and general intangibles whether now accrued or hereafter accruing (collectively, "Income and Proceeds"); and
 - (f) all of Borrower's property related to the Collateral (however owned if owned by more than one person or entity), whether or not in Lender's possession or in the possession of a third party subject to Lender's control, whether existing now or later and whether tangible or intangible in character, including all records relating to any of the Collateral in whatever form existing.

Lender's confirmations and other notices to Borrower regarding the number, type and timing of the transfer of Collateral to

20

Lender's control or possession, and the details of the digital wallet or other account in which Lender or its designated agent or custodian holds the Collateral, are dispositive and controlling for all purposes, absent a definitive, non-appealable court ruling to the contrary.

4.2 Concurrently with the execution of this Agreement, Borrower must deliver to Lender the original of any certificate or instrument of other document representing or evidencing the Collateral to be held by Lender pursuant hereto, which document must be duly endorsed to the order of Lender where appropriate.

4.3 Unless and until an Event of Default occurs, all rights to vote, provide or withhold consent, receive notice or similar rights exercisable by Borrower with respect to the Collateral may be exercised under a revocable license hereby granted by Lender to Borrower.

5. **RIGHT OF SETOFF.** To the extent permitted by applicable law, Lender reserves a right of setoff in all of Borrower's accounts with Lender (whether checking, savings, securities or some other account) and against any indebtedness or obligations Lender may owe to Borrower. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the Obligations against any and all such accounts.

6. **COLLATERAL MAINTENANCE.** Borrower agrees that it will at all times maintain in, and immediately upon demand furnish for deposit to, the Collateral Account, or otherwise provide to Lender in a manner satisfactory to Lender, such securities or other assets as Lender may require in light of outstanding Obligations and potential Obligations. Such margin requirements will be set from time to time by Lender in its discretion and in accordance with its risk policies and margin maintenance requirements then in existence.

7. **REPRESENTATIONS, WARRANTIES AND COVENANTS** Borrower represents and warrants to, and covenants with, Lender that:

7.1 **Ownership.** Borrower is the lawful owner of the Collateral free and clear of all encumbrances and claims of others (other than pursuant to this Agreement).

7.2 **Authority; Binding Effect.** Borrower has the full right, power and authority to enter into this Agreement and to grant possession, control and a first priority lien in and upon the Collateral in favor of Lender. This Agreement is binding upon Borrower as well as Borrower's estate, successors and assigns, and is legally enforceable in accordance with its terms. The foregoing representations and warranties, and all other representations and warranties contained in this Agreement are and will be continuing in nature and will remain in full force and effect until such time as this Agreement is terminated or cancelled as provided herein.

7.3 **No Further Assignment.** Borrower has not and may not, sell, assign, transfer, encumber or otherwise dispose of any of Borrower's rights in the Collateral except as provided in this Agreement.

7.4 **Financing Statement.** Lender may, in its discretion, file a UCC financing statement and any other notice, registration or filing to perfect or evidence Lender's security interest in the Collateral.

8. **LENDER'S RIGHTS AND OBLIGATIONS WITH RESPECT TO THE COLLATERAL.** Borrower irrevocably consents to Lender taking possession of, controlling, placing a hold on the funds, securities and securities entitlements in the Collateral Account to ensure that only Lender is able to debit, setoff or otherwise make withdrawals from the Collateral Account while this Agreement is in effect. Borrower expressly consents to Lender transferring legal title to the Collateral to third parties under sale and repurchase agreements and to Lender pledging the Collateral to third parties under credit facilities and pledge arrangements while this Agreement is in effect. Borrower may not sell, trade, withdraw, substitute, transfer, encumber, dispose of, or otherwise direct the payment of any proceeds, interest, or amounts payable with respect to the Collateral without the prior written approval of Lender for so long as Borrower is subject to this Agreement. Thereafter Lender may deliver the Collateral to Borrower or to any other owner of the Collateral. Borrower expressly consents to Lender retaining custody of assets equivalent to the Collateral instead of the Collateral itself if and when Lender is obligated to return the Collateral to Borrower. Borrower further expressly agrees and acknowledges that Lender is not obligated to return the Collateral (or equivalent Collateral) for a period of up to three years from when Borrower first grants a security interest in the Collateral and transfers the Collateral to Lender's possession, and control, regardless of whether Borrower repays all debt and obligations under the Obligations prior to the end of such 3-year period.

Lender has the following rights in addition to all other rights Lender may have by law or under this Agreement:

8.1 **Maintenance and Protection of Collateral.** Lender may, but is not obligated to, take such steps as it deems necessary or desirable to protect, maintain, insure, store, or care for the Collateral, including paying of any liens or claims against the Collateral.

8.2 **Income and Proceeds from the Collateral.** Lender may receive all income and Proceeds directly from the issuers and add it to the Collateral. Borrower authorizes and directs the issuers, if Lender decides to collect the income and Proceeds, to pay and deliver to Lender all income and Proceeds from the Collateral and to accept Lender's receipt for the payments. Borrower agrees to deliver to Lender immediately upon receipt, in the exact form received and without commingling with other property, all income and Proceeds from the Collateral which may be received by, paid, or delivered to Borrower or to Borrower's account, whether as an addition to, in discharge of, in substitution of, or in exchange for any of the Collateral.

8.3 Power of Attorney. Borrower hereby appoints Lender as its true and lawful attorney-in-fact, irrevocably, with full power of substitution to do the following: (1) to demand, collect, receive, receipt for, sue and recover all sums of money or other property which may now or hereafter become due, owing or payable from the Collateral; (2) to execute, sign and endorse any and all claims, instruments, receipts, checks, drafts or warrants issued in payment for the Collateral; (3) effect transfer of the upon sale of all or part of the Collateral; (4) to settle or compromise any and all claims arising under the Collateral, and in the place and stead of Borrower, to execute and deliver its release and settlement for the claim; and (5) to file any claim or claims or to take any action or institute or take part in any proceedings, either in its own name or in the name of Borrower, or otherwise, which in the discretion of Lender may seem to be necessary or advisable. This power is given as security for the Obligations, and the authority hereby conferred is and will be irrevocable and will remain in full force and effect until rescinded by Lender. The foregoing appointments are irrevocable and coupled with an interest and will survive the dissolution, death, bankruptcy or reorganization of Borrower and may not be revoked without Lender's written consent. To the extent permitted by law, Borrower hereby ratifies all said attorney-in-fact may lawfully do by virtue hereof.

9. LENDER'S EXPENDITURES. If any action or proceeding is commenced that would materially affect Lender's interest in the Collateral or if Borrower fails to comply with any provision of this Agreement or any Obligation Documents, including but not limited to Borrower's failure to discharge or pay when due any amounts Borrower is required to discharge or pay under this Agreement or any Obligation Documents or any other Obligations, Lender on Borrower's behalf may (but is not obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Collateral and paying all costs for insuring, maintaining and preserving the Collateral. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the highest rate of interest charged on any Obligations from the date incurred or paid by Lender to the date of repayment by Borrower. All such expenses will become a part of the Obligations. This Agreement also will secure payment of these amounts. Such right will be in addition to all other rights and remedies to which Lender may be entitled upon Default.

10. LIMITATIONS ON OBLIGATIONS OF LENDER. Lender will use reasonable care in the physical preservation and custody of the Collateral in Lender's possession, but will have no other duties with respect to the Collateral, in accordance with Section 9207 of the LLC as enacted in Utah. Lender will be deemed to have used reasonable care if it observes substantially the same standard of care with respect to the custody of the Collateral as it observes with respect to similar assets owned by Lender.

11. DEFAULT. Each of the following constitutes an "Event of Default" under this Agreement:

11.1 Payment Default. Borrower fails to make any payment when due under the Obligations.

11.2 Other Defaults. Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any of the Obligation Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

11.3 False Statements. Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Agreement or the Obligation Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

11.4 Defective Collateralization. This Agreement or any of the Obligation Documents ceases to be in full force and effect (including failure of any collateral documents to create a valid and perfected first priority security interest or lien) at any time and for any reason.

11.5 Insolvency. The dissolution or termination of Borrower's existence as a going business, the insolvency of Borrower, the appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any receivership, bankruptcy or insolvency laws by or against Borrower.

11.6 Adverse Change. A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of the Obligations is impaired.

11.7 Cure Provisions. If any default, other than a default in payment is curable and if Borrower has not been given a notice of a breach of the same provision of this Agreement within the preceding 12 months, it may be cured if Borrower, after receiving written notice from Lender demanding cure of such default, (1) cures the default within fifteen (15) days; or (2) if the cure requires more than 15 days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

12. RIGHTS AND REMEDIES ON DEFAULT. If an Event of Default occurs under this Agreement, at any time thereafter, Lender may exercise any one or more of the following rights and remedies in addition to any other rights and remedies Lender may have under law.

12.1 Accelerate Obligations. Declare all Obligations, including any prepayment penalty which Borrower may be required to pay, immediately due and payable, without notice of any kind to Borrower.

-22-

- 12.2 **Application of Account Proceeds.** Lender may apply all funds in the Collateral Account to the Obligations. If the Collateral Account is subject to an early withdrawal penalty, that penalty will be deducted from the Collateral Account before its application to the Obligations, whether the Collateral Account is with Lender or some other institution. Any excess funds remaining after application of the Collateral Account proceeds to the Obligations will be paid to Borrower as the interests of Borrower may appear. Borrower agrees, to the extent permitted by law, to pay any deficiency after application of the proceeds of the Collateral Account to the Obligations. Lender also has all of the rights of a secured party under the Utah Uniform Commercial Code, even if the Collateral Account is not otherwise subject to such Code concerning security interests, and the parties to this Agreement agree that the provisions of the Code giving rights to a secured party are nonetheless part of this Agreement.
- 12.3 **Self Collateral.** Sell the Collateral or any part thereof in one or more parcels at public or private sale, at any exchange, broker's board or at any of Lender's offices or elsewhere, for cash, on credit or for future delivery, at such time or times and at such price or prices and upon such other terms as Lender may deem commercially reasonable, irrespective of the impact of any such sales on the market price of the Collateral. To the maximum extent permitted by applicable law, Lender may be the purchaser of any or all of the Collateral at any such sale and will be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply all or any part of the Obligations as a credit on account of the purchase price of any Collateral payable at such sale. Each purchaser at any such sale will hold the property sold absolutely free from any claim or right on the part of Borrower, and Borrower hereby waives (to the extent permitted by law) all rights of redemption, stay, or appraisal that it now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. Borrower agrees that, to the extent notice of sale may be required by law, at least 10 calendar days' notice to Borrower of the time and place of any public sale or the time after which a private sale is to be made will constitute reasonable notification. Lender will not be obligated to make any sale of Collateral regardless of notice of sale having been given. Lender may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. To the maximum extent permitted by law, Borrower hereby waives any claims against Lender arising because the price at which any Collateral may have been sold at such a private sale was less than the price that might have been obtained at a public sale, even if Lender accepts the first offer received and does not offer such Collateral to more than one offeror. After the disposal of any of the Collateral, Lender may deduct all reasonable legal and other expenses and attorney's fees for protecting its interests and enforcing its remedies under this Agreement and may apply the residue of the proceeds to, or hold as a reserve against, the Obligations in such manner as Lender in its sole discretion may determine, and will pay the balance, if any, to Borrower or otherwise, in accordance with applicable law. If any securities held as Collateral are "restricted securities" as defined in the Rules of the Securities and Exchange Commission (such as Regulation D or Rule 144) or the rules of state securities departments under state "Blue Sky" laws, or if Borrower or any other owner of the Collateral is an affiliate of the issuer of the securities, Borrower agrees that neither Borrower, nor any member of Borrower's family, nor any other person signing this Agreement will sell or dispose of any securities of such issuer without obtaining Lender's prior written consent.
- 12.4 **Application of Proceeds.** Apply any cash which is part of the Collateral, or which is received from the collection or sale of the Collateral, to reimbursement of any expenses, including any costs for registration of securities, commissions incurred in connection with a sale, attorneys' fees and court costs, whether or not there is a lawsuit and including any fees on appeal, incurred by Lender in connection with the collection and sale of such Collateral and to the payment of the Obligations of Borrower to Lender, with any excess funds to be paid to Borrower as the interests of Borrower may appear. Borrower agrees, to the extent permitted by law, to pay any deficiency after application of the proceeds of the Collateral to the Obligations.
- 12.5 **Election of Remedies.** Except as may be prohibited by applicable law, all of Lender's rights and remedies, whether evidenced by this Agreement, the Obligation Documents, or by any other writing, will be cumulative and may be exercised singularly or concurrently.
- 12.6 **Default Interest.** If a particular Obligation does not provide for a rate of interest, then Borrower agrees that such Obligation will accrue interest while an Event of Default continues with respect to that Obligation at the rate of 10% per annum. If a particular Obligation provides only a regular interest rate but does not provide for a post-default rate of interest, then Borrower agrees that such Obligation will accrue interest while an Event of Default continues with respect to that Obligation at the rate of 7 percentage points per annum in addition to the regular interest rate.

13 MISCELLANEOUS PROVISIONS The following miscellaneous provisions are a part of this Agreement:

13.1 Modifications to this Agreement.

- (a) Lender reserves the right to modify the fees and other terms and conditions of this Agreement (including those set forth in exhibits, schedules and attachments hereto) and related documents upon providing notice to Borrower, by email or by an online posting on Lender's website. Lender will, except as set forth in the following sentence, notify Borrower of the modification online, by email or by mail at the address shown on Lender's records on or prior to the effective date of any such modification. If Lender makes a modification but the modification cannot be disclosed before the effective date without jeopardizing the security of Lender's system in Lender's judgment, then Lender will provide Borrower with electronic or written notice within 30 days after the modification. Borrower will be deemed to have agreed to each such modification on the effective date thereof unless Borrower notifies Lender of its objection to the modification within 10 business days of the date of the notice of that modification.

- (b) If performance of Lender's obligations under the terms of this Agreement would violate any present or future statute, regulation or government policy to which Lender is subject, and which governs or affects the transactions or performance contemplated by this Agreement, then this Agreement will be deemed amended to the extent necessary to comply with such statute, regulation or policy, and Lender will incur no liability to Borrower as a result of such violation or amendment.
- (c) If, prior to the date Lender provides Borrower a copy of or notice regarding this Agreement, Borrower and Lender were parties to a prior version of this Agreement, then this Agreement will replace such prior agreement on the earlier of: (i) on the date Borrower uses any services or provides any instructions provided for in this Agreement following receipt of a copy of or notice regarding this Agreement, which receipt will be deemed to have occurred 5 banking days after Lender sends a copy of this Agreement to Borrower's email address of record with Lender or posts this Agreement online or (ii) the effective date for this Agreement specified in such notice unless Borrower notifies Lender of its objection to the modification within 10 banking days of the date of that notice. Information in exhibits, schedules and other attachments to the prior version of this Agreement describing Borrower and Collateral will remain in effect and incorporated by reference into the applicable portion(s) of the exhibit(s) to this Agreement (unless Lender and Borrower enter into replacement exhibits, schedules, etc.) and the effective date of this Agreement will be the effective date specified in such notice.
- (d) Other than the modifications described above in this Section 13.1, any modification to this Agreement must be in writing and executed by Borrower and Lender to have legal effect.
- 13.2 **Attorneys' Fees; Expenses.** Borrower agrees to pay upon demand all of Lender's costs and expenses, including Lender's attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Agreement and the Obligations. Costs and expenses include Lender's attorneys' fees, court costs and legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services.
- 13.3 **Governing Law; Venue.** This Agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Utah without regard to its conflicts of law provisions. This Agreement has been entered into by Borrower and accepted by Lender in the State of Utah. If there is a lawsuit, Borrower agrees upon Lender's request to submit to the exclusive jurisdiction of the courts in Salt Lake City, State of Utah.
- 13.4 **No Waiver by Lender.** Lender will not be deemed to have waived any rights or granted any consent under this Agreement unless such waiver or consent is specifically given in writing and signed by Lender.
- 13.5 **Notices.** Any notice required to be given under this Agreement must be given in writing, and will be effective when actually delivered, when actually received by email or fax (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown on the signature page to this Agreement. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Borrower agrees to keep Lender informed at all times of Borrower's current address, including email address.
- 13.6 **Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, that finding will not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision will be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it will be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement will not affect the legality, validity or enforceability of any other provision of this Agreement.
- 13.7 **Successors and Assigns.** This Agreement will bind and inure to the benefit of the respective successors and permitted assigns of each of the parties; provided, however, that neither this Agreement nor any rights hereunder may be assigned by Borrower without Lender's prior written consent, which consent may be granted or withheld in Lender's sole discretion. Lender will have the right without the consent of or notice to Borrower to sell, transfer, negotiate, or grant participation in all or any part of, or any interest in, Lender's obligations, rights and benefits hereunder.
- 13.8 **Counterparts.** This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, will be deemed to be an original, and all of which, when taken together, will constitute but one and the same Agreement.
- 13.9 **Indemnification.** Borrower agrees to defend, indemnify and hold harmless Lender and its officers, employees, and affiliates against all losses or expenses in any way suffered, incurred, or paid by Lender as a result of or in any way arising out of, following, or consequential to transactions between Lender and Borrower, under this Agreement (including without limitation all attorneys' fees and expenses and other costs incurred by Lender in enforcing this Agreement and realizing upon any Collateral), except for losses caused by Lender's gross negligence or willful misconduct.

13.10 **Survival.** All covenants, representations and warranties made in this Agreement will continue in full force and effect so long as any Obligations remain outstanding. The obligations of Borrower to indemnify Lender with respect to the expenses, damages, losses, costs and liabilities described in Section 13.9 will survive until all applicable statute of limitations periods with respect to actions that may be brought against Lender have run. This Agreement and the pledge, security interest and other rights granted to Lender hereunder will terminate when the Obligation Documents have terminated and all of the Obligations have been satisfied.

13.11 **Further Assurances.** Borrower agrees that it must cooperate with Lender and must execute and deliver, or cause to be executed and delivered, to Lender all assignments, financing statements, instruments and other documents, and must take all further action, at the expense of Borrower, from time to time requested by Lender, in order to maintain a continuing, first-priority, perfected security interest in the Collateral in favor of Lender, and to enable Lender to exercise and enforce its rights and remedies hereunder with respect to the Collateral.

14 **DEFINITIONS.** The following capitalized words and terms have the following meanings when used in this Agreement. Words and terms not otherwise defined in this Agreement have the meanings attributed to such terms in the Uniform Commercial Code:

14.1 **Obligation Documents.** The words "Obligation Documents" mean this Agreement and the documents described as "Obligation Documents" on the exhibits hereto, as those exhibits are modified from time to time, as well as all exhibits, schedules, promissory notes, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Obligations or incorporated into the Obligation Documents.

14.2 **Borrower.** The word "Borrower" means without limitation any and all persons obligated to pay money or to perform some other act under or with respect to the Collateral.

EXHIBIT 1 (to Pledge Agreement)

Obligation Documents: The *Multi-Tranche Credit Agreement* between Borrower and Lender, as modified from time to time, together with this Agreement and other agreements entered into or delivered by Borrower as a condition to or as part of entering into the *Multi-Tranche Credit Agreement*, are collectively referred to as the "Obligation Documents." Borrower's Obligations arising thereunder and in connection therewith are referred to as "Secured Obligations".

Release of Collateral: Lender will release to Borrower the Collateral Lender allocated to secure Secured Obligations only upon the expiration or termination of the Obligation Documents giving rise to the Secured Obligations and payment in full of all Secured Obligations.

Check as applicable:	Type of Collateral	Description of Collateral
☐	Bitcoin (BTC)	All Bitcoin (BTC) transferred to or held in Lender's digital wallet or other account, or held by Lender's designated agent or custodian, from time to time in connection with the Obligation Documents, including all private and public keys related thereto and other related documents, data, property and assets, including without limitation any and all Bitcoin resulting from a "soft" or "hard" fork in the Bitcoin blockchain, a revision or upgrade to the Bitcoin software code, reclassification, or other like change.
☐	Ethereum (ETH)	All Ethereum (ETH) transferred to or held in Lender's digital wallet or other account, or held by Lender's designated agent or custodian, from time to time in connection with the Obligation Documents, including all private and public keys related thereto and other related documents, data, property and assets, including without limitation any and all Ethereum resulting from a "soft" or "hard" fork in the Ethereum blockchain, a revision or upgrade to the Ethereum software code, reclassification, or other like change.
☐	Ripple (XRP)	All Ripple (XRP) transferred to or held in Lender's digital wallet or other account, or held by Lender's designated agent or custodian, from time to time in connection with the Obligation Documents, including all private and public keys related thereto and other related documents, data, property and assets, including without limitation any and all XRP resulting from a "soft" or "hard" fork in the Ripple blockchain, a revision or upgrade to the Ripple software code, reclassification, or other like change.
☐	Libra Credit (LBA)	All Libra Credit (LBA) transferred to or held in Lender's digital wallet or other account, or held by Lender's designated agent or custodian, as well as all LBA held or controlled by Borrower if Borrower's holdings of LBA was relied upon by Lender in pricing credit under the <i>Multi-Tranche Credit Agreement</i> , in each case from time to time in connection with the Obligation Documents, including all private and public keys related thereto and other related documents, data, property and assets, including without limitation any and all Libra Credit resulting from a "soft" or "hard" fork in the Libra Credit blockchain, a revision or upgrade to the Libra Credit software code, reclassification, or other like change.

DocuSign Envelope ID: 2552361F-79EE-4406-BF72-767CC6737DCB

MULTI-TRANCHE CREDIT AGREEMENT

This Multi-Tranche Credit Agreement (including the exhibits hereto, this "**Agreement**") is entered into by and between the undersigned individual or entity (the "**Borrower**") and CYBER QUANTUM PTE. LTD, having an address of Anson Road, Singapore 079903 (the "**Lender**") as of the Effective Date specified on the signature page hereto.

RECITALS

WHEREAS, the Borrower desires to borrow money in the form of Tokens from time to time in Tranches and secure those borrowings by form of guarantee to Lender, and Lender desires to lend in Tranches to Borrower, subject to agreed-upon terms and conditions;

WHEREAS, the parties intend that the benefit of any and all appreciation and any and all risk of loss from any depreciation resulting from a change in the price of the Tokens from the Closing Date for a Tranche to the Maturity Date for that Tranche in the normal, non-default course of business will accrue to the Borrower and not to the Lender;

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. DEFINITIONS. All The Terms Used in This Agreement Shall Have The Following Meanings:

- 1.1 "**Contractual Currency**" means cryptocurrencies or fiat currencies as determined solely by the Lender and accepted by the Borrower through this Agreement or incorporated Tranche Agreement similar in form to Exhibit 1. The Lender may also accept repayment of any outstanding obligations by Borrower in USD, at the sole discretion of the Lender.
- 1.2 "**Closing Date**" means the date on which a Tranche is consummated, as evidenced by a completed and accepted Closing Statement.
- 1.3 "**Closing Statement**" means a document in substantially the form of Exhibit 2 hereto relating to a particular Tranche, which document will be binding and conclusive for all purposes unless Borrower provides a detailed written notification to Lender within 3 business days of the date of transmission of the Closing Statement and that notification demonstrates with accurate supporting evidence that an error was made in the Closing Statement.
- 1.4 "**Default**" means any event, act or condition which, with notice or lapse of time or both, would constitute an Event of Default.
- 1.5 "**Default Notice**" is defined in Section 7.2.
- 1.6 "**Digital Wallet**" means a software program that stores public and private keys and interfaces with the Token blockchain in order to allow users to send and receive Tokens.
- 1.7 "**Electronic Messaging System**" means an electronic system for communication capable of reproducing communication in hard copy form, including email.
- 1.8 "**Equivalent Tokens**" means with respect to a particular Tranche, Tokens equivalent (the same type, name, category and technical specifications) to the Tokens pledged by Borrower in that Tranche.
- 1.9 "**Event of Default**" is defined in Section 7.1.
- 1.10 "**Exchange Business Day**" means any day that is a trading day and a price is posted on the applicable Token.
- 1.11 "**Fair Market Price**" means with respect to a Token, the average of the last USD sale price for that Token as determined by the Lender.
- 1.12 "**Maturity Date**" means with respect to a particular Tranche, 3-year anniversary of the Closing Date for that Tranche unless otherwise agreed in the Tranche Agreement. Or as otherwise might be called at anytime by the Lender with 30 days notice to the Borrower.
- 1.13 "**Special Default Notice**" is defined in Section 8.3.
- 1.14 "**Stable Coin**" means USDT or other US dollar-backed Tokens.

DocuSign Envelope ID: 2552361F-79EE-4406-BF72-767CC6737DCB

- 1.15 "Tranche Loan Amount" means with respect to a particular Tranche, the amount Lender agrees to lend. The Tranche Loan Amount is calculated as the product of (1) the per-Token Fair Market Price (calculated using the Verification Date as the first day of pricing) of the Tokens being pledged in that Tranche and (2) the number of Tokens.
- 1.16 "Tranche Repayment Amount" means with respect to a particular Tranche, the aggregate amount to be paid by Borrower to Lender on the Maturity Date to pay and satisfy all of Borrower's obligations, debts and liabilities with respect to that Tranche.
- 1.17 "Tokens" means the type of cryptocurrency specified in a Tranche Agreement, which will be either USDT or other Stable Coin.
- 1.18 "Tranche" means a particular loan transaction entered into pursuant to this Agreement and a particular Tranche Agreement and Closing Statement.
- 1.19 "Tranche Agreement" means an agreement in substantially the form of Exhibit 1 hereto containing such terms and conditions as Borrower and Lender may agree upon in writing at the time to evidence a particular Tranche.
- 1.20 "Transaction Documents" means collectively, this Agreement, the Pledge Agreement, the Tranche Agreements, the Closing Statements, and any other agreements, documents, instruments, exhibits or financial statements delivered in connection with Tranches. All such documents must be contemporaneously executed and read and construed together in a manner so as to give meaning and effect to all their provisions.
- 1.21 "USD" means United States Dollars.

2. TOKEN DELIVERY AND DISBURSEMENT ON TRANCHE CLOSING DATE

2.1 Tranche Loan Amount.

- (a) Subject at all times to all of the terms and conditions of this Agreement, Lender agrees to lend to Borrower funds equal to the Tranche Loan Amount for a particular Tranche as set forth in the applicable Tranche Agreement in the form of Exhibit 1 and Closing Statement in the form of Exhibit 2, both of which exhibits are incorporated herein by reference. The Tranche Loan Amount must be funded in the Contractual Currency no later than the Closing Date.
- (b) In addition to the first Tranche Agreement which must be executed contemporaneously with this Agreement, Borrower and Lender may each elect to enter into additional Tranche Agreements for additional Tranche Loan Amounts in the chosen type of Tokens for each Tranche Agreement. Lender will make its best efforts to complete additional Tranche Agreements contingent upon market conditions such as the price, trading volume, number of Tokens issued and outstanding and the number of Tokens in the float. All Tranches and Tranche Agreements are subject to the terms and conditions of this Agreement, although the parties may agree in writing in each Tranche Agreement upon such additional or different terms and conditions as set forth in the Tranche Agreement. Each Tranche transaction must be memorialized using the Tranche Agreement and Closing Statement forms attached hereto as Exhibit 1 and Exhibit 2.
- (c) Lender has the discretion and right to elect to not proceed with any Tranche with the Borrower up until the expected Closing Date for that Tranche. If Lender elects not to proceed with a Tranche, Lender will return the Tokens delivered by Borrower related to that Tranche within 5 business days.

2.2 Origination Fee; Interest Calculation.

- (a) Contemporaneous with the funding of the Tranche Loan Amount by Lender on the Closing Date for a particular Tranche, Borrower must pay an origination fee equal to that Tranche Loan Amount multiplied by the Origination Fee Percentage applicable to a Tranche Loan Amount of that amount, as specified below:

Origination Fee Percentage	Tranche Loan Amount
nil	All Tranche Loan Amounts, unless otherwise specified in a Tranche Agreement and agreed to in writing by Lender.

Lender may deduct such origination fee from the Tranche Loan Amount.

DocuSign Envelope ID: 2552361F-79EE-4406-BF72-767CC6737DCB

- (b) Each Tranche will accrue interest at the annual rate specified in the Tranche Agreement from and including the date of disbursement until and including the date repayment is received by Lender. Interest will be computed on a 360-day year for the actual number of days elapsed and will be due and payable monthly or quarterly in arrears on the last day of each month or quarter, as specified in the Tranche Agreement. However, during the continuance of an Event of Default hereunder, all outstanding amounts will accrue interest at an annual rate equal to 7% plus the annual rate otherwise applicable to that outstanding amount.

2.3 Payment Provisions.

- (a) **Maturity.** With respect to each Tranche, the Borrower agrees to pay to Lender the Tranche Repayment Amount plus any other Borrower obligations due on the Maturity Date.
- (b) **Extensions and Refinancings.** With respect to each Tranche, the Maturity Date may be extended or the Tranche refinanced by Lender if Borrower requests an extension or refinancing at least 30 days in advance and Lender agrees in writing. A fee in the minimum amount of 1% of the Tranche Repayment Amount is due and payable on (i) the original Maturity Date if Lender agrees to extend such Maturity Date or (ii) on the date of refinancing if Lender agrees to provide refinancing on terms acceptable to Lender at that time in its sole discretion.
- (c) **Late Fees.** If Lender has not received any payment when due hereunder from Borrower, including receipt of the Tranche Repayment Amount and all other obligations from Borrower then due in immediately available funds before the close of business (Pacific time) 3 Exchange Business Days after the Maturity Date, Borrower must pay to Lender a late charge equal to 5% of the portion of the payment, including but not limited to the Tranche Repayment Amount, that is then due. Such late charge is in addition to and cumulative with all other obligations, rights, benefits and remedies available to Lender under the Agreement on account of any default by the Borrower.
- (d) **Prepayment.** There is no prepayment of the Tranche Repayment Amount permitted prior to the Maturity Date, other than as necessary to cure a Valuation Event. Borrower acknowledges that, if the Tranche Repayment Amount is paid or other prepayments are made for any reason prior to the Maturity Date other than to cure a Valuation Event, Lender will incur losses and damages.
- (e) **When Borrower's payment will be credited to Borrower's account.** Lender credits payments as of the date received. If the payment is: (1) (a) received by 12 p.m. Pacific time in the form, manner and at the place or address designated by Lender for payment; or (b) paid with a check drawn in USD on a U.S. financial institution or a U.S. dollar money order; or (2) by means of a SWIFT transfer. Payments by check received after 12 p.m. Pacific time at the address specified by Lender on any day including the payment due date, but that otherwise meet the above requirements for checks, will be credited as of the next day. Credit for payments not made by SWIFT transfer as specified above may be delayed up to five business days.
- (f) **Application of Payments.** Lender will apply all payments first to fees, expenses and other amounts (other than principal and interest) Borrower owes Lender, then to accrued interest and the balance to outstanding principal. However, if a Default occurs, Lender will apply payments to Borrower's obligations as Lender determines in Lender's sole discretion.
- (g) **Callable.** At anytime, with at least 30 days prior notice, the Lender may require the Borrower to pay the Tranche Repayment Amount, which may be a portion or the entire amount of the Tranche at the sole discretion of the Lender.
- (h) **Other payment terms.** Lender can accept late payments, partial payments, or payments with any restrictive writing without losing any of Lender's rights under this Agreement. This means that no payment, including those marked with paid in full or with any other restrictive words, will operate as an accord and satisfaction without the prior written approval of one of Lender's senior officers. Borrower may not use a postdated check to make a payment. If Borrower does postdate a payment check, Lender may elect to honor it upon presentation or return it uncredited to the person that presented it, without in either case waiting for the date shown on the check. Lender is not liable to Borrower for any loss or expense arising out of the action Lender elects to take.

2.4 Pre-Closing Deliveries. With respect to each Tranche, Borrower must have delivered to Lender on or before the Closing Date for that Tranche:

- (a) this Multi-Tranche Credit Agreement executed by Borrower;
- (b) a Tranche Agreement completed and executed by Borrower; and

DocuSign Envelope ID: 2552361F-79EE-4406-BF72-767CC6757DCB

- (c) Delivery instructions for the wallet-to-wallet transfer of Tokens to Borrower. Lender's Digital Wallet address for receiving Tokens will be provided at the time of transfer of the Tokens.

2.5 **Legal Matters.** All matters and all documentation and other instruments in connection with each Tranche and all matters hereunder must be satisfactory in form and substance to Lender and its counsel, and counsel to Lender shall have received copies of all documents which it may reasonably request in connection with such transactions.

2.6 **Closing of each Tranche.** With respect to each Tranche:

- (a) Promptly following receipt of the Counterigned Tranche Agreement by Lender, but no later than 5 pm Eastern Standard Time on the third Exchange Business Day of receipt, Lender will transfer any Disbursement to the Borrower's account specified on Exhibit 3.

3. PAYMENT AND TRANSFER

3.1 Unless otherwise agreed, all money paid hereunder must be in immediately available freely convertible funds of the relevant currency. All Tokens to be transferred hereunder must be (i) unrestricted and free trading and in suitable form for transfer and must be accompanied by duly executed instruments of transfer or assignment in blank (where required for transfer) and such other documentation as the transferee may reasonably request, or (ii) transferred through the book entry system of Euroclear or Clearstream, or (iii) transferred through any other agreed similar electronic book entry Tokens clearance system, or (iv) transferred by any other method mutually acceptable to Borrower and Lender.

3.2 Unless otherwise agreed, all money payable by one party to the other in respect of any transaction must be paid free and clear of, and without withholding or deduction for, any taxes or duties or whatsoever nature imposed, levied, collected, withheld or assessed by any authority having power to tax, unless the withholding or deduction of such taxes or duties is required by law. In that event, unless otherwise agreed, the paying party shall pay such additional amounts as will result in the net amounts receivable by the other party (after taking account of such withholding or deduction) being equal to such amounts as would have been received by it had no such taxes or duties been required to be withheld or deducted.

3.3 Notwithstanding the use of expressions such as "Tranche Repayment Amount" which are used to reflect terminology used in the market for transactions of the kind provided for in this Agreement, all right, title and interest in and to Tokens and money transferred or paid under this Agreement shall pass to the transferee upon transfer or payment.

4. CONTRACTUAL CURRENCY

4.1 All the payments must be made in the Contractual Currency. Notwithstanding the foregoing, the payee of any money may, at its option, accept tender thereof in any other currency, provided, however, that, to the extent permitted by applicable law, the obligation of the payer to pay such money will be discharged only to the extent of the amount of the Contractual Currency that such payee may, consistent with normal banking procedures, purchase with such other currency (after deduction of any premium and costs of exchange) for delivery within the customary delivery period for spot transactions in respect of the relevant currency.

4.2 If for any reason the amount of any payment received by a party falls short of the amount in the Contractual Currency due and payable, the party required to make the payment will, as a separate and independent obligation, immediately transfer such additional amount in the Contractual Currency as may be necessary to compensate for the shortfall so as to assure full payment.

5. REPRESENTATIONS. Borrower represents and warrants that:

5.1 **No Liens or Restrictions.** Borrower has the absolute right to assign, convey, transfer and deliver the Tokens to the transferee free and clear of any and all mortgages, pledges, security interests, liens or other encumbrances or charges of any kind or nature. The transferor is in sole possession of the private keys associated with the Tokens and has not previously sold, conveyed, transferred, assigned, participated, pledged or otherwise encumbered the Tokens or its beneficial interest therein.

5.2 **Consents.** This Agreement and all the other Transaction Documents executed by and to be executed by Borrower constitute valid and binding obligations of Borrower enforceable in accordance with its respective terms and are to be construed and interpreted as a whole, the same being part of an integrated transaction. No consent of any other person and no consent, license, approval, or authorization of any governmental authority is required by Borrower for the execution, delivery and performance of this Agreement, and any of the other Transaction Documents executed or to be executed in connection herewith.

DocuSign Envelope ID: 2552361F-79EE-4406-BF72-767CC6737DCB

- 5.3 **No Conflicts.** The execution and delivery by Borrower of this Agreement and any other Transaction Document executed and to be executed by Borrower, do not and will not (a) conflict with or violate any law or governmental order applicable to Borrower or (b) conflict with, result in any breach of, constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, or result in the creation of any encumbrance on any Token (if applicable) pursuant to, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which Borrower is a party or by which Borrower or the Token (if applicable) are bound or affected or which would have an effect on the ability of Borrower to consummate the transactions contemplated by the Transaction Documents.
- 5.4 **No Default.** Borrower is not in default under any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which Borrower is a party or the Tokens (if applicable) are bound or affected or which would have an effect on the ability of Borrower to consummate the transactions contemplated by this Agreement.
- 5.5 **No Additional Liens.** The Borrower covenants that so long as a Tranche or any obligations to Lender remain outstanding and unpaid, the Borrower will not create, assume or suffer to exist any lien of any kind upon any of the Tokens Borrower transferred to Lender.
- 5.6 **Anti-Money Laundering Program.** Borrower represents and warrants that it will comply with anti-money laundering laws and regulations that apply to Borrower. At the request of Lender, Borrower must provide such written further assurances as Lender may reasonably request to confirm that Borrower maintains an anti-money laundering program if it is required to do so.
- 5.7 **OFAC.** Borrower hereby agrees and acknowledges that it will continue to comply with rules and regulations enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") that are applicable to Borrower. Borrower represents and warrants that neither it nor any person who controls Borrower bears a name that appears on the List of Specially Designated Nationals and Blocked Persons maintained by OFAC from time-to-time. Borrower hereby represents and warrants that none of the Tokens hereunder came from a third party that violated, or otherwise would violate, the provisions of any rules, regulations, or laws administered by OFAC, or be subject to other restriction based on such relevant government lists as may be published from time-to-time.
- 5.8 **Source and Use of Tokens.** Borrower represents and warrants that (i) none of the Tokens hereunder was sourced from a third party that is/was engaged in unlawful activities under state, federal or non-U.S. statutes (e.g., the Federal Controlled Substances Act) and (ii) any Tokens hereunder has been lawfully obtained and has not been, is not, and will not be, used in any illegal activities. In addition, Borrower represents and warrants that neither it nor any person who controls Borrower resides in or who subscription funds are transferred from or through an account in a Non-Cooperative Jurisdiction. For purposes of this Agreement, a "Non-Cooperative Jurisdiction" means any country or territory that has been designated as non-cooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization, such as the Financial Action Task Force on Money Laundering, of which the United States is a member and with which designation the United States representative to the group or organization continues to concur.
- 5.9 **No Material Information.** There is no material fact known to the Borrower regarding any Token hereunder which materially adversely affects or is likely or is anticipated to materially adversely affect such Token.
- 5.10 **Business Purpose.** Borrower represents and warrants that Borrower's purpose in incurring its debts, obligations and liabilities hereunder and entering into this Agreement is entirely for business or investment purposes and is not for personal, family, household or other consumer purposes.
6. **RISK FACTORS.** Borrower has carefully reviewed, acknowledged, understands and assumes the following risks, as well as all other risks associated with Tokens (including those not discussed herein), all of which could render the Tokens worthless or of little value:
- 6.1 **Liquidity.** There is no guarantee or representation of liquidity and/or transferability of Tokens in the future.
- 6.2 **Security.** Tokens may be subject to expropriation and/or theft, intentional or unintentional bugs or weaknesses that may negatively affect the Tokens or result in loss or ability to access the Tokens.
- 6.3 **Access to Private Keys.** Loss of private key(s) associated with Borrower's Digital Wallet or vault will result in loss of Tokens.
- 6.4 **Uncertain Regulatory Framework.** The regulatory status of cryptographic tokens, digital assets and blockchain technology is unclear and unsettled in many jurisdictions. It is difficult to predict how or whether governmental authorities will regulate such technologies. It is likewise difficult to predict how or whether any governmental

DocuSign Envelope ID: 2552361F-79EE-4406-BF72-767CC6737DCB

authority may make changes to existing laws, regulations and/or rules that will affect cryptographic tokens, digital assets, blockchain technology and its applications. Such changes could negatively impact the Tokens in various ways.

7. EVENTS OF DEFAULT

7.1 **Events of Default.** An "Event of Default" shall exist if any one or more of the following shall occur:

- (a) Failure by Borrower to make when due, any payment or delivery under this Agreement required to be made by it if such failure is not remedied on or before the 3rd Exchange Business Day after notice of such failure is sent to Borrower; or
- (b) If any representation or warranty made by Borrower in this Agreement or in any statement furnished at or in contemplation of the Closing Date or pursuant to this Agreement or any other Transaction Document shall prove to have been knowingly untrue or misleading in any material respect at the time made; or
- (c) Default by Borrower in the performance of or observance of any covenant or agreement contained in this Agreement or default in any other Transaction Document which is not cured within a reasonable time; or
- (d) If the Tokens cease to trade or are otherwise halted for more than 3 Exchange Business Days by a regulatory agency or for any other reason; or
- (e) If Borrower makes a general assignment for the benefit of creditors or consent to the appointment of a receiver, liquidator, custodian, or similar official of all or substantially all of its properties, or any such official is placed in control of such properties, or Borrower admits in writing its inability to pay its debts as they mature; or
- (f) If documents shall at any time after their execution and delivery for any reason cease to be in full force and effect or are declared null or void, or the validity or enforceability thereof is contested by Borrower or by any other person; or

7.2 **Rights Upon An Uncured Event of Default.** If at any time an Event of Default has occurred and is continuing beyond any applicable cure period, the non-defaulting party shall issue a written notice to the defaulting party specifying the relevant Event of Default (a "Default Notice"). Lender will have all rights and remedies afforded by law and under the Transaction Documents. Matters set forth as fact in a Default Notice, including date and calculations, will be binding and conclusive unless Borrower provides a detailed written notification to Lender within 3 business days of the date of transmission of the Default Notice and that notification demonstrates with accurate supporting evidence that an error was made in the Default Notice.

8. NOTICES AND OTHER COMMUNICATIONS

8.1 Any notice or other communication to be given under this Agreement shall:

- (a) be in the English language, and except where expressly otherwise provided in this Agreement, must be in writing;
- (b) may be given in any manner described in subsection 8.2 below;
- (c) must be sent to the party to whom it is to be given at the address or number, or in accordance with the electronic messaging details, set out herein.

8.2 Any such notice or other communications will be deemed effective:

- (a) if in writing and delivered in person or by courier, at the time when it is delivered;
- (b) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), at the time when that mail is delivered or its delivery is attempted;
- (c) if sent by electronic messaging system, at the time that electronic message is received except that any notice or communication which is received, or delivery of which is attempted, after close of business on the date of receipt or attempted delivery or on a day which is not a day on which commercial banks are

DocuSign Envelope ID: 2552361F-79EE-4406-BF72-767CC6737DCB

open for business in the place where that notice or other communication is to be given will be treated as given at the opening of business on the next following day which is such a day.

8.3 If --

- (a) there occurs in relation to either party an event which gives rise to the service of a Default Notice; and
- (b) the non-defaulting party, having made all practicable efforts to do so, including having attempted to use at least two of the methods specified in subsection 8.2 has been unable to serve a Default Notice by one of the methods specified in those subsections (or such of those methods as are normally used by the non-defaulting party when communicating with the defaulting party), then the non-defaulting party may sign a written notice (a "Special Default Notice") which:
 - (i) specifies the relevant event referred to by section which has occurred in relation to the defaulting party;
 - (ii) states that the non-defaulting party, having made all practicable efforts to do so, including having attempted to use at least two of the methods specified in subsections 8.2, has been unable to serve a Default Notice by one of the methods specified in those subsections (or such of those methods as are normally used by the non-defaulting party when communicating with the defaulting party);
 - (iii) specifies the date on which, and the time at which, the Special Default Notice is signed by the non-defaulting party; and
 - (iv) states that the event specified in accordance with subsection (i) above will be treated as an Event of Default with effect from the date and time as specified.

On the signature of a Special Default Notice the relevant event will be treated as effective from the date and time so specified as an Event of Default in relation to the defaulting party, and the Special Default Notice will be treated and accepted as an effective Default Notice. Any Special Default Notice should also be sent in a manner contemplated under Section 8.2.

- 8.4 All notices, requests or other communications to either of the parties by the other must be in writing, sent by overnight mail by a reputable commercial carrier, or by electronic mail and will be deemed duly given on the earlier of the date the same is received or when deposited in the mail, postage prepaid, to the address specified on the signature page hereto, as the same may be updated from time to time by following the notice requirements specified in this section.

9. ENTIRE AGREEMENT AND SEVERABILITY

- 9.1 This Agreement supersedes any existing communications, term sheets, or agreements between the parties containing general terms and conditions for transactions. Each provision and agreement herein will be treated as separate from any other provision or agreement herein and will be enforceable notwithstanding the unenforceability of any such other provision or agreement.
- 9.2 Each party acknowledges that, and has entered into this Agreement and will enter into each Tranche hereunder in consideration of and in reliance upon the fact that such transactions hereunder constitute a single business and contractual relationship and are made in consideration of each other. Accordingly, each party agrees: (i) to perform all of its obligations in respect to the entire transaction hereunder, and that a default in the performance of any such obligations shall constitute a default by it in respect to the entire transactions hereunder; and (ii) that payments, deliveries and other transfers made by either of them in respect of any transaction will be deemed to have been made in consideration of payments, deliveries and other transfers in respect to the entire transaction hereunder.

10. NON-ASSIGNABILITY

- 10.1 Neither party may assign, charge or otherwise deal with (including without limitation any dealing with any interest in or the creation of any interest in) its rights or obligations under this Agreement without the prior written consent of the other party. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the parties and their respective successors and assigns.

11. GOVERNING LAW

- 11.1 This Agreement and all instruments delivered hereunder will be governed by and construed in accordance with the laws of the State of Utah, excluding therefrom any principles of conflicts of law. Except to the extent either

DocuSign Envelope ID: 2552361F-79EE-4406-BF72-767CC6737DCB

party exercises its right to demand arbitration pursuant to Section 12 of this Agreement, any legal action, claim or lawsuit commenced by one party against the other arising out of or in connection with this Agreement, and all instruments or agreements delivered hereunder must be brought exclusively in the courts in Salt Lake City, Utah, and such courts will have the exclusive jurisdiction and venue for any such legal action, claim or lawsuit.

12. ARBITRATION

- 12.1 **Arbitration of Claims, Disputes, or Controversies.** Any claim, dispute, or controversy ("Claim") arising from or relating to this Agreement or the relationships resulting from this Agreement, whenever and by whomever commenced, shall, upon delivery of a written notice demanding arbitration to the other party (including a written notice after the commencement of a lawsuit or a notice contained in court filings in any such lawsuit), be resolved by binding arbitration pursuant to the Federal Arbitration Act, 9 USC §§ 1 et seq., and the applicable rules of the American Arbitration Association ("AAA") or JAMS in effect at the time of the written notice demanding arbitration. The term "Claim" as used in this Agreement is to be given the broadest possible meaning, and includes but is not limited to claims, disputes, or controversies arising from or relating to selecting, originating, closing, or enforcing the transaction that is the subject of the Agreement.

Borrower may select which of AAA or JAMS to use for purposes of administering an arbitration governed by this Agreement. The address, telephone number, and web site containing applicable rules for each of these arbitration administrators is as follows:

AAA
Corporate Headquarters
1633 Broadway, 10th Floor
New York, NY 10019
212-746-3800
www.adr.org

JAMS
71 South Wacker Drive
Suite 3050
Chicago, IL 60606
312-655-0555
www.jamsadr.com

If Borrower fails to select an arbitration administrator within 30 days from the date a Lender delivers notice demanding arbitration, Lender will choose one. Any arbitrator must be a commercial lawyer with more than 10 years of experience in a regionally recognized law firm or a retired Federal judge or judge who served as a regular member of a state court of intermediate or final appellate jurisdiction.

Arbitrations seeking monetary relief less than \$100,000.00 in the aggregate will be held within the federal judicial district encompassing the city where Borrower resides or is located. Arbitrations seeking monetary relief of \$100,000.00 or more in the aggregate will be held in Salt Lake City, Utah.

Each party shall pay one-half of any fees charged by the arbitration administrator for Claim(s) asserted by a party in the arbitration.

THIS AGREEMENT IS FULLY BINDING IN THE EVENT THAT A CLASS ACTION OR SIMILAR LAWSUIT IS FILED IN WHICH BORROWER WOULD BE A CLASS REPRESENTATIVE OR MEMBER. BORROWER AND Lender AGREE THAT THERE WILL BE NO CLASS OR CONSOLIDATED ARBITRATION OF ANY CLAIM. FURTHERMORE, CLAIMS BROUGHT BY OR ON BEHALF OF OTHER BORROWERS MAY NOT BE CONSOLIDATED WITH OR ARBITRATED IN ANY ARBITRATION PROCEEDING THAT IS CONSIDERING BORROWER'S CLAIMS UNLESS SAID OTHER BORROWERS ARE PARTIES TO THE SAME AGREEMENT. SIMILARLY, BORROWER MAY NOT JOIN WITH OTHER BORROWERS TO BRING CLAIMS IN THE SAME ARBITRATION PROCEEDING UNLESS ALL OF SUCH OTHER BORROWERS ARE PARTY TO THE SAME TRANSACTION.

13. INDEMNITY AND LIMITATION OF LIABILITY

- 13.1 Either party shall indemnify and hold the other party harmless against any and all claims, demands, proceedings, suits, actions, damages, liabilities, losses, expenses and costs (which shall include, but not limited to, all costs of defense, investigation and accounting and legal fees) to which the other party may become subject as a result of the defaulting party's fraud, negligence, willful misconduct or breach of any obligation under this Agreement.
- 13.2 Neither party will be liable for any indirect, incidental or consequential loss or damages, including loss revenue or profits or losses arising from its normal course of business, even if a party has been advised of the possibility of such damages.

DocuSign Envelope ID: 2552361F-79EE-4406-BF72-767CC6737DCB

- 13.3 Each provision of this Section operates independently and survives the expiration or termination of this Agreement.
14. **NO WAIVERS.** No express or implied waiver of any Event of Default by either party shall constitute a waiver of any other Event of Default and the failure or delay in the exercise of any remedy hereunder by any party shall not constitute a waiver of its right to exercise any other remedy hereunder. No modification or waiver of any provision of this Agreement and no consent by any party to a departure here from will be effective unless and until such modification, waiver or consent is in writing and duly executed by both of the parties hereto. The failure or delay to give any notice herein will not constitute a waiver of any right to do so at a later date.
15. **COUNTERPARTS; AMENDMENTS**
- 15.1 This Agreement may be executed in counterparts, each of which will be deemed an original.
- 15.2 None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the parties.
16. **SECTION HEADINGS**
- The section headings used in this Agreement are for convenience of reference only and are not to affect the construction of this Agreement nor are they to be taken into consideration in interpreting this Agreement.
17. **SEVERABILITY.** If one or more provisions of this Agreement or the applicability of any such provisions to any set of circumstances is determined to be invalid or ineffective for any reason, such determination shall not affect the validity and enforceability of the remaining provisions or the applicability of the same provisions or any of the remaining provisions to other circumstances.
18. **CONFIDENTIALITY.** This Agreement and any other related documents are to be kept confidential and are not to be reproduced in any manner whatsoever for persons other than the parties hereto. Each party agrees not to circumvent the legitimate interests of the other party and to maintain this transaction in strict confidentiality. Each party agrees to maintain the confidentiality of any trade secrets, techniques, and contracts and contacts of the other party. Borrower agrees not to engage in unauthorized communications (i.e. telephone calls, written inquiries, etc.) with Lender's banks, insurers, contracting parties and contacts.
19. **TRANSLATION OF AGREEMENT.** If this Agreement is translated into a language other than English, such translation is intended to assist the Borrower in understanding the terms and conditions of this Agreement and is not intended, and shall not comprise, an enforceable Agreement. To the extent that any conflict exists between a translation of this Agreement and the English language version of this Agreement, the English language version shall prevail and be conclusive. All notices, communications or documents exchanged under this Agreement or delivered under it must be in the English language or accompanied by an English translation of it.
20. **NO RELIANCE**
- 20.1 Each party will be deemed to represent to the other party on the date on which it enters into this Agreement that (absent a written agreement between the parties that expressly imposes affirmative obligations to the contrary):
- (a) it is acting for its own account, and it has made its own independent decisions to enter into this Agreement and as to whether the transaction contemplated by this Agreement is appropriate or proper for it based upon its own judgment and upon advice from such advisors (including its tax, legal, accounting and regulatory advisors) as it has deemed necessary;
 - (b) it is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into the transaction contemplated by this Agreement, it being understood that information and explanations related to the terms and conditions of this Agreement shall not be considered investment advice or a recommendation to enter into this transaction contemplated by this Agreement;
 - (c) no communication (written or oral) received from the other party will be deemed to be an assurance or guarantee as to the expected results of the transaction contemplated by this Agreement;
 - (d) it is capable of assessing the merits of and evaluating and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of the transaction contemplated by this Agreement; and

DocuSign Envelope ID: 2552361F-79EE-4406-BF72-767CC6757DCB

- (e) it is also capable of assessing, and assumes, the financial and other risks contemplated by the Agreement.

21. CONSENTS.

- 21.1 **TCFA Consent.** Borrower expressly consents to receiving calls and messages, including auto-dialed and pre-recorded message calls and SMS messages (including text messages) from Lender and its successors, assigns, agents, attorneys and service providers (collectively, the "Lender Parties" and individually, a "Lender Party"), at any telephone numbers that Borrower have provided or may provide in the future (including any cellular telephone numbers). Borrower's cellular or mobile telephone provider will charge Borrower according to the type of plan Borrower carries. Borrower also agrees that any Lender Party may contact Borrower by email, using any email address Borrower has provided to Lender or that Borrower provides to Lender in the future. Any Lender Party may listen to and/or record phone calls between Borrower and Lender Party representatives without notice to Borrower as permitted by applicable law. For example, Lender and/or its vendors and service providers listen to and record calls for quality monitoring purposes.
- 21.2 **Consent to Sharing Data with Vendors.** Borrower consents to Lender sharing with its vendors and service providers all data Lender has related to Borrower, this Agreement and the transactions related hereto for the purpose of opening, supporting and servicing the transactions related to this Agreement. Borrower agrees to provide accurate and complete information for those purposes.
- 21.3 **Electronic Transactions.** This Agreement is fully subject to Borrower's consent to electronic transactions and disclosures, which consent is or will be set forth in the terms of use for Lender's website and mobile app. Borrower expressly agrees that this Agreement is a "transferable record" for all purposes under the Electronic Signatures in the Global and National Commerce Act and the Uniform Electronic Transactions Act.

Utah Residents Only: As required by Utah law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

[Balance of page intentionally left blank.]

DocuSign Envelope ID: 2B52361F-79EE-4406-BF72-767CC6757DCB

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the Effective Date written below. It is specifically agreed and understood that this Agreement is not binding upon the parties until the date it is actually signed by the Lender.

Effective Date:

"Lender":

CYBER QUANTUM PTE. LTD.

Signature

Printed

Title

Notice address:

Das Schult

CYBER QUANTUM PTE. LTD.

attn: Cred LLC, 2121 S. El Camino Real, 5th floor

San Mateo, CA 94403

das@cyberquantum.io

"Borrower":

MoKredit Inc.

Authorized by:

Signature

Printed

Title

Notice address:

Lu Hua

moKredit Inc

618 East Yaman Road

F17 Shanghai 200001

lu@moKredit.io

DocuSign Envelope ID: 2556361F-792E-4456-BF72-767CC6737DCB

EXHIBIT 1

TRANCHE AGREEMENT No. 1

Borrower and Lender hereby agree as follows:

- 1) Each has elected to proceed with a new Tranche transaction involving the pledge of additional Tokens of Borrower.
- 2) Each agrees that the Agreement is incorporated by reference into this Tranche Agreement and that the following terms are part of the Agreement:

Contractual Currency	☒ USDT Tokens ☐				
Tranche Loan Amount	Tokens				
Origination Fee	0%				
Interest Rate	30% per annum for this Tranche, based on market conditions and Lender's adjustments to its currently-prevailing rates, which Lender modifies from time to time in its sole discretion. At anytime, with at least 30 days prior notice, the Lender may require the Borrower to pay the Tranche Repayment Amount.				
	<table> <tr> <th>Term</th><th>Rate</th></tr> <tr> <td>12 months</td><td>30%</td></tr> </table>	Term	Rate	12 months	30%
Term	Rate				
12 months	30%				
Principal Amortization	☒ Principal is not payable until the Maturity Date. ☐ Principal is amortized over a () month(s) () year(s) period and payable on the same day on which interest is payable.				
Interest Payments	Interest is due and payable ☐ monthly ☒ quarterly and payable on the last business day of each month or quarter, as applicable.				
Digital Wallet Address	1Gv7CPR4qph6yn8U2chX2gqAkajRtoTn1C3				
Tranche Maturity Date	[Date]				
Execution Date of Tranche Agreement	[Date]				

- 3) This Tranche Agreement documents a new Tranche and becomes a binding agreement on the Execution Date set forth above.

[Balance of page intentionally left blank.]

DocuSign Envelope ID: 2958381F-79EE-4466-BF72-767CC6757DCB

"Lender":

CYBER QUANTUM PTE. LTD.

"Borrower":

mokredit inc

Signature

Signature

Printed

Printed

Title

Title

DocuSign Envelope ID: 2552361F-79EE-4406-BF72-767CC6757DCB

EXHIBIT 2

Closing Statement – Tranche Agreement No. 1

[Date]

Re: The Multi-Tranche Credit Agreement (the "Agreement") by and between CYBER QUANTUM PTE. LTD. ("Lender") and the Borrower referenced in the Agreement ("Borrower")

To: Borrower

From: CYBER QUANTUM PTE. LTD.
 Attn: Cred LLC, 2121 S. El Camino Real, 5th floor
 San Mateo, CA 94403

This Closing Statement relates to Tranche Agreement No. 1. Capitalized terms used but not defined herein have the meanings given to such terms in the Agreement and in Tranche Agreement.

On the date of delivery set forth below, Lender delivered and posted Tokens in the number and type specified below to Borrower's Digital Wallet pursuant to the Agreement. The average of specific sales prices for the Tokens is set forth below. Accordingly, the Tranche Loan Amount, Closing Date, and date and amounts of regular payments related to Tranche No. 1 are set forth below and/or attached hereto.

Date of delivery and posting of the Tokens to Borrower	[Date]
Number of Tokens delivered:	_____ Tokens ☒ USDT ☐ _____
Average of the closing sales prices	\$_____ USD
Closing Date for Tranche No. 1	[Date]
Tranche Loan Amount	_____ USDT

CYBER QUANTUM PTE. LTD. appreciates your business and please do not hesitate to contact us at any time should you have any questions or concerns

DocuSign Envelope ID: 2552361F-79EE-4406-BF72-767CC6757DCB

EXHIBIT 3

Borrower's bank account information:

Bank/Institution Name	
Currency	USD
SWIFT Code	
Account Number	
Routing Number	
Account Name	

Borrower's Digital Wallet address:

Wallet Address	1GzG61AaHv8UzotXZqJpAkajRaTetC3
Type of Token	Orionus account
Owner	FBG

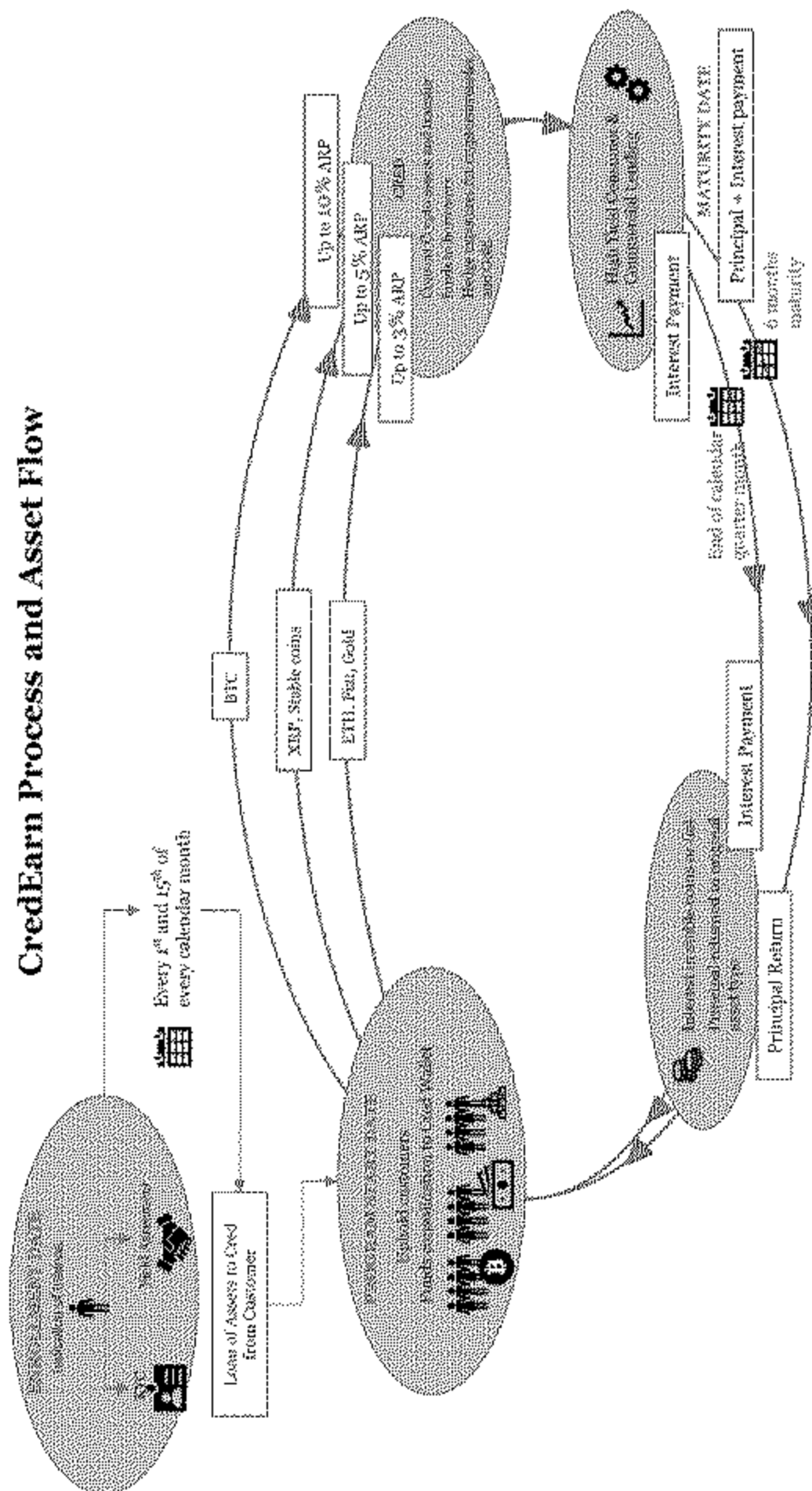
15.

Pledge Agreement (Cryptocurrency)
12176303.4

Rev. 9/2018

CRED_EXAMINER_00001083

CredEarn Process and Asset Flow



CRED ENHANCED YIELD - BTC (hedged)

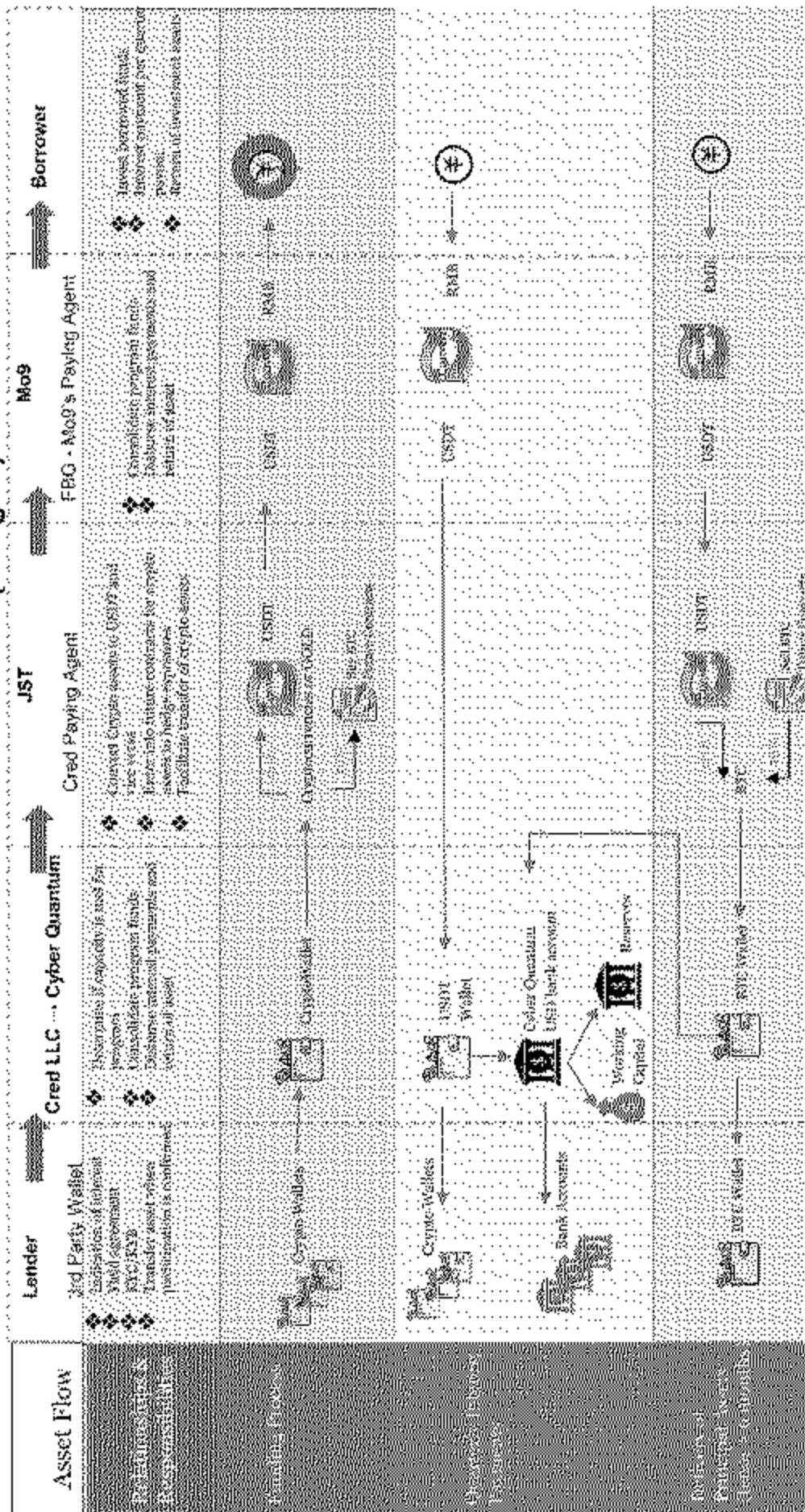


Exhibit S

Execution Copy

LOAN AND SECURITY AGREEMENT**Principal Amount:****\$100,000,000.00****Introduction.**

This Loan and Security Agreement (this “**Agreement**”), with an effective date of December 27, 2018, is entered into by and among MOKREDIT INC., an Exempted Company incorporated in the Cayman Islands with Limited Liability, as borrower, and MOKREDIT TECHNOLOGY (HONG KONG) COMPANY LIMITED, a Hong Kong Company, as borrower (collectively, “**Borrower**”), and CRED LLC, a Delaware limited liability company (the “**Lender**”), on the other hand. The Borrower agrees to the following terms and conditions:

1. LINE OF CREDIT.**1.1 Line of Credit Amount.**

- (a) During the availability period described below, the Lender will provide a line of credit to the Borrower (the “**Line of Credit**”). The amount of the Line of Credit (the “**Commitment**”) is \$100,000,000.00.
- (b) This is a revolving line of credit. During the availability period, the Borrower may repay principal amounts and reborrow them.
- (c) The Borrower may request advances under the Line of Credit to replenish its working capital after Borrower funds loans originated by a Chinese affiliate (each such loan by Borrower, a “**Customer Loan**”; each such customer, a “**Borrower Customer**” and each such advance made by Lender hereunder, an “**Advance**”). The specific details of each Advance including all Advances made by Lender prior to the date hereof, are set forth on **Schedule A** hereto as the same is updated from time to time (the “**Schedule of Advances**”). Lender will deliver to Borrower a Draw Certificate in the form attached hereto as **Exhibit A** following each request for an Advance confirming the details of such Advance.
- (d) The Borrower agrees not to permit the principal balance outstanding to exceed the Commitment. If the Borrower exceeds this limit, the Borrower will immediately pay the excess to the Lender upon the Lender’s demand.

1.2 Availability Period. The Line of Credit is available until December 31, 2021, or such earlier date as the availability may terminate as provided in this Agreement (the “**Expiration Date**”). The availability period for this Line of Credit will be considered renewed if and only if the Lender has sent Borrower a written notice of renewal for the Line of Credit (the “**Renewal Notice**”). If this Line of Credit is renewed, it will continue to be subject to all the terms and conditions set forth in this Agreement except as modified by the Renewal Notice. If this Line of Credit is renewed, the term “**Expiration Date**” means the date set forth in the Renewal Notice as the Expiration Date. The same process for renewal will apply to any subsequent renewal of this Line of Credit. A renewal fee may be charged at the Lender’s option. The amount of the renewal

fee will be specified in the Renewal Notice. If this Line of Credit is not renewed, the Lender in its sole discretion may allow the outstanding balance to be repaid in installments over a term specified by the Lender at the time. Borrower specifically understands that the interest rate applicable to the Line of Credit may be increased upon term-out and that the new interest rate will apply to the entire outstanding principal balance due hereunder. A transaction fee may be charged at the Lender's option. If so, the amount will be specified in the term-out notice.

1.3 Repayment Terms. Borrower must repay in full any principal and interest accrued on an Advance in accord with the terms set forth in the Draw Certificate or as otherwise agreed in writing by Lender and Borrower. Borrower must also make payments of interest on a monthly basis if instructed by Lender, by no later than three business days after the end of the month, regardless of whether the otherwise-stated terms of an Advance specify a later or different interest payment date.

1.4 Prepayments. Borrower may prepay principal in full or in part at any time without the payment of a prepayment fee or premium. The prepayment may be applied to the most remote payment of principal due under this Agreement or in such other manner as determined by the Lender.

1.5 Interest Rate. The interest rate on an Advance will be, for each month, quarter, year or other period that the Advance is outstanding, a rate per year equal to the *greater of* (a) the Applicable Federal Rate(s) in effect during that period *plus* 0.10% (one-tenth of a percentage point), (b) 2.50%, or (c) such other rate as Borrower and the Lender may agree upon in writing; provided however, that such rate may not be less than the rate set forth in *Section 1.5(a)*. "Applicable Federal Rate" means the short-term applicable Federal rate for such period specified in a published Internal Revenue Service Revenue Ruling. The Applicable Federal Rate for purposes of this Agreement will be adjusted concurrently with the published Applicable Federal Rate.

2. COLLATERAL

2.1 The Security. Borrower hereby assigns and grants, and causes to be assigned and granted, grants to the Lender a security interest in the following described property now owned or hereafter acquired by Borrower, excluding only the Excluded Assets (as defined below) (the "Collateral"):

- (a) All accounts, and all chattel paper, instruments, deposit accounts, letter of credit rights, and general intangibles related thereto; and all returned or repossessed goods which, on sale or lease, resulted in an account, including all Customer Loans and Borrower's rights related thereto.
- (b) All inventory.
- (c) All equipment and fixtures now owned or hereafter acquired by the Borrower, (including, but not limited to, the equipment described in the attached Equipment Description, if any).
- (d) All of the Borrower's deposit accounts with the Lender. The Collateral includes any renewals or rollovers of the deposit accounts, any successor

accounts, and any general intangibles and choses in action arising therefrom or related thereto.

- (e) All instruments, chattel paper, documents, certificates of deposit, securities (including equity interests) and investment property of every type.
- (f) All general intangibles. The Collateral includes all goodwill connected with or symbolized by any of such general intangibles.
- (g) All negotiable and nonnegotiable documents of title covering any Collateral.
- (h) All accessions, attachments and other additions to the Collateral, and all tools, parts and equipment used in connection with the Collateral.
- (i) All substitutes or replacements for any Collateral, all cash or non-cash proceeds (including insurance proceeds), products, rents and profits of the Collateral, and all income, benefits and property receivable on account of the Collateral, and all supporting obligations covering any Collateral.
- (j) All books, data and records pertaining to any Collateral, whether in the form of a writing, photograph, microfilm or electronic media, including but not limited to any computer-readable memory and any computer software necessary to process such memory ("**Books and Records**").

Notwithstanding the foregoing, the Collateral does not include, and the Lender is not assigned or granted a security interest in any finance license or other permit, license or approval issued to or held by Borrower, which is non-transferable by operation of law or otherwise (collectively, the "**Excluded Assets**").

2.2 The Indebtedness. The obligations secured by this Agreement are the payment and performance of (a) all present and future Indebtedness (as defined below) of Borrower to the Lender; (b) all obligations of Borrower and rights of the Lender under this Agreement; and (c) all present and future obligations of Borrower to the Lender of other kinds. "**Indebtedness**" is used in its most comprehensive sense and includes any and all advances, debts, obligations and liabilities of Borrower, now or hereafter existing, absolute or contingent, liquidated or unliquidated, determined or undetermined, voluntary or involuntary, including under any swap, derivative or other arrangement, or other similar transaction or arrangement, and whether Borrower may be liable individually or jointly with others, or whether recovery upon such Indebtedness may be or hereafter becomes unenforceable. "Indebtedness" secured by the Collateral of Borrower does not include obligations arising under any Swap to which it is not party if, and to the extent that, all or a portion of the guaranty by Borrower to the Lender of, or the grant by such Borrower of a security interest to the Lender to secure, such Swap, would violate the Commodity Exchange Act (7 U.S.C., Sec. 1, et. seq.) by virtue of Borrower's failure to constitute an "eligible contract participant" as defined in the Commodity Exchange Act at the time such guaranty or grant of such security interest becomes effective with respect to such Swap.

2.3 Borrower Covenants. Borrower represents, covenants and warrants that unless compliance is waived by the Lender in writing:

- (a) Borrower agrees: (i) to indemnify the Lender against all losses, claims, demands, liabilities and expenses of every kind caused by any Collateral; (ii) to permit the Lender to exercise its rights under this Agreement; (iii) to execute and deliver such documents as the Lender deems necessary to create, perfect and continue the security interests contemplated by this Agreement; (iv) not to change its name, and as applicable, its chief executive office, or the jurisdiction in which it is organized and/or registered or its business structure without giving the Lender at least 30 days prior written notice; (v) not to change the places where the Borrower keeps any Collateral or the Borrower's Books and Records concerning the Collateral without giving the Lender prior written notice of the address to which the Borrower is moving same; and (vi) to cooperate with the Lender in perfecting all security interests granted by this Agreement and in obtaining such agreements from third parties as the Lender deems necessary, proper or convenient in connection with the preservation, perfection or enforcement of any of its rights under this Agreement.
- (b) Borrower agrees with regard to the Collateral, unless the Lender agrees otherwise in writing: (i) that the Lender is authorized to file financing statements in the name of Borrower to perfect the Lender's security interest in the Collateral; (ii) that the Lender is authorized to notify any account debtors, any buyers of the Collateral, any Borrower Customers or any other persons of the Lender's interest in the Collateral, (iii) where applicable, to operate the Collateral in accordance with all applicable statutes, rules and regulations relating to the use and control of the Collateral, and not to use any Collateral for any unlawful purpose or in any way that would void any insurance required to be carried; (iv) not to remove the Collateral from the Borrower's premises except in the ordinary course of Borrower's business; (v) to pay when due all license fees, registration fees and other charges in connection with any Collateral; (vi) not to permit any lien on the Collateral, including without limitation, liens arising from repairs to or storage of the Collateral, except in favor of the Lender; (vii) not to sell, hypothecate or dispose of, nor permit the transfer by operation of law of, any Collateral or any interest in the Collateral, except sales of inventory to buyers in the ordinary course of Borrower's business; (viii) to permit the Lender to inspect the Collateral at any time; (ix) to keep, in accordance with generally accepted accounting principles, complete and accurate Books and Records regarding all the Collateral, and to permit the Lender to inspect the same and make copies at any reasonable time; (x) if requested by the Lender, to receive and use reasonable diligence to collect the Collateral consisting of accounts and other rights to payment and proceeds, in trust and as the property of the Lender, and to immediately endorse as appropriate and deliver such Collateral to the Lender daily in the exact form in which they are received together with a collection report in form satisfactory to the

Lender; (xi) not to commingle the Collateral, or collections with respect to the Collateral, with other property; (xii) to give only normal allowances and credits and to advise the Lender thereof immediately in writing if they affect any rights to payment or proceeds in any material respect; (xiii) from time to time, when requested by the Lender, to prepare and deliver a schedule of all the Collateral subject to this Agreement and to assign in writing and deliver to the Lender all accounts, contracts, leases and other chattel paper, instruments, and documents; (xiv) in the event the Lender elects to receive payments or rights to payment or proceeds hereunder, to pay all expenses incurred by the Lender, including expenses of accounting, correspondence, collection efforts, reporting to account or contract debtors, filing, recording, record keeping and other expenses; and (xv) to provide any service and do any other acts which may be necessary to maintain, preserve and protect all the Collateral and, as appropriate and applicable, to keep all the Collateral in good and saleable condition, to deal with the Collateral in accordance with the standards and practices adhered to generally by users and manufacturers of like property, and to keep all the Collateral free and clear of all defenses, rights of offset and counterclaims.

- (c) If any Collateral is or becomes the subject of any registration certificate, certificate of deposit or negotiable document of title, including any warehouse receipt or bill of lading, Borrower must immediately deliver such document to the Lender, together with any necessary endorsements.

2.4 Lender Rights. Borrower appoints the Lender its attorney in fact to perform any of the following rights, which are coupled with an interest, are irrevocable until termination of this Agreement and may be exercised from time to time by the Lender's officers and employees, or any of them, whether or not Borrower is in default: (a) to perform any obligation of Borrower hereunder in Borrower's name or otherwise; (b) to release persons liable on the Collateral and to give receipts and acquittances and compromise disputes; (c) to release or substitute security; (d) to prepare, execute, file, record or deliver notes, assignments, schedules, designation statements, financing statements, continuation statements, termination statements, statements of assignment, applications for registration or like documents to perfect, preserve or release the Lender's interest in the Collateral; (e) to take cash, instruments for the payment of money and other property to which the Lender is entitled; (f) to verify facts concerning the Collateral by inquiry of obligors thereon, or otherwise, in its own name or a fictitious name; (g) to endorse, collect, deliver and receive payment under instruments for the payment of money constituting or relating to the Collateral; (h) to prepare, adjust, execute, deliver and receive payment under insurance claims, and to collect and receive payment of and endorse any instrument in payment of loss or returned premiums or any other insurance refund or return, and to apply such amounts received by the Lender, at the Lender's sole option, toward repayment of the Indebtedness or, where appropriate, replacement of the Collateral; (i) to enter onto Borrower's premises in inspecting the Collateral; (j) to make withdrawals from and to close deposit accounts or other accounts with any financial institution, wherever located, into which proceeds may have been deposited, and to apply funds so withdrawn to payment of the Indebtedness; (j) to preserve or release the interest evidenced by chattel paper to which the Lender is entitled and to endorse and deliver any evidence of title; and (k) to do all acts and things and execute all documents in the name of Borrower or otherwise,

deemed by the Lender as necessary, proper and convenient in connection with the preservation, perfection or enforcement of its rights.

3. LOAN ADMINISTRATION AND FEES.

3.1 Fees. Fees will be paid by the applicable Borrower as provided on Schedule B.

3.2 Collection of Payments.

- (a) Payments will be made by debit to a deposit account, if direct debit is provided for in this Agreement or is otherwise authorized by Borrower. For payments not made by direct debit, payments will be made by mail to the address shown on applicable Borrower's statement, or by such other method as may be permitted by the Lender.
- (b) Each disbursement by the Lender and each payment by Borrower will be evidenced by records kept by the Lender which will, absent manifest error, be conclusively presumed to be correct and accurate and constitute an account stated between Borrower and the Lender.

3.3 Borrower Instructions.

Subject to the terms, conditions and procedures stated elsewhere in this Agreement, the Lender may honor instructions for advances or repayments and any other instructions under this Agreement given by any one of the individuals the Lender reasonably believes is authorized to sign loan agreements on behalf of Borrower, or any other individual(s) designated by any one of such authorized signers (each an "Authorized Individual"). The Lender may honor any such instructions made by any one of the Authorized Individuals, whether such instructions are given in writing or by telephone, Internet and intranet websites or other means designated by the Lender.

3.4 Direct Debit with ACH Debit.

- (a) Borrower agrees that on the due date of any amount due under this Agreement, the Lender will debit the amount due from the deposit account with the Depository listed below (the "Designated Account") owned by Borrower. Should there be insufficient funds in the Designated Account to pay all such sums when due, the full amount of such deficiency will be immediately due and payable by Borrower. A voided copy of a check on the Designated Account has been, or will be, provided to the Lender.

DEPOSITORY NAME: _____

City, State and Zip Code: _____

Routing Number: _____

Deposit Account Number: _____

- (b) Debits made by ACH will be subject to the operating rules of the National Automated Clearing House Association, as in effect from time to time.

- (c) Borrower may terminate this direct debit arrangement at any time by sending written notice to the Lender. If Borrower terminates this arrangement, then the principal amount outstanding under this Agreement will at the option of the Lender bear interest at a rate per annum, which is one percentage point higher than the rate of interest otherwise provided under this Agreement.

3.5 Business Days. Unless otherwise provided in this Agreement, a business day is a day other than a Saturday, Sunday or other day on which commercial banks are authorized to close, or are in fact closed, in the State of California. All payments and disbursements which would be due or which are received on a day, which is not a business day will be due or applied, as applicable, to the credit on the next business day.

3.6 Interest Calculation. Except as otherwise stated in this Agreement, all interest and fees, if any, will be computed on the basis of a 360-day year and the actual number of days elapsed. Installments of principal, which are not paid when due under this Agreement will continue to bear interest until paid.

3.7 Default Rate. Upon the occurrence of any default or after maturity or after judgment has been rendered on any obligation under this Agreement, all amounts outstanding under this Agreement, including any unpaid interest, fees, or costs, will at the option of the Lender bear interest at a rate which is five percentage points higher than the rate of interest otherwise provided under this Agreement. This may result in compounding of interest. This will not constitute a waiver of any default.

4. CONDITIONS.

Before the Lender is required to extend any credit to Borrower under this Agreement, it must receive any documents and other items it may reasonably require, in form and content acceptable to the Lender, including any items specifically listed below.

4.1 Authorizations. If Borrower is anything other than a natural person, evidence that the execution, delivery and performance by Borrower of this Agreement and any instrument or agreement required under this Agreement have been duly authorized.

4.2 Governing Documents. If required by the Lender, a copy of organizational documents of Borrower.

4.3 Perfection and Evidence of Priority. Evidence that the security interests and liens in favor of the Lender are valid, enforceable, properly perfected in a manner acceptable to the Lender and prior to all others' rights and interests, except those the Lender consents to in writing. All title documents for motor vehicles which are part of the collateral must show the Lender's interest.

4.4 Payment of Fees. Payment of all fees, expenses and other amounts due and owing to the Lender. If any fee is not paid in cash, the Lender may, in its discretion, treat the fee as a principal advance under this Agreement or deduct the fee from the loan proceeds.

5. REPRESENTATIONS AND WARRANTIES.

When Borrower signs this Agreement, and until the Lender is repaid in full, Borrower makes the following representations and warranties. Each request for an extension of credit constitutes a renewal of these representations and warranties as of the date of the request:

5.1 Formation. Borrower is duly formed and existing under the laws of the state or other jurisdiction where organized.

5.2 Authorization. This Agreement as amended hereby, and any instrument or agreement required under this Agreement, are within Borrower's powers, have been duly authorized, and do not conflict with any of its organizational documents.

5.3 Good Standing. In each state in which Borrower does business, it is properly licensed, in good standing, and, where required, in compliance with fictitious name statutes.

5.4 Financial Information. All financial and other information that has been or will be supplied to the Lender is sufficiently complete to give the Lender accurate knowledge of the Borrower's financial condition, including all material contingent liabilities. Since the date of the most recent financial statement provided to the Lender, there has been no material adverse change in the business condition (financial or otherwise), operations, properties or prospects of Borrower.

5.5 Lawsuits. There is no lawsuit, tax claim or other dispute pending or threatened against Borrower, which, if lost, would impair Borrower's financial condition or ability to repay the loan, except as have been disclosed in writing to the Lender.

5.6 Other Obligations. Borrower is not in default on any obligation for borrowed money, any purchase money obligation or any other material lease, commitment, contract, instrument or obligation, except as have been disclosed in writing to the Lender.

5.1 No Claims, Defenses, Etc. Borrower has no claims, counterclaims, defenses, or setoffs with respect to the Line of Credit or this Agreement as amended hereby. The Agreement as amended hereby contains the entire understanding and agreement of Borrower and the Lender in respect of the Line of Credit and supersedes all prior representations, warranties, agreements, arrangements, and understandings.

5.3 Tax Matters. Borrower has no knowledge of any pending assessments or adjustments of its income tax for any year and all taxes due have been paid, except as have been disclosed in writing to the Lender.

5.4 No Event of Default. There is no event, which is, or with notice or lapse of time or both would be, a default under this Agreement.

5.5 Collateral. All Collateral is owned by Borrower free of any title defects or any liens or interests of others, except those which have been approved by the Lender in writing.

6. COVENANTS.

Borrower agrees, so long as credit is available under this Agreement and until the Lender is repaid in full:

6.1 Use of Proceeds. To use the proceeds of the Line of Credit only for business purposes.

6.2 Financial Information. To provide financial statements and other information in form and content acceptable to the Lender relating to the affairs of Borrower as requested by the Lender from time to time.

6.3 Other Debts. Not to have outstanding or incur any direct or contingent liabilities or lease obligations (other than those to the Lender or to any affiliate of the Lender), or become liable for the liabilities of others, without the Lender's written consent. This does not prohibit:

- (a) Acquiring goods, supplies, or merchandise on normal trade credit.
- (b) Liabilities, lines of credit and leases in existence on the Effective Date (as defined below) disclosed in writing to the Lender.

6.4 Other Liens. Not to create, assume, or allow any security interest or lien (including judicial liens) on property Borrower now or later owns, except:

- (a) Liens and security interests in favor of the Lender or any affiliate of the Lender.
- (b) Liens outstanding on the Effective Date (as defined below) disclosed in writing to the Lender.

6.5 Maintenance of Assets.

- (a) Not to sell, assign, lease, transfer or otherwise dispose of any part of the business or assets of Borrower except inventory sold in the ordinary course of business of Borrower.
- (b) Not to sell, assign, lease, transfer or otherwise dispose of any assets for less than fair market value, or enter into any agreement to do so.
- (c) To maintain and preserve all rights, privileges, and franchises Borrower now has.

6.6 Additional Negative Covenants. Not to, without the Lender's written consent:

- (a) Enter into any consolidation, merger, or other combination, or become a partner in a partnership, a member of a joint venture, or a member of a limited liability company.
- (b) Liquidate or dissolve Borrower's business.

6.7 Notices to Lender. To promptly notify the Lender in writing of:

- (a) Any event of default under this Agreement, or any event, which, with notice or lapse of time or both, would constitute an event of default.
- (b) Any change in Borrower's name, legal structure, state of registration, place of business, or chief executive office if Borrower has more than one place of business.

6.8 Insurance. To maintain insurance as is usual for the business it is in.

6.9 Compliance with Laws. To comply with the laws (including any fictitious or trade name statute), regulations, and orders of any government body with authority over business of Borrower. The Lender has no obligation to make any advance to Borrower except in compliance with all applicable laws and regulations and Borrower will fully cooperate with the Lender in complying with all such applicable laws and regulations.

6.10 Books and Records. To maintain adequate books and records.

6.11 Audits. To allow the Lender and its agents to inspect properties of Borrower and examine, audit, and make copies of books and records at any reasonable time. If any of the properties, books or records of Borrower are in the possession of a third party, Borrower authorizes that third party to permit the Lender or its agents to have access to perform inspections or audits and to respond to the Lender's requests for information concerning such properties, books and records.

6.12 Perfection of Liens. To help the Lender perfect and protect its security interests and liens, and reimburse it for related costs it incurs to protect its security interests and liens.

6.13 Cooperation. To take any action reasonably requested by the Lender to carry out the intent of this Agreement.

7. DEFAULT AND REMEDIES.

Without limiting any of the Lender's rights and remedies in this Agreement, if any of the following events of default occurs, the Lender may do one or more of the following without prior notice: declare Borrower in default, stop making any additional credit available to Borrower, and require Borrower to repay its entire debt immediately. If an event, which, with notice or the passage of time, will constitute an event of default has occurred and is continuing, the Lender has no obligation to make advances or extend additional credit under this Agreement. In addition, if any event of default occurs, the Lender will have all rights, powers and remedies available under any instruments and agreements required by or executed in connection with this Agreement, as well as all rights and remedies available at law or in equity. If an event of default occurs under Section 7.6, with respect to Borrower, then the entire debt outstanding under this Agreement will automatically be due immediately.

7.1 Failure to Pay. Borrower fails to make a payment under this Agreement when due.

7.2 Covenants. Any default in the performance of or compliance with any obligation, agreement or other provision contained in this Agreement (other than those specifically described as an event of default in this Article), and with respect to any such default that by its nature can be cured, such default continues for a period of 20 days from its occurrence.

7.3 Other Lender Agreements. Any default occurs under any guaranty, subordination agreement, security agreement, deed of trust, mortgage, or other document required by or delivered in connection with this Agreement or any such document is no longer in effect, or any guarantor purports to revoke or disavow the guaranty; or any default occurs under any other agreement Borrower (or any Obligor) has with the Lender or any affiliate of the Lender. For purposes of this Agreement, "Obligor" means any guarantor, any party pledging collateral to the Lender, or, if Borrower is comprised of the trustees of a trust, any trustor.

7.4 Cross-default. Any default occurs under any agreement in connection with any credit Borrower (or any Obligor) has obtained from anyone else or which Borrower (or any Obligor) or any of Borrower's related entities or affiliates has guaranteed.

7.5 False Information. Borrower or any Obligor has given the Lender false or misleading information or representations.

7.6 Bankruptcy/Receivers. Borrower, any Obligor, or any general partner of Borrower or of any Obligor files a bankruptcy petition, a bankruptcy petition is filed against any of the foregoing parties and such petition is not dismissed within a period of forty-five (45) days after the filing, or Borrower, any Obligor, or any general partner of Borrower or of any Obligor makes a general assignment for the benefit of creditors; or a receiver or similar official is appointed for a substantial portion of business of Borrower or any Obligor; or the business is terminated, or such Obligor is liquidated or dissolved.

7.7 Lien Priority. The Lender fails to have an enforceable first lien (except for any prior liens to which the Lender has consented in writing) on or security interest in any property given as security for this Agreement (or any guaranty).

7.8 Judgments. Any judgments or arbitration awards are entered against Borrower or any Obligor.

7.9 Material Adverse Change. A material adverse change occurs, or is reasonably likely to occur, in the business condition (financial or otherwise), operations or properties, or ability to repay the credit of Borrower or any Obligor.

7.10 Government Action. Any government authority takes action that the Lender believes materially adversely affects the financial condition or ability to repay of Borrower or any Obligor.

7.11 Liens. Any involuntary lien of any kind or character attaches to any Collateral, except for liens for taxes not yet due.

8. THE LENDER'S ADDITIONAL REMEDIES.

8.1 The Lender's Additional Remedies After Default. In the event of any default, the Lender may do any one or more of the following, to the extent permitted by law:

- (a) Declare any Indebtedness immediately due and payable, without notice or demand.
- (b) Enforce the security interest given hereunder pursuant to the Uniform Commercial Code and any other applicable law.
- (c) Require Borrower to obtain the Lender's prior written consent to any sale, lease, agreement to sell or lease, or other disposition of any Collateral.
- (d) Require Borrower to segregate all collections and proceeds of the Collateral so that they are capable of identification and deliver daily such collections and proceeds to the Lender in kind.
- (e) Require Borrower to direct all account debtors to forward all payments and proceeds of the Collateral to a post office box under the Lender's exclusive control.
- (f) Give notice to others of the Lender's rights in the Collateral, to enforce or forebear from enforcing the same and make extension and modification agreements.
- (g) Require Borrower to assemble the Collateral, including the Books and Records, and make them available to the Lender at a place designated by the Lender.
- (h) Enter upon the property where any Collateral, including any Books and Records, are located and take possession of such Collateral and such Books and Records, and use such property (including any buildings and facilities) and any equipment of Borrower, if the Lender deems such use necessary or advisable in order to take possession of, hold, preserve, process, assemble, prepare for sale or lease, market for sale or lease, sell or lease, or otherwise dispose of, any Collateral.
- (i) Demand and collect any payments on and proceeds of the Collateral. In connection therewith the Borrower irrevocably authorizes the Lender to endorse or sign the Borrower's name on all checks, drafts, collections, receipts and other documents, and to take possession of and open the mail addressed to the Borrower and remove therefrom any payments and proceeds of the Collateral.
- (j) Grant extensions and compromise or settle claims with respect to the Collateral for less than face value, all without prior notice to the Borrower.

- (k) Use or transfer any of the Borrower's rights and interests in any Intellectual Property now owned or hereafter acquired by the Borrower, if the Lender deems such use or transfer necessary or advisable in order to take possession of, hold, preserve, process, assemble, prepare for sale or lease, market for sale or lease, sell or lease, or otherwise dispose of, any Collateral. The Borrower agrees that any such use or transfer will be without any additional consideration to the Borrower. As used in this *Section 8.1 (k)*, "Intellectual Property" includes, but is not limited to, all trade secrets, computer software, service marks, trademarks, trade names, trade styles, copyrights, patents, applications for any of the foregoing, customer lists, working drawings, instructional manuals, and rights in processes for technical manufacturing, packaging and labeling, in which the Borrower has any right or interest, whether by ownership, license, contract or otherwise.
- (l) Have a receiver appointed by any court of competent jurisdiction to take possession of the Collateral. The Borrower hereby consents to the appointment of such a receiver and agrees not to oppose any such appointment.
- (m) Take such measures as the Lender may deem necessary or advisable to take possession of, hold, preserve, process, assemble, insure, prepare for sale or lease, market for sale or lease, sell or lease, or otherwise dispose of, any Collateral, and the Borrower hereby irrevocably constitutes and appoints the Lender as the Borrower's attorney-in-fact to perform all acts and execute all documents in connection therewith.
- (n) Without notice or demand to the Borrower, set off and apply against any and all of the Indebtedness any and all deposits (general or special, time or demand, provisional or final) and any other indebtedness, at any time held or owing by the Lender or any of the Lender's agents or affiliates to or for the credit of the account of the Borrower or any guarantor or endorser of the Borrower's Indebtedness.
- (o) Exercise all rights, powers and remedies which the Borrower would have, but for this Agreement, with respect to all Collateral.
- (p) Receive, open and read mail addressed to the Borrower.
- (q) Resort to the Collateral under this Agreement, and any other collateral related to the Indebtedness, in any order.
- (r) Exercise any other remedies available to the Lender at law or in equity.

9. **ENFORCING THIS AGREEMENT; MISCELLANEOUS.**

9.1 **Governing Law.** Except to the extent that any law of the United States may apply, this Agreement will be governed and interpreted according to the laws of California (the "Governing Law State"), without regard to any choice of law, rules or principles to the contrary.

Nothing in this *Section 9.1* be construed to limit or otherwise affect any rights or remedies of the Lender under federal law.

9.2 Venue and Jurisdiction. The Borrower agrees that any action or suit against the Lender arising out of or relating to this Agreement must be filed in federal court or state court located in San Francisco, California. The Borrower agrees that the Lender will not be deemed to have waived its rights to enforce this *Section 9.2* by filing an action or suit against the Borrower in a venue outside of the Governing Law State. If the Lender does commence an action or suit arising out of or relating to this Agreement, the Borrower agrees that the case may be filed in federal court or state court in the Governing Law State. The Lender reserves the right to commence an action or suit in any other jurisdiction where the Borrower, any Guarantor, or any collateral has any presence or is located. The Borrower consents to personal jurisdiction and venue in such forum selected by the Lender and waives any right to contest jurisdiction and venue and the convenience of any such forum. The provisions of this *Section 9.2* are material inducements to the Lender's acceptance of this Agreement.

9.3 Successors and Assigns. This Agreement is binding on the Borrower's and the Lender's successors and assignees. The Borrower agrees that it may not assign this Agreement without the Lender's prior consent.

9.4 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER DOCUMENT EXECUTED IN CONNECTION HEREWITH OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (a) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (b) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER DOCUMENTS CONTEMPLATED HEREBY BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS *SECTION 9.4* AND (c) CERTIFIES THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE.

9.5 Severability; Waivers. If any part of this Agreement is not enforceable, the rest of the Agreement may be enforced. The Lender retains all rights, even if it makes a loan after default. If the Lender waives a default, it may enforce a later default. Any consent or waiver under this Agreement must be in writing.

9.6 Expenses.

- (a) The Borrower must pay to the Lender immediately upon demand the full amount of all payments, advances, charges, costs and expenses, including reasonable attorneys' fees, expended or incurred by the Lender in

connection with (i) the negotiation and preparation of this Agreement and any related agreements, the Lender's continued administration of this Agreement and such related agreements, and the preparation of any amendments and waivers related to this Agreement or such related agreements, (ii) filing, recording and search fees, appraisal fees, field examination fees, title report fees, and documentation fees with respect to any collateral and books and records of the Borrower or any Obligor, and (iii) costs or expenses required to be paid by the Borrower or any Obligor that are paid, incurred or advanced by the Lender.

- (b) The Borrower will indemnify and hold the Lender harmless from any loss, liability, damages, judgments, and costs of any kind relating to or arising directly or indirectly out of (i) this Agreement or any document required hereunder, (ii) any credit extended or committed by the Lender to the Borrower hereunder, and (iii) any litigation or proceeding related to or arising out of this Agreement, any such document, or any such credit, including, without limitation, any act resulting from the Lender complying with instructions the Lender reasonably believes are made by any Authorized Individual. This *Section 9.6(b)* will survive this Agreement's termination, and will benefit the Lender and its officers, employees, and agents.
- (c) The Borrower must reimburse the Lender for any reasonable costs and attorneys' fees incurred by the Lender in connection with (i) the enforcement or preservation of the Lender's rights and remedies and/or the collection of any obligations of the Borrower which become due to the Lender and in connection with any "workout" or restructuring, and (ii) the prosecution or defense of any action in any way related to this Agreement, the credit provided hereunder or any related agreements, including without limitation, any action for declaratory relief, whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by the Lender or any other person) relating to the Borrower or any other person or entity.

9.7 Set-Off. Upon and after the occurrence of an event of default under this Agreement, (a) the Borrower hereby authorizes the Lender, at any time and from time to time, without notice, which is hereby expressly waived by the Borrower, and whether or not the Lender has declared any credit subject hereto to be due and payable in accordance with the terms hereof, to set off against, and to appropriate and apply to the payment of, the Borrower's Obligations (whether matured or unmatured, fixed or contingent, liquidated or unliquidated), any and all amounts owing by the Lender to the Borrower (whether payable in U.S. dollars or any other currency, whether matured or unmatured), and (b) pending any such action, to the extent necessary, to hold such amounts as collateral to secure such Obligations. "Obligations" means all obligations, now or hereafter existing, of the Borrower to the Lender under this Agreement and under any other agreement or instrument executed in connection with this Agreement.

9.8 One Agreement. THIS WRITTEN AGREEMENT AND ANY RELATED DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

9.9 Notices. Unless otherwise provided in this Agreement or in another agreement between the Lender and the Borrower, all notices required under this Agreement shall be (a) in writing (including electronic mail), (b) delivered by electronic mail or overnight courier, and (c) deemed delivered upon electronic or written acknowledgment of receipt. Notices shall be sent to the addresses set forth on the signature page to this Agreement or such other address as specified and delivered pursuant to this *Section 9.9*.

9.10 Amendment and Restatement of Original Agreement.

- (a) Borrower, and Cyber by execution of this Agreement, acknowledge and agree that the original Loan and Security Agreement (the "**Original Agreement**"), effective as of December 27, 2018 (the "**Effective Date**") by and between Borrower and Cyber Quantum PTE, LTD, a Singapore limited company ("**Cyber**"), erroneously included Cyber as the lender. Cred LLC is now, and always was intended to be, the named lender under the Original Agreement. Further, Cred LLC has at all times performed the obligations of the Lender under the Original Agreement, including but not limited to making all Advances. Accordingly, by execution of this Agreement, the parties are amending and restating the Original Agreement to reflect that Cred LLC is the Lender. In order to ensure the amendment intended hereby is complete in all respects, Cyber hereby assigns to Cred LLC any legal or equitable rights Cyber may have under the Original Agreement.
- (b) Notwithstanding the amendment of the Original Agreement, Borrower hereby ratifies and affirms all of the indebtedness, liabilities and obligations owing by it under the Original Agreement, as amended and restated hereby, including all Advances made by Lender prior to the date hereof as reflected on the Schedule of Advances. Further, Borrower ratifies and affirms any related documents and agreements, guaranties, pledges and grants of security interests under the Original Agreement made by Borrower prior to the date hereof, each of which shall continue to be in full force and effect in favor of the Lender hereunder from and after the date of the Original Agreement. In the event of any conflict between the terms and conditions of this Agreement and the terms and conditions of the Original Agreement, the terms and conditions of this Agreement shall control.

9.11 Headings. Article and section headings are for reference only and will not affect the interpretation or meaning of any provisions of this Agreement.

9.12 Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed, will be deemed to be an original, and all of which when taken

together will constitute one and the same Agreement. Delivery of an executed counterpart of this Agreement (or of any agreement or document required by this Agreement and any amendment to this Agreement) by DocuSign will be as effective as delivery of a manually executed counterpart of this Agreement.

9.13 Further Amendments. No provision of the Agreement may be changed, discharged, supplemented, terminated, or waived except in a writing signed by the Borrower and the Lender.

[Balance of page left blank.]

This Agreement is executed as of the date first written above.

SIGNATURES

MOKREDIT INC.,
an Exempted Company incorporated in the
Cayman Islands with Limited Liability

By: *lu hua*
Name: LU HUA
Title: Director

Notice Address:
moKredit Inc.
c/o Offshore Incorporations (Cayman)
Limited
Floor 4 Willow House, Cricket Square
P.O. Box 2804
Grand Cayman KY1-1112, Cayman
Islands

CRED LLC,
a Delaware limited liability company

By: *Dan Schatt*
Name: Dan Schatt
Title: CEO

Notice Address:
Cred LLC
2121 South El Camino Real, Suite 500
San Mateo, CA 94403
Attention: Dan Wheeler, GC

**MOKREDIT TECHNOLOGY (HONG
KONG) COMPANY LIMITED,**
a Hong Kong company

By: *lu hua*
Name: LU HUA
Title: Director

Notice Address:
moKredit Technology (Hong Kong)
Company Limited
18 East Yanan Road
F17 Shanghai 200001
Attention: Lu Hua

Acknowledged & Agreed.

CYBER QUANTUM PTE. LTD.
a Singapore limited company

By: Dan Schatt
Name: Dan Schatt
Title: Director

Notice address:
Cyber Quantum Pte. Ltd
Anson Road
Singapore 79903

SCHEDULE A**Schedule of Advances
(Updated January 30, 2020)****Advances:**

Tranche	Borrower	Term	Source	Mo	Start Date	End Date	Days	Currency	Amount
1	MoKredit	12 months	Earn	12	12/27/2018	12/28/2019	367	USDT	74,240.00
2	MoKredit	12 months	Earn	1	1/8/2019	1/8/2020	366	USDT	79,570.02
3	MoKredit	12 months	Working Cap	11	11/15/2018	11/15/2019	366	USD	-
4	MoKredit	6 months	Earn	1	1/10/2019	6/27/2019	169	USDT	3,855,927.04
5	MoKredit	6 months	Earn	1	1/22/2019	7/26/2019	186	USDT	28,352.00
6	MoKredit	6 months	Earn	1	1/22/2019	7/26/2019	186	TUSD - True	100,000.00
7	MoKredit	6 months	Earn	2	2/1/2019	7/26/2019	176	USDT	152,205.97
8	MoKredit	3.5 months	Earn	2	2/15/2019	5/28/2019	103	DAI	250,000.00
9	MoKredit	6 months	Earn	2	2/15/2019	10/30/2019	258	USDT	51,248.00
10	MoKredit	6 months	Earn	3	3/1/2019	8/28/2019	181	USDT	212,050.00
11	MoKredit	12 months	Earn	3	3/1/2019	2/26/2020	363	USDT	250,000.00
12	MoKredit	6 months	Earn	3	3/19/2019	9/11/2019	177	TUSD - True	2,317,499.00
13	MoKredit	6 months	Earn	3	3/19/2019	9/11/2019	177	USDT	642,524.21
14	MoKredit	6 months	Earn	3	3/20/2019	9/11/2019	176	USDT	634,033.14
15	MoKredit	6 months	Earn	3	3/23/2019	9/11/2019	173	USDT	77,240.91
16	MoKredit	6 months	Earn	3	3/26/2019	9/11/2019	170	USDC - Circle	2,345,990.00
17	MoKredit	6 months	Earn	3	3/27/2019	9/11/2019	169	USDT	644,201.07
18	MoKredit	6 months	Earn	3	3/27/2019	9/11/2019	169	USDT	399,998.00
19	MoKredit	6 months	Earn	4	4/1/2019	9/27/2019	180	USDT	281,981.00
20	MoKredit	6 months	Earn	4	4/1/2019	9/27/2019	180	USDT	63,493.00
21	MoKredit	6 months	Earn	4	4/2/2019	9/26/2019	178	USDC - Circle	300,131.10
22	MoKredit	12 months	Earn	4	4/10/2019	3/30/2020	356	TUSD - True	521,345.85
23	MoKredit	12 months	Earn	4	4/12/2019	4/9/2020	364	USDC - Circle	409,671.93
24	MoKredit	6 months	Earn	4	4/15/2019	10/11/2019	180	TUSD - True	351,923.66
25	MoKredit	6 months	Earn	4	4/16/2019	10/13/2019	181	USDC - Circle	1,184,064.54
26	MoKredit	6 months	Earn	4	4/19/2019	10/13/2019	178	USDC - Circle	44,695.05
27	MoKredit	12 months	Earn	3	3/13/2019	3/7/2020	361	USD	200,000.00
28	MoKredit	6 months	Earn	5	5/1/2019	10/30/2019	183	TUSD - True	256,429.00
29	MoKredit	6 months	Earn	5	5/1/2019	10/30/2019	183	TUSD - True	428,810.00
30	MoKredit	6 months	Earn	5	5/2/2019	10/30/2019	182	TUSD - True	53,218.37
32	MoKredit	1 month	Earn	5	5/7/2019	1/31/2020	216	TUSD - True	1,000,000.00
33	MoKredit	1 month	Earn	5	5/8/2019	1/31/2020	215	TUSD - True	1,014,607.27
34	MoKredit	6 months	Earn	5	5/15/2019	3/30/2020	321	TUSD - True	327,223.00
35	MoKredit	12 months	Earn	5	5/17/2019	4/30/2020	350	GUSD - Gemini	1,190,500.00
36	MoKredit	12 months	Earn	5	5/17/2019	4/30/2020	350	PAX	496,041.67
37	MoKredit	12 months	Earn	5	5/17/2019	4/30/2020	350	USDC - Circle	2,200,000.00
38	MoKredit	12 months	Earn	5	5/17/2019	4/30/2020	350	TUSD - True	81,791.66
39	MoKredit	12 months	Earn	5	5/20/2019	4/30/2020	347	TUSD - True	381,331.94
40	MoKredit	12 months	Earn	5	5/23/2019	4/30/2020	344	TUSD - True	876,444.07

41	MoKredit	12 months	Earn	6	6/1/2019	11/30/2019	183	TUSD - True	453,896.88
44	MoKredit	12 months	Earn	6	6/3/2019	5/31/2020	364	TUSD - True	443,301.79
45	MoKredit	12 months	Earn	5	5/15/2019	5/31/2020	383	LBA	2,131,284.17
46	MoKredit	12 months	Earn	6	6/1/2019	6/30/2020	396	LBA	1,613,252.01
47	MoKredit	6 months	Earn	6	6/8/2019	11/30/2019	176	PAX	500,000.00
48	MoKredit	6 months	Earn	6	6/7/2019	11/30/2019	177	USDC	490,000.00
49	MoKredit	1 month	Earn	6	6/10/2019	11/30/2019	174	USDC	334,536.00
50	MoKredit	1 month	Earn	6	6/11/2019	11/30/2019	173	USDC	475,290.64
51	MoKredit	1 month	Earn	6	6/13/2019	7/20/2019	38	USDC	1,011,960.32
52	MoKredit	6 months	Earn	6	6/15/2019	12/13/2019	182	USDC	598,236.43
53	MoKredit	6 month	Earn	6	6/26/2019	12/15/2019	173	ETH	3,225.00
54	MoKredit	12 months	Earn	7	7/1/2019	12/27/2019	180	TUSD	100,000.00
55	MoKredit	6 month	Earn	7	7/8/2019	1/3/2020	180	PAX	800,000.00
56	MoKredit	6 month	Earn	7	7/11/2019	12/27/2019	170	USDC	899,135.43
57	MoKredit	6 month	Earn	7	7/15/2019	1/2/2020	172	PAX	150,000.00
58	MoKredit	6 month	Earn	7	7/15/2019	1/13/2020	183	USDC	843,830.00
59	MoKredit	6 month	Earn	7	7/18/2019	1/10/2020	177	PAX	1,000,000.00
60	MoKredit	6 month	Earn	7	7/18/2019	11/30/2019	136	USDC	1,527,313.23
61	MoKredit	6 month	Earn	7	7/18/2019	9/30/2019	75	USDC	524,608.45
62	MoKredit	5 month	Earn	7	7/26/2019	12/31/2019	159	USDC	298,798.80
63	MoKredit	5 month	Earn	7	7/30/2019	12/31/2019	155	USDC	476,125.31
64	MoKredit	5 month	Earn	7	7/30/2019	12/31/2019	155	PAX	605,684.15
65	MoKredit	5 month	Earn	7	7/30/2019	12/31/2019	155	USDC	220,864.57
66	MoKredit	6 month	Earn	8	8/2/2019	1/29/2020	181	TUSD	49,193.31
67	MoKredit	6 month	Earn	8	8/18/2019	2/12/2020	179	TUSD	141,022.00
68	MoKredit	3 month	Earn	8	8/21/2019	11/30/2019	102	PAX	1,000,000.00
69	MoKredit	6 month	Earn	9	9/1/2019	2/27/2020	180	TUSD	50,339.00
70	MoKredit	6 month	Earn	9	9/4/2019	12/13/2019	101	LBA	1,537,379.69
71	MoKredit	6 month	Earn	9	9/4/2019	12/30/2019	118	LBA	564,465.77
72	MoKredit	6 month	Earn	9	9/4/2019	1/13/2020	132	LBA	432,960.88
73	MoKredit	6 month	Earn	9	9/4/2019	1/31/2020	150	LBA	3,282,474.66
74	MoKredit	6 month	Earn	9	9/4/2019	2/13/2020	163	LBA	241,377.30
75	MoKredit	6 month	Earn	9	9/4/2019	2/28/2020	178	LBA	796,991.88
76	MoKredit	6 month	Earn	9	9/15/2019	3/12/2020	180	TUSD	47,990.00
77	MoKredit	6 month	Earn	9	9/16/2019	3/12/2020	179	USDC	4,500,000.00
78	MoKredit	6 month	Earn	9	9/16/2019	3/12/2020	179	LBA	1,387,922.89
79	MoKredit	6 month	Earn	7	7/22/2019	12/31/2019	163	USDC	522,941.28
80	MoKredit	6 month	Earn	10	10/2/2019	3/30/2020	181	LBA	989,220.63
81	MoKredit	6 month	Earn	10	10/3/2019	3/30/2020	180	TUSD	150,000.00
82	MoKredit	6 month	Earn	10	10/16/2019	4/10/2020	178	USDC	1,800,000.00
83	MoKredit	6 month	Earn	10	10/17/2019	4/10/2020	177	USDC	2,000,000.00
84	MoKredit	6 month	Earn	10	10/18/2019	4/10/2020	176	PAX	500,000.00
85	MoKredit	6 month	Earn	10	10/18/2019	4/10/2020	176	LBA	1,327,445.16
86	MoKredit	6 month	Earn	10	10/22/2019	4/10/2020	172	USDC	1,160,000.00
87	MoKredit	6 month	Earn	10	10/31/2019	12/31/2019	62	USDC	89,705.37
88	MoKredit	6 month	Earn	11	11/1/2019	4/28/2020	180	LBA	638,540.67
89	MoKredit	6 month	Earn	11	11/1/2019	4/28/2020	180	USDC	1,747,535.83

90	MoKredit	6 month	Earn	11	11/12/2019	2/12/2020	93	USDC	4,258,962.65
91	MoKredit	6 months	Earn	6	12/14/2019	5/31/2020	170	USDC	589,224.04
92	MoKredit	6 months	Earn	6	1/30/2020	6/30/2020		USD	14,351,663

SMR114850-9553-7843.1

-23-

71DJ-309018

SCHEDULE B

Schedule of Fees

1. **General Fees.**

- a. The Borrower agrees to pay any loan and documentation fees requested by the Lender.
- b. **Waiver Fee.** If the Lender, at its discretion, agrees to waive or amend any terms of this Agreement, the Borrower will, at the Lender's option, pay the Lender a fee for each waiver or amendment in an amount advised by the Lender at the time the Borrower requests the waiver or amendment. Nothing in this *Section 1(b)* implies that the Lender is obligated to agree to any waiver or amendment requested by the Borrower. The Lender may impose additional requirements as a condition to any waiver or amendment.
- c. **Late Fee.** To the extent permitted by law, the Borrower agrees to pay a late fee in an amount not to exceed 4% of any payment that is more than 15 days late. The imposition and payment of a late fee does not constitute a waiver of the Lender's rights with respect to the default.

2. **Additional Fees.** The Borrower and the Lender agree to pay any other fees set forth on the Schedule of Advances.

EXHIBIT A**FORM OF DRAW CERTIFICATE****Draw Certificate No.** _____**Date:** _____, 20__

Re: The Loan and Security Agreement (the "**Agreement**") by and between Cred LLC ("**Lender**") and moKredit Inc. ("**Borrower**").

To: MoKredit Inc.

From: Cred LLC.
Attn: 2121 S. El Camino Real, Suite 500
San Mateo, CA 94403

This Draw Certificate is prepared and delivered pursuant to the Agreement. Capitalized terms used but not defined herein have the meanings given to such terms in the Agreement.

On the date of delivery set forth below, Lender delivered and posted cryptocurrency and/or fiat currency in the number and type specified below to Borrower's Digital Wallet pursuant to the Agreement.

Date of draw:	
Date of delivery and posting of the draw proceeds to Borrower: (date on which interest begins accruing on the draw amount)	
Type of cryptocurrency or fiat currency:	☐ cryptocurrency (type: _____) ☐ fiat currency (type: <u>USD</u> _____)
Number of tokens or USD:	☐ _____ (number of crypto tokens) ☐ \$ _____
Interest rate applicable to the draw:	_____%
Interest payment dates:	\$ _____ payable on _____, 20__ \$ _____ payable on _____, 20__ \$ _____ payable on _____, 20__

	\$ _____ payable on _____, 20____.
Principal payment dates:	\$ _____ payable on _____, 20____.
	\$ _____ payable on _____, 20____.
	\$ _____ payable on _____, 20____.
	\$ _____ payable on _____, 20____.

Exhibit T

Filed Under Seal

Exhibit U

Filed Under Seal

Exhibit V

Filed Under Seal

Exhibit W

Filed Under Seal

Exhibit X

To: JP Thieriot[jp.thieriot@uphold.com]
Cc: James Alexander[james.alexander@mycred.io]
From: Dan Schatt[dan@mycred.io]
Sent: Mon 2/4/2019 12:03:04 AM (UTC-05:00)
Subject: Re: URGENT Fwd: Start earning with CredEarn!
[2 - CredEarn -- Term Sheet Feb 15 closing BTC.docx](#)
[3 - Cred -- Enhanced Yield Agreement Feb 15 closing BTC.docx](#)
[4 - CRED -- moKredit Inc Overview Dec 2018.pdf](#)
[1 - Cred -- Fact Sheet Feb 2019.pdf](#)
[5 - Cred -- Enhanced Yield Process Overview .pdf](#)

Hi JP,

We've attached the following items:

1. 1-page Fact Sheet on Cred Earn
2. 1-page draft Term Sheet
3. User terms
4. A summary of moKredit – the source of the returns
5. 1-page process summary of Enhanced Yield

A few key items to note:

- the borrower can be offshore (Cyber Quantum) so the entire transaction stays outside the US.
- CredEarn's 1Q19 capacity is an estimated \$40 million, and we're expecting to place \$100 million+ by year-end.

If Adrian has any questions, we're happy to jump on a call.

Thanks,

Dan

On Feb 1, 2019, at 9:23 AM, JuanPablo Thieriot <jp.thieriot@uphold.com> wrote:

Sorry to do this to everyone, but we must pull together a quick 3 page Deck ASAP.

See below.

As you can see, I'm pushing for a Cred outcome, but Adrian thinks this is best done after demonstration of a transfer to either hardware wallet or a service. Intrinsically, you also need to evaluate whether what I've suggested makes sense, or if you have any better ideas - state them.

Upshot here is that we'd sure love to have \$4mm of currently held BTC behave in manner 3 or 2, rather than 1.

Dan,

You're going to need to create a diagrammatic showing your flows. I'd recommend highlighting that while there is some market risk, one is actually stepping entirely out of "security" risk via the hedging mechanism. I might also add some Mo9 collateral to substantiate the market risk behind the % return. Consider Salinas the most financially sophisticated individual you've ever met.

Is there someone in Braga that can take point start producing the 1 & 2 pages?

I'm available by phone for next 40 minutes, then after noon PST...

JP Thieriot

----- Forwarded message -----

From: **JuanPablo Thieriot** <jp.thieriot@uphold.com>

Date: Fri, Feb 1, 2019 at 9:11 AM

Subject: Re: Start earning with CredEarn!

To: Adrian Steckel <adrian@uphold.com>

Roger. We're on it.

Not a "Pitch", Three Alternatives:

1. Transfer to hardware wallet (this is truly trivial). People do this hundreds of times a day. But we'll graphically lay out the steps. There is no 'physical' place to go to manually do something that cannot be achieved off of a laptop. If he suspects the laptop in question might be compromised, then I suppose we can arrange an alternative;
2. Sending FBO to Xapo, Ledger or even alternative service of his choosing. Also trivial. Xapo is widely regarded as the most secure service in the world;
3. Entering into Cred 12% yield Contract. Zero security risk; will provide narrative and diagrams that describe the market risk associated with the financial return.

JP Thieriot

Chief Executive Officer • uphold.com

On Fri, Feb 1, 2019 at 8:59 AM Adrian Steckel <adrian@uphold.com> wrote:

Hi,

He has a hardware wallet. I do not know which.

Send me a presentation that is clear with 3 options for him to get his bitcoins in cold storage....his device, or a service via physical or over internet.

Afterwards, we can pitch him.

If you pitch him now, he will think we do not want or cannot deliver to him his coins. Not a good scenario.

Thanks!

Sent from my iPhone

On Feb 1, 2019, at 10:50 AM, JuanPablo Thieriot <jp.thieriot@uphold.com> wrote:

I hear you, but Lu Hua and James would obviously be happy to speak/meet with him - and they're pretty impressive. The principal is all hedged out. It's the certainty of high interest that requires the explanation... And from a 'security' perspective - there's zero security risk when your BTC is in such a contract.

Does he have a hardware wallet he'd like to use? If so, we can walk him or whomever he likes through the process.

Alternatively, we would be happy to send specifically his BTC to either Xapo or Ledger (maker of the Nano S device) for cold storage. This might be the best of all worlds:

- Case 2:22-cv-00398-JTD Doc 1-24 Filed 07/22/22 Page 4 of 5
- He doesn't have to deal with any new KYC, AML stuff
 - We can still reflect it in the reserve totals - which is certainly a metric that our Series D candidates will be looking at

- It's probably a one page Contract stating, for instance, that the BTC at Xapo is FBO Ricardo Salinas

JP Thieriot

Chief Executive Officer • uphold.com

On Fri, Feb 1, 2019 at 8:29 AM Adrian Steckel <adrian@uphold.com> wrote:
Once he had them in possession....then make the pitch.

As with me, he will be curious and doubtful as to the risks
Taken by cred to guarantee such return.

Sent from my iPhone

On Feb 1, 2019, at 10:24 AM, JuanPablo Thieriot <jp.thieriot@uphold.com> wrote:

Ricardo qualifies as friends and family...

BTC is 10%. 10% + 2% is pretty compelling vs a hardware wallet.

JP Thieriot

Chief Executive Officer • uphold.com

----- Forwarded message -----

From: **Josephine Svendblad** <notifications@app.bamboohr.com>
Date: Wed, Jan 30, 2019 at 4:32 PM
Subject: Start earning with CredEarn!
To: <jp.thieriot@uphold.com>

Hello Team,

Our friends at Cred recently launched [CredEarn](#) offering Uphold users a return of up to 10 percent on certain digital assets held on our platform.

As a special offer, Uphold employees and their friends & family, can earn an **extra 2%** above the advertised market rates if they choose to participate in the program.

Activate CredEarn now to take advantage of the following interest rates (are these the special uphold rates?):

Here's what you need to do to take part in this exclusive offer:

1. [Submit the email address associated with your Uphold account here](#) so that the Cred team knows you are a friend or family member.
2. Activate CredEarn through Uphold here: <https://uphold.com/en/credearn>
3. Pledge available assets to CredEarn.
4. Cred will add 2% on top of the publicly offered interest rates.

If you have any questions, please email Dan Schatt, Cred's CEO:
dschatt@mycred.io

Happy earning!

Exhibit Y

Filed Under Seal

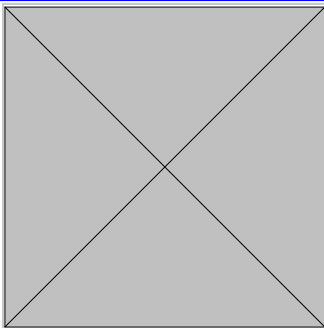
Exhibit Z

Filed Under Seal

Exhibit AA

To: JuanPablo Thieriot[jp.thieriot@uphold.com]
Cc: Michelle O'Connor[michelle.oconnor@uphold.com]; Dan Schatt[dan@mycred.io]; Simon McLoughlin[simon@uphold.com]
From: Meghan Gardler[meghan@mycred.io]
Sent: Mon 6/3/2019 11:49:11 AM (UTC-04:00)
Subject: Re: 10% announcement

<https://www.businesswire.com/news/home/20190603005557/en/Earn-10-Interest-USD-Euro-Uphold>



Earn up to 10% Interest on USD and Euro on Uphold | Business Wire

SAN FRANCISCO--(BUSINESS WIRE)--Cred, the leading provider of crypto borrowing and lending with over \$300 million in credit facilities, today announced Uphold customers will be earning higher

...

www.businesswire.com

Meghan Gardler

Director of Marketing

Cred

m: +16107643514

w: mycred.io e: meghan@mycred.io

From: JuanPablo Thieriot <jp.thieriot@uphold.com>
Sent: Sunday, June 2, 2019 9:36 PM
To: Meghan Gardler
Cc: Michelle O'Connor; Dan Schatt; Simon McLoughlin
Subject: Re: 10% announcement

Looks good to me. Fire away.



JP Thieriot

Chief Executive Officer • uphold.com

On Sun, Jun 2, 2019 at 9:28 PM Meghan Gardler <meghan@mycred.io> wrote:

Hi,

Just following up one more time. If I do not hear back I will delay until Tuesday morning.

Thanks,

Meghan

Get [Outlook for iOS](#)

From: Michelle O'Connor <michelle.oconnor@uphold.com>
Sent: Sunday, June 2, 2019 7:48 PM
To: Meghan Gardler

Just pinged JP again for approval

On Sun, Jun 2, 2019 at 6:01 PM Meghan Gardler <meghan@mycred.io> wrote:

Hi,

I'm ready on my end to put this over the wire tomorrow morning with a coinciding Twitter and email campaign. Just want to make sure we are a go from the Uphold side.

Thanks,

Meghan Gardler

Director of Marketing

Cred

m: +16107643514

w: mycred.io e: meghan@mycred.io

From: Dan Schatt
Sent: Sunday, June 2, 2019 7:56 AM
To: Michelle O'Connor
Cc: Meghan Gardler; Simon McLoughlin; JuanPablo Thieriot
Subject: Re: 10% announcement

Michelle – sounds great!

Simon / JP – Looking forward to seeing what happens with a 10% fiat announcement! Hopefully this will blunt some of the impact of the XRP rate reduction from 9% to 5%.

Thanks,

Dan

From: Michelle O'Connor <michelle.oconnor@uphold.com>
Date: Sunday, June 2, 2019 at 5:43 AM
To: Dan Schatt <dan@mycred.io>
Cc: Meghan Gardler <meghan@mycred.io>
Subject: Re: 10% announcement

Hi there,

I've forward the details to JP/Simon and need approval before we can set a time. Will follow up with them today to see when we can share this news!

On Sat, Jun 1, 2019 at 18:14 Dan Schatt <dan@mycred.io> wrote:

Hi Michelle and Meghan!

I've attached a draft announcement – excited to see this go out! <https://docs.google.com/document/d/18e6d6ijxBoX-LG0VHwNWRuITbIQnU4BffxissN5fmso/edit?usp=sharing>

A few thoughts:

- Can we put this over the wire Monday 9am EST, coinciding with:
 - Banner ads on Uphold
 - Uphold Email notifications
 - Tweets
 - Blog posts
- We have a comprehensive insurance post Cred is planning to do. I'm wondering if we should consider combining this – an Uphold email and/or blog post could link to it, to give customers an even higher level of comfort about Cred...Up to you...

Exciting! Hope we can pull off everything to announce on Monday, to get ahead of any concerns about the lowering of XRP...

Thanks,

Dan

--

Michelle O'Connor
VP OF COMMUNICATIONS AND COMMUNITY

This message and attachments might contain privileged and/or confidential information, which should not be disclosed to third parties. If you received this email in error, please advise me and delete this email immediately. Any distribution, use or copying of this email or information it contains by other than the intended recipient is unauthorized.

--

This message and attachments might contain privileged and/or confidential information, which should not be disclosed to third parties. If you received this email in error, please advise me and delete this email immediately. Any distribution, use or copying of this email or information it contains by other than the intended recipient is unauthorized.

This message and attachments might contain privileged and/or confidential information, which should not be disclosed to third parties. If you received this email in error, please advise me and delete this email immediately. Any distribution, use or copying of this email or information it contains by other than the intended recipient is unauthorized.

Exhibit BB

Filed Under Seal

Exhibit CC

Filed Under Seal

Exhibit DD

To: Meghan Gardler[meghan@mycred.io]
Cc: Compliance[compliance@mycred.io], Dan Schatt[dan@mycred.io]
From: Daniel Wheeler[dan.wheeler@credcapital.io]
Sent: Fri 5/15/2020 4:59:45 PM (UTC-04:00)
Subject: RE: references to Cred insurance

Yes, let's have a call to work through our website copy about insurance.

CRED
CAPITAL

Daniel Wheeler

General Counsel

415.218.9074

dan.wheeler@credcapital.io

credcapital.io



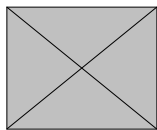
From: Meghan Gardler <meghan@mycred.io>
Sent: Friday, May 15, 2020 12:48 PM
To: Daniel Wheeler <dan.wheeler@credcapital.io>
Cc: Compliance <compliance@mycred.io>; Dan Schatt <dan@mycred.io>
Subject: Re: references to Cred insurance

Hi Dan,

It would be a big deal to remove our already scant references to insurance in our marketing and on our website. All of our competitors in the crypto space and in the fintech space reference insurance in one way or another and it would be noticeable if we remove ours without explanation. Would we be able to set up a meeting for early next week to discuss this in more depth and come up with a proposed action plan?

Thank you,

--



Meghan Gardler

Senior Director, Marketing

meghan@mycred.io

mycred.io

On Fri, May 15, 2020 at 9:16 AM Daniel Wheeler <dan.wheeler@credcapital.io> wrote:

Team, see below my instructions as to insurance coverage descriptions on the attached draft 1-pager.

For the 1-pager, I am instructing that we remove references to insurance other than Fireblocks. Please send me the backup for the statement that Fireblocks' insurance is A rated.

I am uncomfortable with continued references to Cred's insurance in our website or any of our marketing materials as our insurance has proven to be of no value to us and in no way insures our users' crypto against loss. I am inviting discussion on this point before we make a final decision but I am strongly inclined to remove any and all references to Cred's insurance coverage.

C R E D
C A P I T A L



Daniel Wheeler
General Counsel

415.218.9074
dan.wheeler@credcapital.io
credcapital.io

From: Daniel Wheeler <dan.wheeler@credcapital.io>
Sent: Friday, May 15, 2020 9:09 AM
To: 'Michael Zhang' <michael.zhang@mycred.io>
Cc: 'Min Kim' <min@mycred.io>
Subject: RE: One pager approval

We need to delete the entire bullet point about "insured custody of users crypto" because no such insurance exists.

We also need to delete the bullet point about "Cred has one of the most comprehensive insurance" because it could mislead someone into thinking that their crypto is insured when it is not.

C R E D
C A P I T A L



Daniel Wheeler
General Counsel

415.218.9074
dan.wheeler@credcapital.io
credcapital.io

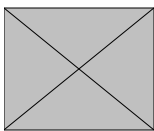
From: Michael Zhang <michael.zhang@mycred.io>
Sent: Thursday, May 14, 2020 6:12 PM
To: Daniel Wheeler <dan.wheeler@credcapital.io>
Subject: Re: One pager approval

Hey Dan,

Thanks, I'll await Heidi's confirmation. I've also added another sentence point "Cred has one of the most comprehensive insurance policies available on the market, including Cyber security, E&O, and regulatory coverage through Lockton one of the world's largest privately-owned independent insurance brokerage firms."

Please advise and I've attached the newly formatted version for your review and thoughts.

Best regards,



Ka Zhang (Michael)

Case 22-50398-JTD Doc 1-30 Filed 07/22/22 Page 4 of 5

VP of Wealth

michael.zhang@mycred.io

+1 (310) 291-2597

mycred.io

[Linkedin](#)

On Thu, May 14, 2020 at 3:23 PM Daniel Wheeler <dan.wheeler@credcapital.io> wrote:

Mike, I think the quote is ok as edited below. I don't think we've had any retail CredEarn defaults (Heidi please confirm) although our largest borrower moKredit is on forbearance.

As a data point, Cred has gone through 3 severe crypto market corrections, Cred has not booked a single credit loss and has met all its redemption/interest commitments.

C R E D
C A P I T A L



Daniel Wheeler
General Counsel

415.218.9074
dan.wheeler@credcapital.io

credcapital.io

From: Michael Zhang <michael.zhang@mycred.io>

Sent: Thursday, May 14, 2020 2:50 PM

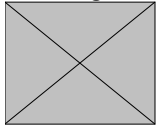
To: Daniel Wheeler <dan.wheeler@mycred.io>

Subject: One pager approval

Hey Dan,

Can you take a look at the sentence highlighted in yellow when you have the chance? If approved I would like to add that data point to the approved one-pager Min drafted.

Best regards,



Ka Zhang (Michael)

VP of Wealth

michael.zhang@mycred.io

+1 (310) 291-2597

mycred.io

[Linkedin](#)

Exhibit EE

Filed Under Seal

Exhibit FF

To: Meghan Gardler[meghan@mycred.io]; Alexandria Degree[degree@innreg.com]; Francesco Matteini[francesco@innreg.com]
From: Dan Wheeler[dan.wheeler@mycred.io]
Sent: Sun 9/22/2019 5:34:59 PM (UTC-04:00)
Subject: RE: Marketing Process

Meghan, thank you. This is a very helpful inventory and the specific examples are helpful.

I will work with Degree and Francesco to come up with guidelines (probably in flowchart format) for the marketing department that will hopefully provide guidance to you and help you decide exactly which communications need compliance review.

In looking at these examples, we should start from the principle that any marketing communication that promotes “CredEarn” needs compliance review before it is released. For example, compliance needs to review the script for the CredEarn video that you sent. When we are marketing a product generally to US and non-US, we have to assume the most restrictive rules apply. In the US, CredEarn is a loan product and anytime we market a loan, we need to ensure the marketing materials include the right notices and otherwise comply with laws applicable to lending.

In addition to lending laws, we need to document that any statements of fact (for example, that all loans Cred makes are “fully collateralized” or that Cred has \$300 million in funding) are supported by verified facts.

Degree and Francesco, given the volume of marketing occurring, please move the guideline development to our top priority in compliance / licensing. Please strive to have a draft guideline to me by Wednesday this week. Let’s discuss Monday morning the form and content of the guidelines

Dan

Daniel F. Wheeler

General Counsel

dan.wheeler@mycred.io

415.218.9074



From: Meghan Gardler <meghan@mycred.io>

Sent: Friday, September 20, 2019 1:04 PM

To: Dan Wheeler <dan.wheeler@mycred.io>; Alexandria Degree <degree@innreg.com>; Francesco Matteini <francesco@innreg.com>

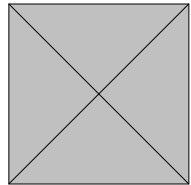
Subject: Marketing Process

Hi all,

This took me a bit of time to codify everything that I do on a weekly basis. I handle all aspects of marketing in general, but for the purposes of this document, this pertains solely to digital marketing, or “advertisements”. If I need to include events and conferences I can do that. I also only went into promotional emails if you need me to provide more clarity on transactional emails let me know.

[Please see the link here](#) and let me know if I need to elaborate further on any points.

Thank you,



Meghan Gardler

Case 22-50398-JTD Doc 1-32 Filed 07/22/22 Page 3 of 3

Director of Marketing

Cred

m: +16107643514

w: mycred.io e: meghan@mycred.io

Exhibit GG

Approval Process & Guidelines

- Submit all marketing content to Francesco Matteini and Alexandria Degree for Pre-approval
- As long as it is approved by Cred Compliance, it is ok for Uphold to employ the use of:
 - Email marketing
 - Other communications tools to send marketing materials to Uphold users alerting them to the availability of the CredEarn products.
- Uphold will not advertise itself as a:
 - Broker
 - Finder
 - Lender
 - Arranger
 - Loan provider
- Uphold will provide the following disclaimer on join.uphold: a disclaimer at the bottom saying that “Platform is not a lender, loan broker, or loan arranger and is not offering anyone advice or assistance in obtaining a loan.”

Twitter Options:

Have you heard the news? Uphold US customers can now use Cred in 28 states! Start earning and borrowing at <https://uphold-earn.mycred.io/>

CredEarn gives Uphold users the ability to earn a substantial return on their digital currency assets. And it is now open to the US!

US Residents in 28 states now can earn up to 10% on BTC, 9% on XRP, 3% on USD and much more and will become eligible for crypt backed loans!

BREAKING NEWS: Cred has customers in over 111 countries and is now open to US residents in 28 states! Sign up for an Uphold account and activate CredEarn to start earning on your digital assets and become eligible for crypto backed loans.

US Residents can now activate CredEarn! Earning and borrowing digital assets at premium rates is no longer reserved for hedge funds or the super wealthy. Start earning interest on digital assets.

Attention US @Upholdinc users!!! Activate Cred Earn now to begin earning a return on your digital assets. Make your crypto work for you.

Blog Draft:

CredEarn Available In The US

US residents can earn up to 10% on digital assets, customers from 117 countries now enrolled

Cred and Uphold customers have a new reason to be excited today! For the first time, United States residents in 28 states will have the ability to borrow against their crypto and earn up to a10% APR on their digital assets—BTC, XRP, ETH, US Dollars, Euros and even Gold.

Customers from 117 countries have already signed up for CredEarn and Uphold's user base has been the first to benefit. Cred is staying true to its mission is to provide more equitable and inclusive lending and borrowing services leveraging blockchain technology.

"We are excited to offer Uphold customers in the US a borrowing and lending program that can improve everyone's finances,"
says Dan Schatt, President & Co-Founder of Cred.

"We scoured the globe in search of high-quality borrowing and lending opportunities that support local economies and contribute to sustainable growth, unlike traditional financial institutions that must rely on legacy infrastructure and outdated technology."

The most common interest rate on savings accounts in the United States is 0.01%. In Europe and Japan, many are living in a world of negative interest rates, where you literally are paying

your bank to save your money for you. If you haven't yet, join Uphold and activate CredEarn now.

"The concept of borrowing and lending against crypto assets is an innovative model that is garnering strong interest from our users," said JP Thieriot, co-founder and CEO of Uphold. "Cred has built a user experience that is easy, affordable and will provide significant value for our members."

You Asked, We Answered

When we launched CredEarn in mid-January, we were blown away by the response. Within the first 24 hours of launching CredEarn, we welcomed sign-ups in over 60 countries with XRP as the most pledged asset. We now have carefully worked through legal and compliance considerations and are thrilled to offer the Cred community located in the United States the opportunity to sign up with Cred.

Upon launch, we polled our community, and 49% of respondents thought that we should prioritize the launch of CredEarn in the US above adding higher returns and other tokens to the mix.

We worked around the clock with our legal and compliance teams to ensure that we can meet all regulatory requirements in the many US state jurisdictions. Now, CredEarn can be used by US residents in over half the country. If you want to take part in future polls and stay up to date on Cred news, make sure to join our Telegram group and follow us on Twitter.

How Does CredEarn Work?

CredEarn enables the crypto ecosystem to benefit from lending crypto assets and borrowing against them. Cred partners with leading wallets, stablecoin issuers, investment funds, and exchange providers to enable liquidity in the form of borrowing or lending. Cred doesn't work against its lenders by lending crypto to short sellers. Instead, Cred puts the digital assets to work by lending them to high-quality companies.

Cred offers crypto lending on a collateralized and guaranteed basis. Your crypto assets are used to lend. Cred acts as an intermediary between borrowers and lenders. The program is great for everyone who wants to earn a return on digital assets over time.

Those who are earning returns for a minimum of six months will be eligible for a line of credit, enabling customers to borrow US Dollars or Stablecoin against their crypto assets. Customers can earn a return on their crypto while allowing it to appreciate over time, in addition to accessing liquidity in the form of crypto-backed loans when needed.

How do I know my crypto assets are safe?

Cred works with various collateral agents and leading service providers to ensure the safety of your assets. During the loan term, Cred manages its risk by employing a hedging strategy that protects the assets to ensure we can deliver your assets back to you at maturity. While Cred is not a bank and the Cred product is not FDIC insured, the Cred team has decades of experience in lending, investments, financial technology and payments. Cred also works with high-quality custodians in the crypto space.

What states are supported?

At Cred, we always actively work with regulators and compliance advisors to further our mission of inclusive equitable lending and borrowing practices globally. While Cred is not in all states yet, it is actively working to obtain approvals in remaining US States. You will be seeing more and more states come online, and we will alert our community when they do.

The US states we currently support are Alaska, Arkansas, Colorado, Connecticut, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Minnesota, North Carolina, Nebraska, New Jersey, New Mexico, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Utah, Virginia, Washington DC, West Virginia, Wyoming. We also support all US territories including Puerto Rico.

To sign up for CredEarn, click here:
CredEarn

About Cred

Cred is a decentralized global lending platform that facilitates open access to credit anywhere and anytime. Founded by former PayPal financial technology veterans, Cred has secured over \$300 million of lending capital with offices in San Francisco and Shanghai. Cred's mission is to harness the power of blockchain to allow everyone to benefit from low-cost credit products. Cred brings together a diverse team of entrepreneurial leaders, machine learning, and the power of blockchain technology.

For more information, visit mycred.io and activate CredEarn on Uphold here. Follow us on Twitter, LinkedIn, or join our community on Telegram.

Email:

CredEarn

US Residents Can Borrow and Earn Up To 10% on Crypto Assets

CTA: Sign Up for Free

Earning interest on your digital assets has never been so simple.

Cred Earn is designed to give everyone favorable interest rates on their digital currency holdings. And now for the first time, it is available in the US! Cred Earn has no account minimums and is free to use.

Cred is a better way to earn and borrow. Open an Uphold account and start earning a return now with Cred Earn.

CTA: Sign Up for Free

Exhibit HH

Filed Under Seal

Exhibit II

Case 2:25-cv-03988-JTB Doc 1-35 Filed 07/22/22 Page 2 of 5

To: JuanPablo Thieriot[jp.thieriot@uphold.com]
Cc: Tiago Ribeiro[tiago@uphold.com], Rui Peres Silva[peres@uphold.com], Simon McLaughlin[simon@uphold.com]; James Alexander[James.alexander@mycred.io]
From: Dan Schatt[dan@mycred.io]
Sent: Fri 2/1/2019 4:50:55 PM (UTC-05:00)
Subject: Re: URGENT Fwd: Start earning with CredEarn!

Adding James who can whip up the info plus term sheet. When do we need to get back to him?

Sent from my iPhone

On Feb 1, 2019, at 9:23 AM, JuanPablo Thieriot <jp.thieriot@uphold.com> wrote:

Sorry to do this to everyone, but we must pull together a quick 3 page Deck ASAP.
See below.

As you can see, I'm pushing for a Cred outcome, but Adrian thinks this is best done after demonstration of a transfer to either hardware wallet or a service. Intrinsicly, you also need to evaluate whether what I've suggested makes sense, or if you have any better ideas - state them.

Upshot here is that we'd sure love to have \$4mm of currently held BTC behave in manner 3 or 2, rather than 1.

Dan,

You're going to need to create a diagrammatic showing your flows. I'd recommend highlighting that while there is some market risk, one is actually stepping entirely out of "security" risk via the hedging mechanism. I might also add some Mo9 collateral to substantiate the market risk behind the % return. Consider Salinas the most financially sophisticated individual you've ever met.

Is there someone in Braga that can take point start producing the 1 & 2 pages?

I'm available by phone for next 40 minutes, then after noon PST...



JP Thieriot

Chief Executive Officer • uphold.com

----- Forwarded message -----

From: JuanPablo Thieriot <jp.thieriot@uphold.com>
Date: Fri, Feb 1, 2019 at 9:11 AM
Subject: Re: Start earning with CredEarn!
To: Adrian Steckel <adrian@uphold.com>

Roger. We're on it.
Not a "Pitch", Three Alternatives:

1. Transfer to hardware wallet (this is truly trivial). People do this hundreds of times a day. But we'll graphically lay out the steps. There is no 'physical' place to go to manually do something that cannot be achieved off of a laptop. If he suspects the laptop in question might be compromised, then I suppose we can arrange an alternative;
2. Sending FBO to Xapo, Ledger or even alternative service of his choosing. Also trivial. Xapo is widely regarded as the most secure service in the world;
3. Entering into Cred 12% yield Contract. Zero security risk; will provide narrative and diagrams that describe the market risk associated with the financial return.



On Fri, Feb 1, 2019 at 8:59 AM Adrian Steckel <adrian@uphold.com> wrote:

Hi,
He has a hardware wallet. I do not know which.

Send me a presentation that is clear with 3 options for him to get his bitcoins in cold storage....his device, or a service via physical or over internet.

Afterwards, we can pitch him.

If you pitch him now, he will think we do not want or cannot deliver to him his coins. Not a good scenario.

Thanks!

Sent from my iPhone

On Feb 1, 2019, at 10:50 AM, JuanPablo Thieriot <jp.thieriot@uphold.com> wrote:

I hear you, but Lu Hua and James would obviously be happy to speak/meet with him - and they're pretty impressive. The principal is all hedged out. It's the certainty of high interest that requires the explanation... And from a 'security' perspective - there's zero security risk when your BTC is in such a contract.

Does he have a hardware wallet he'd like to use? If so, we can walk him or whomever he likes through the process.

Alternatively, we would be happy to send specifically his BTC to either Xapo or Ledger (maker of the Nano S device) for cold storage. This might be the best of all worlds:

- He doesn't have to deal with any new KYC, AML stuff
- We can still reflect it in the reserve totals - which is certainly a metric that our Series D candidates will be looking at
 - It's probably a one page Contract stating, for instance, that the BTC at Xapo is FBO Ricardo Salinas

**JP Thieriot**Chief Executive Officer • uphold.com

On Fri, Feb 1, 2019 at 8:29 AM Adrian Steckel <adrian@uphold.com> wrote:

Once he had them in possession....then make the pitch.
As with me, he will be curious and doubtful as to the risks
Taken by cred to guarantee such return.

Sent from my iPhone

Ricardo qualifies as friends and family...

BTC is 10%. 10% + 2% is pretty compelling vs a hardware wallet.



JP Thieriot

Chief Executive Officer • uphold.com

----- Forwarded message -----

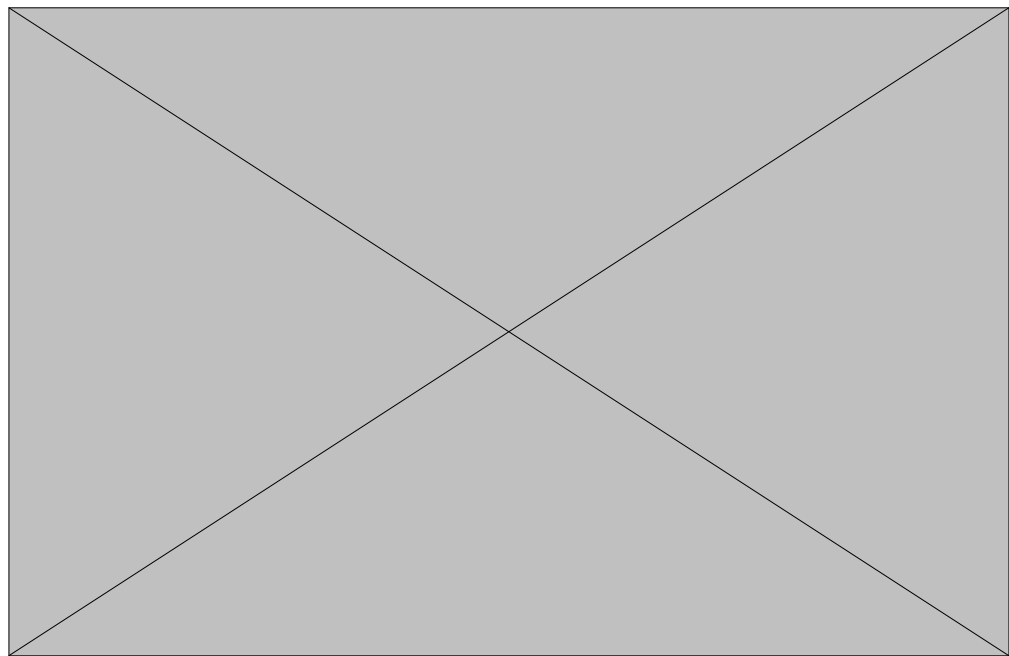
From: **Josephine Svendblad** <notifications@app.bamboohr.com>
Date: Wed, Jan 30, 2019 at 4:32 PM
Subject: Start earning with CredEarn!
To: <jp.thieriot@uphold.com>

Hello Team,

Our friends at Cred recently launched [CredEarn](#) offering Uphold users a return of up to 10 percent on certain digital assets held on our platform.

As a special offer, Uphold employees and their friends & family, can earn an **extra 2%** above the advertised market rates if they choose to participate in the program.

Activate CredEarn now to take advantage of the following interest rates (are these the special uphold rates?):



Here's what you need to do to take part in this exclusive offer:

1. [Submit the email address associated with your Uphold account here](#) so that the Cred team knows you are a friend or family member.
2. Activate CredEarn through Uphold here: <https://uphold.com/en/credearn>
3. Pledge available assets to CredEarn.
4. Cred will add 2% on top of the publicly offered interest rates.

If you have any questions, please email Dan Schatt, Cred's CEO: dschatt@mycred.io

Happy earning!

.

This message and attachments might contain privileged and/or confidential information, which should not be disclosed to third parties. If you received this email in error, please advise me and delete this email immediately. Any distribution, use or copying of this email or information it contains by other than the intended recipient is unauthorized.

Exhibit JJ

Filed Under Seal

Exhibit KK

Swap schedule below

Best regards,

Daniyal Inamullah, CFA
VP, Capital Markets
Cred LLC

213 344 6983
d.inamullah@mycred.io
mycred.io

----- Forwarded message -----

From: **Scott Freeman** <sfreeman@jstcap.com>
Date: Thu, Mar 12, 2020 at 10:22 AM
Subject: Re: URGENT- Risk Report
To: Daniyal Inamullah <d.inamullah@mycred.io>
Cc: James Alexander <james.alexander@mycred.io>, Todd Morakis <tmorakis@jstcap.com>, Anamaria Golemac <agolemac@jstcap.com>, Pallop Angsupun <pangsupun@jstcap.com>

Daniyal, here is the additional information:

- You are short BTC @ \$5,900.
- You are short XRP @ \$0.155

Swaps, the market is moving a bit

- For Tranche 22, you've borrowed \$3mm against 20,000,000 XRP. With XRP at \$0.15, we need \$600k to get you back to 125% collateral.
- For Tranche 24, you've borrowed \$1,951,440 against 282 BTC. With BTC at \$6,000, we need \$900k to get you back to 125% collateral.
- For Tranche 21, you've borrow \$2,713,388 against 14,187,651 XRP. With XRP at \$0.15, we need \$600k to get you back to 125% collateral.
- For Tranche 13c, you've borrow \$500,000 against 1,754 BCH. With BCH at \$170, we need \$300k to get you back to 125% collateral.

The total is \$2.4mm. We asked for \$3mm to have a little bit of a cushion. Let us know if you have any more questions.
Thanks.

On Mar 12, 2020, at 12:56 PM, Daniyal Inamullah <d.inamullah@mycred.io> wrote:

Scott,

Working with MoKredit now, need some info to get the numbers right. Can you please confirm:

- What levels we are now short on a blended basis for each coin.
- What amount is needed to cure each of the outstanding swaps.

Daniyal Inamullah, CFA
VP, Capital Markets
Cred LLC

213 344 6983

d.inamullah@mycred.io

mycred.io

On Thu, Mar 12, 2020 at 7:29 AM Scott Freeman <sfreeman@jstcap.com> wrote:

James, please see today's risk report attached. As discussed, despite our best efforts, as a result of the drastic move in the market overnight, all of your BTC futures positions were liquidated. Some of your XPR futures were also liquidated. You still have ETH, BCH and LTC futures as well as some XRP/BTC futures. Please refer to the last two pages of your report for your positions. We are happy to review with you when you have some time.

You now have a short position equal to \$27,483,181. For every \$100 move in BTC, you will make or lose around \$400,000.

Additionally, we have requested that you post an additional **\$3mm** of collateral with us for the outstanding repos you have with us. We need this cash ASAP to meet margin calls with other counterparties.

Let's speak in a little bit to discuss next steps.

Thanks.

Exhibit LL



CRED EARN Risk Report

-

March 11, 2020

POSITION DETAILS & LIQUIDATION RISK

SYMBOL	EXPOSURE	MARK PRICE	LEVERAGE	LIQUIDATION PRICE / MARGIN CALL PRICE	SPOT EQUIVALENT	BREAKEVEN PRICE*	LIQUIDATION / MARGIN CALL PROBABILITIES	
							2 DAYS	3 DAYS
BTC	0.00	\$7,838						
XBTUSD	0.00	\$7,835						
XBTM20	2032.53	\$7,988	22%	\$6,567.13	\$6,417.13	\$6,229.01	0.00%	0.00%
XBTH20	925.59	\$7,861	21%	\$6,557.74	\$6,534.74	\$6,242.48	0.00%	0.01%
XBT-MARGIN	881.56	\$7,838						
BTC-IMPLIED	(63.69)	\$7,838						
BTC-Mar	369.81	\$7,869	20%	\$6,357.50	\$6,326.50	\$6,263.55	0.00%	0.00%
HUOBI-MARGIN	94.79	\$7,838						
swap#24 3/24 12.5%	282.00	\$7,838						
3/27 9250 Call	(30.61)	\$7,838						
Drawbridge-Margin	300.00	\$7,838						
TOTAL	4,791.97							

XRP	0	\$0.2069						
XRP#20	2,422,000	\$0.00002630	38%	\$0.00001706	\$0.1337	\$0.00001595	0.00%	0.00%
XRP-Mar	11,630,806	\$0.2071	28%	\$0.1515	\$0.1513	\$0.1485	0.00%	0.01%
HUOBI-MARGIN	4,586,658	\$0.2069						
swap#21 4/13 7.5%	14,187,651	\$0.2069		\$0.1913	\$0.1913	\$0.1913	28.31%	37.24%
swap#22 3/16 9.5%	20,000,000	\$0.2069		\$0.1500	\$0.1500	\$0.1500	0.00%	0.05%
TOTAL	52,827,115							

ETH	783.40	\$196.50						
ETH-Mar	9,599.11	\$197.40	67%	\$65.64	\$64.74	\$64.35	0.00%	0.00%
ETH-MARGIN	21,467.77	\$196.50						
swap#9 open 11%	14,367.00	\$196.50		\$138.71	\$138.71	\$138.71	0.00%	0.00%
OPTIONS Margin	5,500.00	\$196.50						
TOTAL	51,717.28							



CRED EARN Risk Report

- March 12, 2020

POSITION DETAILS & LIQUIDATION RISK

SYMBOL	EXPOSURE	MARK PRICE	LEVERAGE	LIQUIDATION PRICE / MARGIN CALL PRICE	SPOT EQUIVALENT	BREAKEVEN PRICE*	LIQUIDATION / MARGIN CALL PROBABILITIES	
							2 DAYS	3 DAYS
BTC	0.00	\$5,872						
XBTUSD	0.00	\$5,872						
XBTM20	0.00	\$5,872	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#VALUE!	#VALUE!
XBTH20	0.00	\$5,872	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#VALUE!	#VALUE!
XBT-MARGIN	90.40	\$5,872						
BTC-IMPLIED	(61.79)	\$5,872						
BTC-Mar	0.00	\$5,872	#DIV/0!	\$0.00	\$0.00	#DIV/0!	#VALUE!	#VALUE!
HUOBI-MARGIN	0.00	\$5,872						
swap#24 3/24 12.5%	282.00	\$5,872						
3/27 9250 Call	(0.02)	\$5,872						
Drawbridge-Margin	300.00	\$5,872						
TOTAL	610.59							

XRP	0	\$0.1545						
XRP#20	2,422,000	\$0.00002551	36%	\$0.00001706	\$0.1002	\$0.00001645	0.00%	0.00%
XRP-Mar	0	\$0.1505	#DIV/0!	\$0.0000	\$0.0040	#DIV/0!	#VALUE!	#VALUE!
HUOBI-MARGIN	0	\$0.1545						
swap#21 4/13 7.5%	14,187,651	\$0.1545		\$0.1913	\$0.1913	\$0.1913	100.00%	100.00%
swap#22 3/16 9.5%	20,000,000	\$0.1545		\$0.1500	\$0.1500	\$0.1500	66.70%	71.38%
TOTAL	36,609,651							

ETH	0.00	\$130.10						
ETH-Mar	13,466.20	\$131.10	54%	\$61.94	\$60.94	\$60.14	0.00%	0.00%
ETH-MARGIN	16,814.63	\$130.10						
swap#9 open 11%	14,367.00	\$130.10		\$138.71	\$138.71	\$138.71	100.00%	100.00%
OPTIONS Margin	6,283.40	\$130.10						
4/23 160 Put	(1471.85)	\$130.10						
4/23 200 Put	1998.50	\$130.10						
TOTAL	51,457.88							



Exhibit MM

Filed Under Seal

Exhibit NN

Filed Under Seal

Exhibit OO

Filed Under Seal

Exhibit PP

Filed Under Seal

Exhibit QQ

To: Karen Wong[karen@mycred.io]; James Alexander[James.alexander@mycred.io]; Lu Hua[lu@mycred.io]
From: Dan Schatt[dan@mycred.io]
Sent: Fri 3/15/2019 9:16:07 PM (UTC-04:00)
Subject: Re: Uphold Loan Terms

Thanks Karen, very helpful. While we won't make as much for the 6 month period, we do need to be good partners to Uphold to help them raise their Series D and there are some optics of lending at more than 14%. We are 100% dependent on Uphold for our revenue at this time, and that's another important reason to help them. I think we'll quickly find another \$5 million that we can use with Lu's generous 36% in the future, so I wouldn't look at this as a "revenue loss" as much as an opportunity cost that will give us continued business leverage over Uphold for the next 6 months. BTW, don't forget that the six month prepayment is valuable and if it is compared "apples to apples", it would be done against a 30% loan to Mo9...

From: Karen Wong <karen@mycred.io>
Date: Friday, March 15, 2019 at 6:07 PM
To: Dan Schatt <dan@mycred.io>, James Alexander <James.alexander@mycred.io>, Lu Hua <lu@mycred.io>
Subject: Re: Uphold Loan Terms

Hi Dan, James, and Lu,

I know you guys have been talking about this. Dan looped me in. Just want to share my thoughts.

Dan, thanks for calling me so quickly. Per our conversation, I modeled this out to compare Uphold's proposed terms to our existing ones with moKredit. In summary it looks like we'd be foregoing \$130K in revenue for the 6 month term by lending the \$4.6M to Uphold vs. moKredit despite the savings from waived Uphold fees, JST costs, and no hedging costs. Below is a screenshot of the numbers and enclosed for your perusal is the spreadsheet.

I propose we get better terms from Uphold (e.g., leaving everything else equal, increase their interest rate from 14% to 20%) in order to breakeven. I understand that we need to consider the intangible benefits of doing this deal. Given our cash situation and that Uphold is in the cusp of a fundraising round, I think this is a fair ask.

Loaning to moKredit:		Annualized \$\$	Annualized %
XRP principal @ 9%	\$ 4,600,000	\$ 414,000	9% return to lender
Loan amount @ 20% reserve	\$ 3,680,000	\$ 1,324,800	29% revenue @ 36% interest rate
		\$ 91,080	2% JST rev share
		\$ 92,000	2% referral fee
		\$ -	0% JST monthly fee
		\$ 23,000	1% Slippage (FX, hedge, etc.)
monthly profit	\$ 58,727	\$ 704,720	15% company profit

Loaning to Uphold:	
XRP principal @ 9%	\$ 4,600,000
Loan amount @ 0% reserve	\$ 4,600,000
monthly profit	\$ 37,000

\$ 259,720 Annualized revenue loss from Uphold loan agreement vs. moKredit

--kw

From: Karen Wong <karen@mycred.io>
Date: Friday, March 15, 2019 at 4:59 PM
To: Dan Schatt <dan@mycred.io>
Subject: Uphold Loan Terms

Hi Dan,
A quick update and some questions. I reached out to James today, but we haven't connected about the logistics and implications

of loaning the \$8M XRP to Uphold. Meanwhile, I'm trying to do an apples to apples comparison of their proposed terms with that which we get when issuing a loan to moKredit. Could you please verify and update my understanding below from our conversation?

- Interest payable to lender (Earn customer) = 9%
- Uphold referral fee of 2% to be waived
- Uphold to pay interest of 15%
- Loan term 6 months
- Uphold to waive the monthly maintenance costs for LBA of \$5,000 for April – December 2019

Am I missing anything else?

--kw

Exhibit RR

Filed Under Seal

Exhibit SS

Filed Under Seal

Exhibit TT

Filed Under Seal

Exhibit UU

To: JuanPablo Thieriot[jp.thieriot@uphold.com]
Cc: Robin O'Connell[robin.oconnell@uphold.com]; Simon Mccloughlin[simon.mcloughlin@uphold.com]
From: Dan Schatt[dan@mycred.io]
Sent: Fri 11/22/2019 6:06:58 PM (UTC-05:00)
Subject: Re: OmiseGO & Uphold

My comments in **bold**.

From: JuanPablo Thieriot <jp.thieriot@uphold.com>
Date: Friday, November 22, 2019 at 1:04 PM
To: Dan Schatt <dan@mycred.io>
Cc: Robin O'Connell <robin.oconnell@uphold.com>, simon Mccloughlin <simon.mcloughlin@uphold.com>
Subject: Re: OmiseGO & Uphold

Dan,

I love you. You are a great partner and a business force-of-nature, but you are WAY out of line here. You just told me that I have no integrity - which is hilarious given that the definition of 'no integrity' is having a selective memory and insisting on behaving one way while requiring that your partner hew to a different standard.

What the fuck are you talking about? Last year at this time, you committed to Uphold Earn and Uphold borrow, neither of which you implemented. We did ALL the work to get CredEarn up on Uphold. We did MOST of the marketing. We committed to supporting ALL the new tokens. Did you hold your end of the bargain? NO.

All of what has upset you ties directly back to that moment of contractual negotiation wherein we had exclusivity language in the Docs. You chose to remove it. I distinctly remember having the conversation. Everyone in this mail was on the phone: No exclusivity, no exclusivity even for a year - we'll just trust each other. OK, fine. Then, and perhaps as irritating for us as this has been for you: Bittrex, Trust Token (when UPUSD was supposed to be differentiated through its unique ability to earn a high yield), Bitcoin.com, etc, etc. From that point, and I'm having a hard time understanding how you would have thought otherwise: Our BD team had a clear playing field, if not the same 'fiduciary' responsibility I assume drove your searching actions.

Exclusivity means what? We will exclusively offer lending and borrowing services on Uphold? You want Cred to be a "feature" of Uphold? You think Trust Token or Bitcoin.com completes with our strategic collective initiatives? NO. You and Robin have FUCKED UP our relationship. Did you put an "earn" button on your app like you said? Did you "market the shit" out of Cred like you promised? Did you agree to make good on our discussion to make the Uphold Credit card highly strategic? No. No you haven't and you haven't built Cred into Uphold in good faith.

My only contact with anyone at either Celsius or Salt was ages ago. We rejected a proposal Celsius made early in the year. I explained our loyalty to Cred and asked if they'd speak to you. I then spoke with you and asked you to speak to them. Neither of you expressed great interest. You explained that Nexo were the bad guys, your Coinbase, in my interpretation. While I have met with, spitballed and strategized with most of the Cred team. I don't know the name of one person at Salt. I have seen zero terms with Celsius, again, beyond the rejection of their first proposal (in Q1) - again, concurrent with trying to get the two of you together. All this said, what has emerged in the last few days is the DIRECT result of YOUR CHOICE of nature of relationship, reinforced by your (eventually understandable) efforts to place Cred everywhere, even to the direct disadvantage of UPP.

I told you I would speak with Alex. Did he reach out to me? No. Of course not. Because he wants to displace Cred. I told you we would build different types of lending/credit solutions for Uphold and if we couldn't it would make sense to use someone else. This has nothing to do with my choice. Partners, even bad ones don't act this way. I didn't go to Revolut, Coinbase, Circle, etc. because I promised you I would not. I have kept my promises. You have not.

When I take a step back here: I have no idea where Cred is available, or what % we constitute of Cred's 'exchange footprint' or sourcing. Is it 40%? Is it 20%? Why is it reasonable, then, for Cred to be 100% of Uphold's credit and yield footprint? For Christ's sake - I guess you wanted us to adhere to the exclusivity clause unilaterally?

Well let's look at it this way. What % of Uphold's business is Cred? 40%? 20%? Certainly not 100%. And we certainly don't support all of the coins with others that we support for you. You have a strategic advantage with Cred. Most of the money that has come to our CredEarn on Uphold is new money to Uphold. And you want to have Celsius and Salt, both companies with less than stellar reputations to direct assets away from Uphold and away from Cred? You have got to be kidding me. We haven't

At any rate, I already told you that the 'credit and yield' products I'm interested in developing are 100% tied to Cred, and working with Cred to produce something wildly differentiated and more useful than what could be provided through the more arm's length nature of deals that have been struck with Salt and Celsius. I tried to tell you on the phone just now that Robin and I had spoken after I digested your upset on the Salt deal, and Robin rationally responded with a, "When we have debit card / borrowing product out there with Cred - we can pull down Salt".

Why would I trust working with you on the product I already COMMITTED to working with you on given this behavior? I have done everything I have committed to. Can I say the same for your commitments to Cred?

Despite your emotionality, Cred is Uphold's closest partner. I wouldn't think of trying to collaborate on as deep a level as we have with anyone else. But Cred has exercised the leeway to talk to whomever you've pleased, and it's completely unreasonable to get upset when we do the same.

I'm sorry, I have been clear from the beginning that we would never engage with any close Uphold competitors including Circle, Coinbase and Revolut. You know that was crystal clear.

Lastly, on the UPP front, I called Daniel to ask about what you're talking about: It relates to the deal that was struck with Pareto back in Q1... I've come to the conclusion that Pareto isn't going to move the needle much for UPP. And we certainly don't want a block of 10mm tokens out there that can be dumped, so I'll have a look at the contractual language later today - but probably no action.

JP Thieriot

Chief Executive Officer • uphold.com

On Fri, Nov 22, 2019 at 10:52 AM Dan Schatt <dan@mycred.io> wrote:

Hey guys, with Celsius now announced after I asked JP explicitly if this were to happen and he declined, and the fact that you didn't bother to respond to my note below makes it clear to me how you value our partnership. I don't care about whether we have exclusivity or not, this is fucked up. I just learned that your marketing team was kept out of the loop, otherwise they would have given our marketing team a heads up. I also just learned from Daniel that you had interest in selling UPT early.

At this point, I'm not interested in a dialogue about "making our relationship more mutually exclusive" or "waiting until we build a product together". Why should I commit our resources with this treatment?

The fact that you are not interested in acknowledging my previous email, discussing with me in advance or taking an action to remove either partner from your website and promotions tells me exactly how you value our relationship, my board contribution, our loans to you, and our friendship. This is totally fucked up.

Dan

From: Dan Schatt <dan@mycred.io>

Date: Wednesday, November 20, 2019 at 12:56 PM

To: Robin O'Connell <robin.oconnell@uphold.com>

Cc: JuanPablo Thieriot <jp.thieriot@uphold.com>

Subject: Re: OmiseGO & Uphold

Regarding Salt, this has nothing to do with exclusivity. This has to do the alignment of one of the most important joint strategic initiatives we have been planning together— put out the world's first card (Uphold card) backed by a line of credit that collateralizes virtually all assets on Uphold. Yes, Salt does impact the Uphold card. It siphons away assets that we need to lock down. It dilutes our messaging. It confuses customers. And yes, it impacts our relationship, collective revenue, product and strategic work together.

I would appreciate it if you revisit the decision to add Salt on your app center. There are 100 other apps you can add that don't have to do with offering credit on Uphold.

Dan

From: Robin O'Connell <robin.oconnell@uphold.com>

Date: Tuesday, November 19, 2019 at 6:28 PM

To: Dan Schatt <dan@mycred.io>

Cc: JuanPablo Thieriot <jp.thieriot@uphold.com>

Subject: Re: OmiseGO & Uphold

Thanks, Dan.

I suggest we get a call together with OmiseGo to hash this out... do you have some time this week to do a call?

Regarding Salt, I am sorry you feel that way... it was my understanding that our relationship was non-exclusive (e.g., Bitcoin.com, etc.) and also wasn't aware Cred had a Borrow solution.

Best,

Robin

On Tue, Nov 19, 2019 at 5:38 PM Dan Schatt <dan@mycred.io> wrote:

This has never been the case. Wishful thinking from Stephen. They didn't pay a membership fee either, this was an investment in a SAFT in return for being a member.

Separately Robin, I'm very disappointed in your decision to put Salt on the API platform. It's completely dilutive to our strategic intent to have ONE credit solution - the Uphold card with a credit line and all Uphold collateral locked. It was demoralizing to my team when they saw this.

Dan

Sent from my iPhone

On Nov 19, 2019, at 1:53 PM, Robin O'Connell <robin.oconnell@uphold.com> wrote:

Hey Guys:

Just got off the phone with Stephen at OmiseGo... quick summary:

- Their position is that the Membership Fees that they paid for UPP would cover their listing fee and monthly maintenance fee for listing OMG on Uphold
- In addition, they are looking to Braga to do the work to add OmiseGo's Layer 2 ETH integration. They say this will help make ERC-20 transactions run faster and cheaper which would benefit UPP. They say this is the reason that they joined the UPP Alliance. Again, they are saying that it was their understanding that these costs would be covered by their \$1MM UPP Fee.
- Finally, I asked about the Cred Agreement and they say that they passed.

So, sort of a tricky one for us. My suggestion would be for all of us to get on a call to try to work this out.

Would it make sense for UPP to pay Uphold the Listing Fees/Monthly Fees on behalf of OMG since that was their understanding?

Best,

On Thu, Nov 14, 2019 at 5:58 AM Robin O'Connell <robin.oconnell@uphold.com> wrote:
Excellent... thank you!

On Wednesday, November 13, 2019, Dan Schatt <dan@mycred.io> wrote:
NO QUID QUO PRO! FAKE NEWS!

Just kidding, Thanks for connecting on this. The deal was for them to invest \$1M and in exchange they would sign an options agreement with Cred and a listing agreement with Uphold (no listing fee only maintenance fees) and we collectively would offer their token with interest on Uphold.

They did not sign an options agreement as they were planning. As such, my suggestion would be to give them two choices:

1. Sign the options agreement and we agree to list OMG on Uphold with interest. Uphold waives listing fees, but charges maintenance fees.
2. Don't sign the options agreement. Instead, sign Uphold listing agreement and agree to pay Uphold full listing and maintenance fees. OMG would be listed with no interest rate.

Hoping you can cajole them into option 1, would be better for all of us...

Thanks,
Dan

Sent from my iPhone

On Nov 13, 2019, at 7:17 PM, Robin O'Connell <robin.oconnell@uphold.com> wrote:

Hi Dan:

Excited to have OmiseGo on board with UPP!

Hoping we can all connect to this (please see below email)... we need to better understand what was discussed around the quid pro quo for OmiseGo's UPP participation. Specifically, what did we say we would do regarding Uphold listing and support of OMG?

Reason I ask is that normally we would charge a development fee and monthly maintenance fee (similar to what Cred pays for the Libra Token)... it seems they are assuming that these fees are covered by their \$1MM investment?

JP and I are in Argentina this week but do you have some time for a quick call?

Best,

Robin

----- Forwarded message -----

From: **Stephen McNamara** <stephen@omisego.co>

Date: Wed, Nov 13, 2019 at 10:21 AM

Subject: OmiseGO & Uphold

To: JuanPablo Thieriot <jpablo@uphold.com>, Robin O'connell <robin@uphold.com>

Cc: Vansa Chatikavanij <vansa@omisego.co>

Hi JP & Robin,

I trust you are both keeping well. I wanted to catchup on a couple of topics related to Uphold integration and UPA work.

Following an intro by Maxim@Cred, myself, and our CTO spoke with Tiago and Rui a couple of weeks ago. We had a great follow on call yesterday looping in more of our product support & integration team along with Alex, Pedro and others in Braga.

Integration falls into two buckets.

1. Uphold support for OMG as a mainnet Ethereum token. This would simply be adding OMG as a supported ERC-20 on Uphold. Our token is listed on a number of exchanges incl. Bittrex International, Huobi Pro and Kraken. Tiago confirmed this can be done very easily, but asked me to check with you guys about prioritisation.
2. The 2nd step is a technical integration directly onto our network to enable moving some of your supported token balances, and transactions directly onto our layer 2. The benefit is simple; the OMG Network is faster & cheaper than Ethereum layer 1, but without sacrificing any of the root chain security guarantees. Rui, Tiago & team are currently connected to our developer portal, exploring the integration guide and looking at the impact. It's more technical work than step 1, but it's also not a huge effort as our APIs and transaction types naturally match those of Ethereum. Braga team are exploring & sizing it now.

Can I suggest a quick call to chat about 1 & 2?

#1 I think is pretty straight forward but we should align on timing and any PR we want to do.
#2 is needed to enable the UPA use case (amongst others) but likely is a more involved conversation involving timing, commercials etc.

We're excited about the integration to Uphold, and the launch of our network in early Q1. There's a lot we can do together to drive this industry forward. Please let me know when you guys are able to chat.

Thanks,

Stephen McNamara
Chief Strategy Officer

OmiseGO

--

Robin O'Connell

Chief Revenue Officer • uphold.com

This message and attachments might contain privileged and/or confidential information, which should not be disclosed to third parties. If you received this email in error, please advise me and delete this email immediately. Any distribution, use or copying of this email or information it contains by other than the intended recipient is unauthorized. For more information please review our [privacy policy](#).

--

Robin O'Connell

Chief Revenue Officer • uphold.com

--
Robin O'Connell

Chief Revenue Officer • uphold.com

This message and attachments might contain privileged and/or confidential information, which should not be disclosed to third parties. If you received this email in error, please advise me and delete this email immediately. Any distribution, use or copying of this email or information it contains by other than the intended recipient is unauthorized. For more information please review our [privacy policy](#).

--
Robin O'Connell

Chief Revenue Officer • uphold.com

This message and attachments might contain privileged and/or confidential information, which should not be disclosed to third parties. If you received this email in error, please advise me and delete this email immediately. Any distribution, use or copying of this email or information it contains by other than the intended recipient is unauthorized. For more information please review our [privacy policy](#).

This message and attachments might contain privileged and/or confidential information, which should not be disclosed to third parties. If you received this email in error, please advise me and delete this email immediately. Any distribution, use or copying of this email or information it contains by other than the intended recipient is unauthorized. For more information please review our [privacy policy](#).

Exhibit VV

Filed Under Seal

Exhibit WW

Filed Under Seal

Exhibit XX

Filed Under Seal

Exhibit YY

Filed Under Seal

Exhibit ZZ

Filed Under Seal

Exhibit AAA

MASTER SALE AND REPURCHASE AGREEMENT

This MASTER SALE and REPURCHASE AGREEMENT (this “**Agreement**”) between Uphold HQ Inc., having an address of 6 West 18th St., New York, NY 10011 (the “**Purchaser**”), and JST Capital, LLC (“**JST**” or the “**Seller**”).

Recitals

WHEREAS, the Seller desires to sell from time to time an agreed amount of Tokens to Purchaser, and Purchaser desires to purchase the Tokens from the Seller at the agreed-upon price subject to all agreed upon terms and conditions;

WHEREAS, the Seller further has the right and obligation to repurchase the Tokens from Purchaser at the agreed-upon fixed price at the Maturity Date; and

WHEREAS, the parties intend that the benefit of any and all appreciation and any and all risk of loss from any depreciation resulting from a change in the price of the Tokens from the Closing Date for a Tranche to the Maturity Date for that Tranche will accrue to the Seller and not to the Purchaser.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

SECTION 1

DEFINITIONS

1.1 Definitions

All the terms used in this Agreement shall have the following meanings:

“**Balance Payment**” for a Tranche means the Purchase Price for that Tranche minus (less) any Management Fee, costs or expenses, if applicable and then due and as set forth in the Closing Statement for that Tranche, not satisfied in cash by the Seller on the Closing Date.

“**Ripple**” means Ripple transferred as specified in Section 2.1 and any related Ripple resulting from a “soft” or “hard” fork in the Ripple blockchain, a revision or upgrade to the Ripple software code, reclassification, or other like change of the purchased Ripple.

“**Contractual Currency**” means USD unless otherwise specified in a Tranche Agreement.

“**Closing Date**” means the date on which a Tranche is consummated, as evidenced by a completed and accepted Closing Statement.

“**Closing Statement**” means a document in substantially the form of Exhibit 2 hereto relating to a particular Tranche, which document will take legal effect unless Purchaser notifies Seller of errors in such Closing Statement within 3 business days of receiving the Closing Statement.

“Currency Exchange Price” the parties agree to calculate the Token exchange price based on the applicable Bloomberg United States Dollar Spot XBT or XET Currency page, or as otherwise agreed by the Parties.

“Default” means any event, act or condition that with notice or lapse of time or both, would constitute an Event of Default.

“Default Notice” is defined in Section 7.2.

“Defaulting Party” meaning specified in Section 9.

“Digital Wallet” means a software program that stores public and private keys and interfaces with the Token blockchain in order to allow users to send and received Tokens.

“Early Termination Date” is defined in Section 7.2.

“Electronic Messaging System” means an electronic system for communication capable of reproducing communication in hard copy form, including email.

“Equivalent Tokens” means with respect to a particular Tranche, Tokens equivalent (the same type, name, category and technical specifications) to the Tokens purchased by Purchaser in that Tranche.

“Event of Default” is defined in Section 7.1.

“Exchange Business Day” means any day that is a trading day and a price is posted on the applicable Bloomberg United States Dollar Spot XBT or XET Currency page.

“Fair Market Price” means with respect to a Token, the average of the last USD sale price for that Token on 3 consecutive Exchange Business Days quoted using the Bloomberg Generic Price as posted by Bloomberg on the applicable United States Dollar Spot XBT or XET Currency page, or as otherwise agreed by the Parties.

“Maturity Date” means with respect to a particular Tranche, the six-month anniversary of the Closing Date for that Tranche unless otherwise agreed in the Tranche Agreement.

“Origination Fee Percentage” means 1.5%.

“Purchase Price” means with respect to a particular Tranche, the aggregate purchase price for the Tokens to be sold to Purchaser.

“Repurchase Price” means with respect to a particular Tranche, the aggregate repurchase price to be paid by Seller to Purchaser on the Maturity Date for the Tokens and/or Equivalent Tokens.

“Special Default Notice” is defined in Section 9.3.

“Tokens” means the type of cryptocurrency specified in a Tranche Agreement.

“Tranche” means a particular sale and repurchase transaction entered into pursuant to this Agreement and a particular Tranche Agreement and Closing Statement.

“Tranche Agreement” means an agreement in substantially the form of Exhibit 1 hereto containing such terms and conditions as Seller and Purchaser may agree upon in writing at the time to evidence a particular Tranche.

“Transaction Documents” means collectively, this Agreement, the Tranche Agreements, the Closing Statements, and any other agreements, documents, instruments, exhibits or financial statements delivered in connection with Tranches. All such documents must be contemporaneously executed and read and construed together in a manner so as to give meaning and effect to all their provisions.

“USD” means United States Dollars.

SECTION 2

DELIVERY AND PAYMENT ON TRANCHE CLOSING DATE

2.1 Purchase Price.

- (a) Subject at all times to all of the terms and conditions of this Agreement, Purchaser agrees to pay to Seller funds equal to the Purchase Price for a particular Tranche as set forth in the applicable Tranche Agreement in the form of Exhibit 1 and Closing Statement in the form of Exhibit 2, both of which exhibits are incorporated herein by reference.
- (b) In addition to the first Tranche Agreement which must be executed contemporaneously with this Agreement, Seller and Purchaser may each elect to enter into additional Tranche Agreements for additional amounts of Tokens in the chosen type of Token for each Tranche Agreement. JST will make its best efforts to complete additional Tranche Agreements contingent upon market conditions such as the price, trading volume, number of Tokens issued and outstanding and the number of Tokens in the float. All Tranches and Tranche Agreements are subject to terms and conditions of this Agreement, although the parties may agree in writing in each Tranche Agreement upon such additional or different terms and conditions as set forth in the Tranche Agreement. Each Tranche transaction must be memorialized using the Tranche Agreement and Closing Statement forms attached hereto as Exhibit 1 and Exhibit 2.
- (c) JST has the discretion and right to elect to not proceed with any Tranche with the Seller up until the expected Closing Date for that Tranche.

2.2 Origination Fee. Contemporaneous with the funding of the Purchase Price by Purchaser on the Closing Date for a particular Tranche, Purchaser must pay an origination fee equal to that Purchase Price multiplied by the Origination Fee Percentage. This amount may be

paid in Tokens at the discretion of the Seller and may be set off against delivery of the Purchase Price or the purchased Tokens.

2.3 **Authority and Rights in the Tokens.** The Seller acknowledges that the Purchaser has all rights, title, ownership and interest associated with the Tokens for a particular Tranche during the term of that Tranche Agreement.

2.4 **Payment of Repurchase Price on the Maturity Date for a particular Tranche.** With respect to each Tranche:

- (a) The Seller agrees to pay to Purchaser the Repurchase Price plus any other Seller obligations due on the Maturity Date as set forth in the Closing Statement and Purchaser agrees to return Equivalent Tokens to the Seller in accordance with Section 2.10.
- (b) The Maturity Date may be extended by Purchaser if agreed to by Seller in writing. A fee in the amount of **1%** of the Repurchase Price is due and payable on the original Maturity Date if Seller agrees to extend such Maturity Date.
- (c) If Purchaser has not received the Repurchase Price and all other obligations from Seller then due in immediately available funds before the close of business (Pacific time) 10 Exchange Business Days after the Maturity Date, Seller must pay to Purchaser a late charge equal to **5%** of the portion of the Repurchase Price that is then due. Such late charge may be assessed only once, but will be in addition to and cumulative with all other obligations, rights, benefits and remedies available to Purchaser under the Agreement on account of any default by the Seller.

2.5 **Early Return of Tokens.** On the Initial Payment Date (as defined below), Purchaser shall have the right, but not the obligation, to terminate this Agreement prior to the Maturity Date by returning Equivalent Tokens to the Seller to such address in an amount equal to the Tokens originally delivered by Seller in accordance with Section 2.10; provided that Purchaser shall provide at least ten (10) days' notice of such election. In the event that Purchaser elects to return Equivalent Tokens on the Initial Payment Date, Purchaser shall no longer be obligated to pay any unaccrued Management Fee at the Maturity Date, but shall be liable for a fee payable in the Contractual Currency as set forth in the Closing Statement on the Initial Payment Date. In the event that Purchaser elects not to return Equivalent Tokens on the Initial Payment Date, the parties agree to enter into a customary agreement mutually satisfactory to the parties for the pledge of not less than 50% of the Tokens to Seller as collateral against Purchaser's return obligations herein.

2.6 **Management Fee.** For each Tranche, the Purchaser must pay an annual Management Fee in USD equal to **18%** per annum of the Purchase Price unless otherwise agreed in the Tranche Agreement. The Management Fee will be computed on a 360 day year for the actual number of days elapsed and will be due and payable quarterly commencing 90 days from the Closing Date (the "Initial Payment Date"), as established by the Closing Statement, for the preceding 3 months. The payment of the Management Fee will be overdue if not received the by

the Seller within 10 calendar days of the due date. Any overdue Management Fee will bear a late payment charge of 7% of the overdue amount. If the overdue Management Fee payment is not received by the Seller within 30 days of the original due date, then Seller must notify Purchaser that an Event of Default has occurred.

2.7 **Pre-Closing Deliveries.** With respect to each Tranche, Purchaser must have delivered to Seller on or before the Closing Date for that Tranche:

- (a) this Master Sale and Repurchase Agreement duly executed by Purchaser;
- (b) a Tranche Agreement completed and executed by Purchaser; and
- (c) the Equivalent Tokens in the type and number specified in the Tranche Agreement. Delivery instructions for the wallet-to-wallet transfer of the Tokens to Purchaser, including Purchaser's Digital Wallet address for receiving the Tokens will be provided at the time of transfer of the Tokens.

2.8 **Legal Matters.** All matters and all documentation and other instruments in connection with each Tranche and all matters hereunder must be satisfactory in form and substance to Purchaser and its counsel, and counsel to Purchaser shall have received copies of all documents that it may reasonably request in connection with such transactions.

2.9 **Closing of each Tranche.** With respect to each Tranche, Seller must deliver the Tokens to Purchaser's Digital Wallet address(es) specified below.

Purchaser's Digital Wallet Address	rQrQMkhcw3WnptGeWiYSwX5Tz3otyJqPnq Destination Tag: 842803673

2.10 **Termination and Redelivery of the Tokens.** Subject to Section 7, this Agreement will terminate when all of the Seller's and Purchaser's obligations have been paid and satisfied in full. Within 2 business days of the Seller's satisfaction of all obligations under this Agreement with respect to a Tranche, Seller will specify a Digital Wallet address for redelivery of the Tokens and Purchaser must deliver Equivalent Tokens to such address in an amount equal to the Tokens originally delivered by Seller. It is Seller's responsibility to ensure the Digital Wallet address provided to Purchaser is accurate and capable of receiving the return of the Tokens.

SECTION 3

PAYMENT AND TRANSFER

3.1 Unless otherwise agreed, all money paid hereunder must be in immediately available freely convertible funds of the relevant currency. All Tokens to be transferred hereunder must be (i) unrestricted and free trading and in suitable form for transfer and must be accompanied

by duly executed instruments of transfer or assignment in blank (where required for transfer) and such other documentation as the transferee may reasonable request, or (ii) transferred through the book entry system of Euroclear or Clearstream, or (iii) transferred through any other agreed similar electronic book entry Tokens clearance system, or (iv) transferred by any other method mutually acceptable to Seller and Purchaser.

3.2 Unless otherwise agreed, all money payable by one party to the other in respect of any transaction must be paid free and clear of, and without withholding or deduction for, any taxes or duties of whatsoever nature imposed, levied, collected, withheld or assessed by any authority having power to tax, unless the withholding or deduction of such taxes or duties is required by law. In that event, unless otherwise agreed, the paying party shall pay such additional amounts as will result in the net amounts receivable by the other party (after taking account of such withholding or deduction) being equal to such amounts as would have been received by it had no such taxes or duties been required to be withheld or deducted.

SECTION 4

CONTRACTUAL CURRENCY

4.1 All the payments made in respect of the Purchase Price or the Repurchase Price of any transaction must be made in reference to the Contractual Currency. Notwithstanding the foregoing, the payee of any money may, at its option, accept tender thereof in any other currency, provided, however, that, to the extent permitted by applicable law, the obligation of the payer to pay such money will be discharged only to the extent of the amount of the Contractual Currency that such payee may, consistent with normal banking procedures, purchase with such other currency (after deduction of any premium and costs of exchange) for delivery within the customary delivery period for spot transactions in respect of the relevant currency.

4.2 If for any reason the amount of the Purchase Price or Repurchase Price received by a party falls short of the amount in the Contractual Currency due and payable, the party required to make the payment will, as a separate and independent obligation, immediately transfer such additional amount in the Contractual Currency as may be necessary to compensate for the shortfall so as to assure full payment.

SECTION 5

REPRESENTATIONS

Each party represents and warrants to the other that:

5.1 **No Liens or Restrictions.** The transferor of Tokens has the absolute right to assign, convey, transfer and deliver the Tokens to the transferee free and clear of any and all mortgages, pledges, security interests, liens or other encumbrances or charges of any kind or nature. The transferor is in sole possession of the private keys associated with the Tokens and has not previously sold, conveyed, transferred, assigned, participated, pledged or otherwise encumbered the Tokens or its beneficial interest therein.

5.2 **Consents.** This Agreement and all the other Transaction Documents executed by and to be executed by the party constitute valid and binding obligations of the party enforceable in accordance with its respective terms and are to be construed and interpreted as a whole, the same being part of an integrated transaction. To the party's knowledge, no consent of any other party and no consent, license, approval, or authorization of any governmental authority is required in connection with the selling by the party hereunder, the execution, delivery and performance of this Agreement, and any of the other Transaction Documents executed or to be executed in connection herewith.

5.3 **No Conflicts.** The selling by the party here under and the execution and delivery by the party of this Agreement and any other Transaction Document executed and to be executed by the party, do not and will not (a) conflict with or violate any law or governmental order applicable to the party or (b) conflict with, result in any breach of, constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, or result in the creation of any encumbrance on any Token (if applicable) pursuant to, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which the party is a party or by which the party or the Token (if applicable) are bound or affected or which would have an effect on the ability of the party to consummate the transactions contemplated by this Agreement.

5.4 **No Default.** The party is not in default under any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which the party is a party or by which the seller of the Tokens (if applicable) are bond or affected or which would have an effect on the ability of the party to consummate the transactions contemplated by this Agreement.

5.5 **Anti-Money Laundering Program.** Purchaser represents and warrants that (i) it did, now does, and will continue to comply with anti-money laundering laws and regulations and (ii) it has established and maintains an anti-money laundering program, consisting of, at a minimum, written internal policies, procedures and controls including a means of detecting and reporting unusual or potentially suspicious activity, the designation of an anti-money laundering compliance officer, an ongoing employee training program, an independent audit function to test such programs annually, and any additional requirements set forth in the rules of any regulatory or self-regulatory organization which has jurisdiction over Purchaser. At the request of Seller, Purchaser shall provide such written further assurances as Seller may reasonably request that Purchaser maintains as anti-money laundering program.

5.5 **OFAC.** Purchaser hereby agrees and acknowledges that it is obligated to and hereby represents and warrants that it did, now does, and will continue to comply with rules and regulations enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"). Purchaser represents and warrants that neither it nor any person who controls Purchaser bears a name that appears on the List of Specially Designated Nationals and Blocked Persons maintained by OFAC from time-to-time.

5.6 **Source and Use of Tokens.** Seller represents and warrants that (i) none of the Tokens sold to Purchaser hereunder was sourced from a third party that is/was engaged in unlawful activities under state, federal or non-U.S. statutes (e.g., the Federal Controlled Substances Act) and (ii) any Tokens sold to Purchaser hereunder has been lawfully obtained and has not been, is not, and will not be, used in any illegal activities. In addition, Seller represents and warrants that neither it nor any person who controls Seller resides in or who subscription funds are transferred from or through an account in a Non-Cooperative Jurisdiction. For purposes of this Agreement, a “**Non-Cooperative Jurisdiction**” means any country or territory that has been designated as non-cooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization, such as the Financial Action Task Force on Money Laundering, of which the United States is a member and with which designation the United States representative to the group or organization continues to concur.

5.7 **Foreign Shell Bank.** Seller represents and warrants that neither it nor any person who controls Seller is a Foreign Bank without a Physical Presence in any country, but does not include a regulated affiliate. For purposes of this Agreement, a “**Foreign Bank**” means an organization that (i) is organized under the laws of a foreign county, (ii) engages in the business of banking, (iii) is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or principal banking operations, (iv) receives deposits to a substantial extent in the regular course of its business, and has the power to accept demand deposits, but does not include the U.S. branches or agencies of a foreign bank. In addition, “**Physical Presence**” means a place of business that is maintained by a Foreign Bank and is located at a fixed address, other than solely a post office box or an electronic address, in a country in which the Foreign Bank is authorized to conduct banking activities, at which location the Foreign Bank (i) employs one or more individuals on a full-time basis, (ii) maintains operating records related to its banking activities, and (iii) is subject to inspection by the banking authority that licensed the Foreign Bank to conduct banking activities.

5.8 **No Material Information.** There is no material fact known to the Seller regarding any Token sold to Purchaser hereunder which materially adversely affects or is likely or is anticipated to materially adversely affect such Token.

SECTION 6

RISK FACTORS

Seller has carefully reviewed, acknowledged, understands and assumes the following risks, as well as all other risks associated with Tokens (including those not discussed herein), all of which could render the Tokens worthless or of little value:

6.1 **Liquidity.** There is no guarantee or representation of liquidity and/or transferability of Tokens in the future.

6.2 **Security.** Tokens may be subject to expropriation and/or theft, international or unintentional bugs or weaknesses that may negatively affect the Tokens or result in loss or ability to access the Tokens.

6.3 **Access to Private Keys.** Loss of private key(s) associated with Seller's Digital Wallet or vault will result in loss of Tokens.

6.4 **Uncertain Regulatory Framework.** The regulatory status of cryptographic tokens, digital assets and blockchain technology is unclear and unsettled in many jurisdictions. It is difficult to predict how or whether governmental authorities will regulate such technologies. It is likewise difficult to predict how or whether any governmental authority may make changes to existing laws, regulations and/or rules that will affect cryptographic tokens, digital assets, blockchain technology and its applications. Such changes could negatively impact the Tokens in various ways.

SECTION 7

EVENTS OF DEFAULT

7.1 **Events of Default.** An "Event of Default" shall exist if any one or more of the following shall occur:

- (a) Failure by a party to make when due, any payment or delivery under this Agreement required to be made by it if such failure is not remedied on or before the fifth Exchange Business Day after notice of such failure is given to the defaulting party; or
- (b) If any representation or warranty made by a party in this Agreement or in any statement furnished at or in contemplation of the Closing Date or pursuant to this Agreement or any other Transaction Document shall prove to have been knowingly untrue or misleading in any material respect at the time made; or
- (c) Default by a party in the performance of or observance of any covenant or agreement contained in this Agreement or default in any other Transaction Document which is not cured within a reasonable time; or
- (d) If the Tokens cease to trade or are otherwise halted for more than 3 Exchange Business Days by a regulatory agency or for any other reason; or
- (e) If a party makes a general assignment for the benefit of creditors or consent to the appointment of a receiver, liquidator, custodian, or similar official of all or substantially all of its properties, or any such official is placed in control of such properties, or the party admits in writing its inability to pay its debts as they mature; or
- (f) If documents shall at any time after their execution and delivery for any reason cease to be in full force and effect or are declared null or void.

7.2 **Rights Upon An Uncured Event of Default.** If at any time an Event of Default has occurred and is continuing beyond any applicable cure period, the non-defaulting party shall issue a written notice to the defaulting party specifying the relevant Event of Default (a "**Default**

Notice”), and designate a day not earlier than the day such notice is effective as an early termination date due to an Event of Default (“**Early Termination Date**”).

In the case of Early Termination, Purchaser is obligate to return the Tokens to Seller immediately, including any interest owed, and Seller is then required to pay Purchaser the Repurchase Price.

SECTION 8

INTENTIONALLY DELETED

SECTION 9

NOTICES AND OTHER COMMUNICATIONS

- 9.1 Any notice or other communication to be given under this Agreement shall:
- (a) be in the English language, and except where expressly otherwise provided in this Agreement, must be in writing;
 - (b) may be given in any manner described in subsection 9.2 below; and
 - (c) must be sent to the party to whom it is to be given at the address or number, or in accordance with the electronic messaging details, set out herein.
- 9.2 Any such notice or other communications will be deemed effective:
- (a) if in writing and delivered in person or by courier, at the time when it is delivered;
 - (b) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), at the time when that mail is delivered or its delivery it attempted; or
 - (c) if sent by electronic messaging system, at the time that electronic message is received except that any notice or communication which is received, or delivery of which is attempted, after close of business on the date of receipt or attempted delivery or on a day which is not a day on which commercial banks are open for business in the place where that notice or other communication is to be given will be treated as given at the opening of business on the next following day which is such a day.
- 9.3 If –
- (a) there occurs in relation to either party an event which gives rise to the service of a Default Notice; and

- (b) the non-Defaulting Party, having made all practicable efforts to do so, including having attempted to use at least two of the methods specified in subsection 9.2 has been unable to serve a Default Notice by one of the methods specified in those subsections (or such of those methods as are normally used by the non-Defaulting Party when communicating with the Defaulting Party), then the non-Defaulting Party may sign a written notice (a “**Special Default Notice**”) which:
 - (i) specifies the relevant event referred to by section which has occurred in relation to the Defaulting Party;
 - (ii) states that the non-Defaulting Party, having made all practicable efforts to do so, including having attempted to use at least two of the methods specified in subsections 9.2, has been unable to serve a Default Notice by one of the methods specified in those subsections (or such of those methods as are normally used by the non-Defaulting Party when communicating with the Defaulting Party);
 - (iii) specifies the date on which, and the time at which, the Special Default Notice is signed by the non-Defaulting Party; and
 - (iv) states that the event specified in accordance with subsection (i) above will be treated as an Event of Default with effect from the date and time as specified.

On the signature of a Special Default Notice the relevant event will be treated as effective from the date and time so specified as an Event of Default in relation to the Defaulting Party, and the Special Default Notice will be treated and accepted as an effective Default Notice. Any Special Default Notice should also be sent in a manner contemplated under Section 9.2.

9.4 All notices, requests or other communications to either of the parties by the other must be in writing, sent by overnight mail by a reputable commercial carrier, or by electronic mail and will be deemed duly given on the earlier of the date the same is received or when deposited in the mail, postage prepaid, as follows:

TO PURCHASER:

Uphold
6 West 18th St., 3rd Floor
New York, NY 10011
Attn: Legal Department
Email: legal@uphold.com

TO JST CAPITAL LLC:

Scott Freeman
350 Springfield Ave, Suite 200

Summit, NJ 07901
sfreeman@jstsystems.com

SECTION 10

ENTIRE AGREEMENT AND SEVERABILITY

10.1 This Agreement supersedes any existing communications, term sheets, or agreements between the parties containing general terms and conditions for transactions. Each provision and agreement herein will be treated as separate from any other provision or agreement herein and will be enforceable notwithstanding the unenforceability of any such other provision or agreement.

10.2 Each party acknowledges that, and has entered into this Agreement and will enter into each Tranche hereunder in consideration of and in reliance upon the fact that such transactions hereunder constitute a single business and contractual relationship and are made in consideration of each other. Accordingly, each party agrees: (i) to perform all of its obligations in respect to the entire transaction hereunder, and that a default in the performance of any such obligations shall constitute a default by it in respect to the entire transactions hereunder, and (ii) that payments, deliveries and other transfers made by either of them in respect of any transaction will be deemed to have been made in consideration of payments, deliveries and other transfers in respect to the entire transaction hereunder.

SECTION 11

NON-ASSIGNABILITY AND TERMINATION

11.1 Neither party may assign, charge or otherwise deal with (including without limitation any dealing with any interest in or the creation of any interest in) its rights or obligations under this Agreement without the prior written consent of the other party. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the parties and their respective successors and assigns.

11.2 Either party may terminate this agreement by its terms by giving written notice to the other, except that this Agreement shall, notwithstanding such notice, remain applicable to any transactions then outstanding. All remedies hereunder shall survive termination in respect of the relevant transaction and termination of this Agreement.

SECTION 12

GOVERNING LAW

12.1 **Generally.** This Agreement and all instruments delivered hereunder will be governed by and construed in accordance with the laws of the State of California, excluding them from any principles of conflicts of laws. Except to the extent either party exercises its right to demand arbitration pursuant to Section 13 of this Agreement, any legal action, claim or lawsuit commenced by one party against the other arising out of or in connection with this Agreement, and all instruments or agreements delivered hereunder must be brought exclusively in

the courts of the United States, and such courts will be the exclusive jurisdiction and venue for any such legal action, claim or lawsuit.

SECTION 13

ARBITRATION IN THE EVENT OF DISPUTE

13.1 **Arbitration of Claims, Disputes, or Controversies.** Any claim, dispute, or controversy (“**Claim**”) arising from or relating to this Agreement or the relationships resulting from this Agreement, wherever and by whomever commenced, shall, upon delivery of a written notice demanding arbitration to the other party (including a written notice after the commencement of a lawsuit or a notice contained in court filings in any such lawsuit), be resolved by binding arbitration pursuant to the Federal Arbitration Act, 9 USC §§ 1 *et seq.*, and the applicable rules of the American Arbitration Association (“**AAA**”) or JAMS in effect at the time of the written notice demanding arbitration. The term “**Claim**” as used in this Agreement is to be given the broadest possible meaning, and includes but is not limited to claims, disputes, or controversies arising from or relating to soliciting, originating, closing, or enforcing the transaction that is the subject of the Agreement.

Seller may select which of AAA or JAMS to use for purposes of administering an arbitration governed by this Agreement. The address, telephone number, and web site containing applicable rules for each of these arbitration administrators is as follows:

AAA
Corporate Headquarters
1633 Broadway, 10th Floor
New York, NY 10019
212-716-5800
www.adr.org

JAMS
71 South Wacker Drive
Suite 3090
Chicago, IL 60606
312-655-0555
www.jamsadr.com

If Seller fails to select an arbitration administrator within 30 days from the date it or we deliver notice demanding arbitration, JST will choose one. Any arbitrator must be a commercial lawyer with more than 10 years of experience in a regionally recognized law firm or a retired Federal judge or judge who served as a regular member of a state court of intermediate or final appellate jurisdiction.

Arbitrations seeking monetary relief will be held within the federal judicial district encompassing the city where Seller resides or is located.

Each party shall pay one-half of any fees charged by the arbitration administrator for Claim(s) asserted by a party in the arbitration

THIS AGREEMENT IS FULLY BINDING IN THE EVENT THAT A CLASS ACTION OR SIMILAR LAWSUIT IS FILED IN WHICH SELLER WOULD BE A CLASS REPRESENTATIVE OR MEMBER. SELLER AND JST AGREE THAT THERE WILL BE NO CLASS OR CONSOLIDATED ARBITRATION OF ANY CLAIM. FURTHERMORE, CLAIMS BROUGHT BY OR ON BEHALF OF OTHER SELLERS MAY NOT BE CONSOLIDATED WITH OR ARBITRATED IN ANY ARBITRATION PROCEEDING THAT IS CONSIDERING SELLER'S CLAIMS UNLESS SAID OTHER SELLERS ARE PARTIES TO THE SAME AGREEMENT. SIMILARLY, SELLER MAY NOT JOIN WITH OTHER SELLERS TO BRING CLAIMS IN THE SAME ARBITRATION PROCEEDING UNLESS ALL OF SUCH OTHER SELLERS ARE PARTY TO THE SAME TRANSACTION.

SECTION 14

INDEMNITY AND LIMITATION OF LIABILITY

14.1 Either party shall indemnify and hold the other party harmless against any and all claims, demands, proceedings, suits, actions, damages, liabilities, losses, expenses and costs (which shall include, but not limited to all costs of defense, investigation and accounting and legal fees) to which the other party may become subject as a result of the defaulting party's fraud, negligence, willful misconduct or material breach of any obligation under this Agreement.

14.2 Neither party will be liable for any indirect, incidental or consequential loss or damages, including loss revenue or profits or losses arising from its normal course of business, even if a party has been advised of the possibility of such damages. Each provision of this Section operates independently and survives the termination of this Agreement.

SECTION 15

NO WAIVERS

No express or implied waiver of any Event of Default by either party shall constitute a waiver of any other Event of Default and the failure or delay in the exercise of any remedy hereunder by any party shall not constitute a waiver of its right to exercise any other remedy hereunder. No modification or waiver of any provision of this Agreement and no consent by any party to a departure here from will be effective unless and until such modification, waiver or consent is in writing and duly executed by both of the parties hereto. The failure or delay to give any notice herein will not constitute a waiver of any right to do so at a later date.

SECTION 16

COUNTERPARTS; AMENDMENTS

16.1 This Agreement may be executed in counterparts, each of which will be deemed an original.

16.2 None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the parties.

SECTION 17

SECTION HEADINGS

The section headings used in this Agreement are for convenience of reference only and are not to affect the construction of the Agreement nor are they to be taken into consideration in interpreting, this Agreement.

SECTION 18

SEVERABILITY

If one or more provisions of this Agreement or the applicability of any such provisions to any set of circumstances is determined to be invalid or ineffective for any reason, such determination shall not affect the validity and enforceability of the remaining provisions or the applicability of the same provisions or any of the remaining provisions to other circumstances.

SECTION 19

CONFIDENTIALITY

This Agreement and any other related documents are to be kept confidential and are not to be reproduced in any manner whosoever for persons other than the parties hereto and their respective officers, directors, employees and representatives under a duty of confidentiality. Each party agrees not to circumvent the legitimate interests of the other party and to maintain this transaction in strict confidentiality. Each party agrees to maintain the confidentiality of any trade secrets, techniques, and contracts and contacts of the other party. Each party agrees not to engage in unauthorized communications (i.e. telephone calls, written inquiries, etc.) with the other party's banks, insurers, contracting parties and contacts.

SECTION 20

TRANSLATION OF AGREEMENT

In the event that this Agreement is translated into a language other than English, such translation is intended to assist the Seller in understanding the terms and conditions of this Agreement and is not intended, and shall not comprise, an enforceable Agreement. To the extent that any conflict exists between a translation of this Agreement and the English language version of this Agreement, the English language version shall prevail and be conclusive. All notices, communications or documents exchanged under this Agreement or delivered under it must be in the English language or accompanied by an English translation of it.

SECTION 21

NO RELIANCE

21.1 Each party will be deemed to represent to the other party on the date on which it enters into this Agreement that (absent a written agreement between the parties that expressly imposes affirmative obligations to the contrary):

- (a) it is acting for its own account, and it has made its own independent decisions to enter into this Agreement and as to whether the transaction contemplated by this Agreement is appropriate or proper for it based upon its own judgment and upon advice from such advisors (including its tax, legal, accounting and regulatory advisors) as it has deemed necessary;
- (b) it is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into the transaction contemplated by this Agreement, it being understood that information and explanations related to the terms and conditions of this Agreement shall not be considered investment advice or a recommendation to enter into this transaction contemplated by this Agreement;
- (c) no communication (written or oral) received from the other party will be deemed to be an assurance or guarantee as to the expected results of the transaction contemplated by this Agreement;
- (d) it is capable of assessing the merits of and evaluating and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of the transaction contemplated by this Agreement; and
- (e) it is also capable of assuming, and assumes, the financial and other risks contemplated by this Agreement.

[Balance of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Sale and Repurchase Agreement to be duly executed as of the day and year written below. It is specifically agreed and understood that this Agreement is not binding upon the parties until the date it is actually signed by the JST.

Effective date: May 1, 2019

UPHOLD HQ INC.



Signature

JP Thieriot

Printed

CEO

Title

JST CAPITAL LLC



Signature

Scott Freeman

Printed

Partner

Title

EXHIBIT 1**TRANCHE AGREEMENT No.1**

Seller and Purchaser hereby agree as follows:

- 1) Each has elected to proceed with a new Tranche transaction for additional Tokens;
- 2) Each agrees that the Agreement is incorporated by reference into this Tranche Agreement No. 1 and that the following terms are part of the Agreement:

Tokens	XRP Ripple
Number of Tokens	3,500,000
Origination Fee	1.5%
Management Fee	18% annually, payable quarterly
Tranche No. 1 Maturity Date	October 31, 2019
Execution Date of Tranche Agreement No. 1	May 1, 2019

- 3) This Tranche Agreement No. 1 documents a new Tranche and becomes a binding agreement on the Execution Date set forth above.

[Balance of page intentionally left blank.]

SELLER:

JST CAPITAL LLC



Signature

Scott Freeman

Printed

Partner

Title

PURCHASER:

UPHOLD HQ INC.



Signature

JP Thieriot

Printed

CEO

Title

EXHIBIT 2**Closing Statement – Tranche Agreement No. 1****May 1, 2019**

Re: The Master Sale and Repurchase Agreement (the “**Agreement**”) by and between Uphold, HQ Inc. (“**Purchaser**”) and JST Capital, LLC (“**Seller**”)

To: Uphold HQ Inc.
6 West 18th St., 3rd Floor
New York, NY 10011

This Closing Statement relates to Tranche Agreement No. 1. Capitalized terms used but not defined herein have the meanings given to such terms in the Agreement and in Tranche Agreement No. 1.

On the date of delivery set forth below, you received Tokens in the number and type specified below to your Digital Wallet pursuant to the Agreement. The sales price for the Tokens is set forth below. Accordingly, the Purchase Price, Repurchase Price, Closing Date, the date and amount of the quarterly management fee and other information related to Tranche No. 1 are set forth below:

Date of delivery and posting of the Tokens by Seller to Purchaser’s Digital Wallet	May 1, 2019
Number of Tokens delivered and posted to Purchaser’s Digital Wallet:	3,500,000 XRP (Ripple)
Conversion Price:	\$0.285714 XRP/USD
Closing Sale Price	\$1,000,000 USD
Closing Date for Tranche No. 1	May 1, 2019
Purchase Price for Tranche No. 1	\$0 USD
Repurchase Price for Tranche No. 1	\$0 USD
Origination Fee	49,500 XRP
Management Fee	\$180,000 USD Annually

Maturity Date	October 31, 2019
Amount of quarterly Management Fee	\$45,000, payable quarterly on each of the 90th day from the Closing Date and, unless this Agreement is terminated in accordance with Article 2 prior to the Maturity Date, on the Maturity Date
Early Return Fee	\$22,500

Seller will retain the Origination Fee from the Number of Tokens delivered to your account on the Closing Date in accordance with Section 2.2 of the Agreement.

The Management Fee and, if applicable, the Prepayment Fee, shall be paid to the following:

Bank/Institution Name	
Swift No.	
Account Number	
Routing Number	
Account Name	

JST Capital LLC appreciates your business and please do not hesitate to contact us at any time should you have any questions or concerns.

Acknowledged and agreed to by Purchaser on May 1, 2019



Name: JP Thieriot
Title: CEO

Exhibit BBB

To: Ben Sherwin[ben.sherwin@uphold.com]
Bcc: Scott Freeman[sfreeman@jstsystems.com]
From: James Alexander[archive@mycred.io]
Sent: Wed 5/1/2019 2:53:48 PM (UTC-04:00)
Subject: Re: Pledge Agreement model

Hi Ben,

Sounds like a simple assignment of an \$1MM equivalent interest in your XRP distribution (July 15) is the solution to serve as a guarantee. And you can't dispose of that XRP once issued without our prior agreement until your swap has been satisfied.

I am trying to propose a solution without knowing much about your balance sheet or overall ability to provide a guarantee or collateral. So it would be helpful if you could propose a solution. As a reference point, for collateralized loans, we make loans at 50% LTV. Regarding guarantees, we require up to 100% principal guarantees in place.

Regarding timing, we have drawn down the XRP assets already so we need to come to a resolution as soon as possible. In case we don't plan on finalized this today, please confirm any agreement will be effective May 1, 2019.

Regards,

James

From: Ben Sherwin <ben.sherwin@uphold.com>
Date: Wednesday, May 1, 2019 at 10:42 AM
To: James Alexander <James.alexander@mycred.io>
Subject: Re: Pledge Agreement model

I'm not generally opposed to something like that. Just so I understand it, we'd pledge \$500K of collateral to JST at day 90 or something. I am unsure how we'd get that done today, other than a side letter with the pledge agreement attached. I'd also be happy to repay \$500K at day 90, so long as I didn't have to still pay a management fee on it.

Ben Sherwin

General Counsel • uphold.com
w: 415.652.6904 • m: 917.596.1611

On May 1, 2019, at 1:05 PM, James Alexander <James.alexander@mycred.io> wrote:

Hi Ben,

I would propose an assignment to Cred of \$1mm equivalent of XRP in your upcoming distribution.

When the distribution is made around July 15, transfer \$500k value of XRP to JST. This is same LTV as our other loans so will be in compliance with our collateralized loan policy.

Then repay remaining principal (or renew) at term October 31.

I would kindly ask that some form of assignment remain in place until Uphold performs on the swap. And we don't need strict segregation of the XRP assets. It could be a covenant such as maintain \$500k of XRP on your balance sheet unencumbered through oct. 31—to which Cred maintains a claim.

Regards,

James

Get [Outlook for iOS](#)

From: Ben Sherwin <ben.sherwin@uphold.com>

Do you have time to catch up?

Ben Sherwin

General Counsel • uphold.com

w: 415.652.6904 • m: 917.596.1611

On Apr 30, 2019, at 1:45 PM, James Alexander <James.alexander@mycred.io> wrote:

Hi Ben,

Here is pledge agreement we attach to our Cred Borrow (fiat against crypto) loans.

Regards,

--

<image001.png>

James Alexander

Chief Capital Officer

Cred

m: +1.213.262.6000

w: mycred.io e: james.alexander@mycred.io

<Cred Pledge Agreement.docx>

This message and attachments might contain privileged and/or confidential information, which should not be disclosed to third parties. If you received this email in error, please advise me and delete this email immediately. Any distribution, use or copying of this email or information it contains by other than the intended recipient is unauthorized.

This message and attachments might contain privileged and/or confidential information, which should not be disclosed to third parties. If you received this email in error, please advise me and delete this email immediately. Any distribution, use or copying of this email or information it contains by other than the intended recipient is unauthorized.

Exhibit CCC

Filed Under Seal

Exhibit DDD

Filed Under Seal

Exhibit EEE

Filed Under Seal

Exhibit FFF

To: Dan Schatt[dan@mycred.io]; Karen Wong[karen@mycred.io]; James Alexander[james.alexander@mycred.io]
From: Lu Hua[lu@mycred.io]
Sent: Wed 2/27/2019 10:03:31 PM (UTC-05:00)
Subject: Re: Cash Needs through March, and TUSD

Hi, Karen/Dan:

Sounds like a plan! I will arrange the first 100K USDT delivery by March 8th and another 100K USDT by March 22nd.

@Dan Schatt @James Alexander

In order to cover the 400K monthly expense Karen mentioned in the email, we will need 13.3M (36% APR) to 20M (24% APR) in CredEarn. We currently have around 5.5M in place and we will need another 8M – 10M enrolled. With all the great progress we have made in the last couple of months, let's make this happen in March!

BTW, all the number is based on the final USDT amount delivered to moKredit.

Best

Lu

From: Dan Schatt <dan@mycred.io>
Date: Thursday, February 28, 2019 at 4:25 AM
To: Karen Wong <karen@mycred.io>, Lu Hua <lu@mycred.io>, James Alexander <James.alexander@mycred.io>
Subject: Re: Cash Needs through March, and TUSD

Thanks Karen, let's go with your recommendation. Would you also like the Uphold funds handled the same way?

From: Karen Wong <karen@mycred.io>
Date: Wednesday, February 27, 2019 at 12:19 PM
To: Dan Schatt <dan@mycred.io>, Lu Hua <lu@mycred.io>, James Alexander <James.alexander@mycred.io>
Subject: Cash Needs through March, and TUSD

Hi everyone,

As discussed, I went through our aging payables and projected expenses through March 31 to see how we ought to handle the \$500K in TUSD that is expected this Friday. Based on this information it is my *very strong* recommendation that we issue a loan to moKredit for the proceeds, but route the entire amount of the loan to Citi and consider it a payoff of principal on the \$1.5M tranche 3 loan to moKredit.

Here's why:

- We have \$387K in invoices past due and immediately due. To highlight the most pressing ones, this includes:
 - \$30K in BCLP invoices from 2018 that Dan wants paid immediately
 - Our first installment of \$25K monthly on the \$450K PwC invoice from 2018
 - \$74K for our D&O insurance premium which is past due and **MUST** be paid immediately to avoid cancellation of the policy
 - \$57K in past due payments to Dentons and Paul Hastings from 2018
 - \$80K payments to our ongoing support teams at InnReg, JST, and India including past due portions
 - \$8K in past due payment for the ERP system (*I've already worked out the best payment plan for this. We are paying in 4 installment vs. the vendor's preference of payment up front for the entire year.*)
- We need \$140K more by March 8 to cover the invoices due on week of March 11 including the March 15 payroll which will be ~\$120K

The 2 items above already total \$525K so treating the entire TUSD tranche as a reduction in principal of tranche 3 would still fall short of the company's cash needs in the next 10 days. Therefore, it's also imperative that we receive the \$200K in revenues that is in Shanghai. @Lu, could you please send \$100K immediately and the other \$100K by March 22? That will help us ensure we can pay the additional \$188K in expenses which will be due on the week of March 25, including the March 31 payroll.

If you guys are wondering (as I did for a moment) whether this will leave a surplus of funds at Citi, it won't. We have only \$7K in the Citibank account today so if you sum up all of the above we would actually still be short ~\$10K. Plus the above doesn't include the additional \$67K in March expenses that can be paid in the beginning of April or any projections for Dentons, Paul Hastings, or Atlassian services for Jan-Mar. @Dan, please advise on the first 2 vendors. I am following up with Maxim on Atlassian.

Here's a summary of what's on my radar (the enclosed spreadsheet has the details):

Summary of Cash Need	Amount	Total
Immediate (for past due & now due invoices)	\$ 387,113	\$ 387,113
By March 8 for payroll & payments due by March 11	\$ 138,600	\$ 525,713
By March 22 for payroll & payments due by March 25	\$ 163,333	\$ 689,046
For remainder of March, can be paid beginning of April	\$ 66,650	\$ 755,696

Please let me know your thoughts.

Also, just a heads up that unless we do something drastically different or sufficient Alliance ICO proceeds come in by the week of March 25, we will unfortunately be having this conversation again for the \$400K in projected expenses for April...

--kw

Exhibit GGG

Filed Under Seal

Exhibit HHH

To: Sally Zhang[sally@mycred.io]; joe podulka[joe@mycred.io]
Cc: Dan Wheeler[dan.wheeler@mycred.io]
From: James Alexander[archive@mycred.io]
Sent: Tue 10/8/2019 11:23:36 AM (UTC-04:00)
Subject: FW: August Invoice

[JSTSystems - Invoice 35.pdf](#)
[September Invoice](#)

Hi Joe and Sally,

The JST August and September invoices need to be paid immediately. Please note part of these invoices are interest payments on our hedge swaps. JST has been accommodating and made payments on behalf of Cred. But they are unwilling to carry the expense any longer. We are at risk of defaulting on those hedges.

In the future, by what date do you need an invoice to pay upon receipt? It's critical we 1) stay current on our hedged positions and 2) maintain credit with JST as our primary OTC trading partner.

In the absence of significant reserves (still negative) or balance sheet, JST is currently our only source of liquidity for capital markets activities.

Regards,

James

From: Scott Freeman <sfreeman@jstsystems.com>
Date: Friday, September 13, 2019 at 7:36 AM
To: James Alexander <James.alexander@mycred.io>
Subject: Fwd: August Invoice

Thanks.

Begin forwarded message:

From: Scott Freeman <sfreeman@jstsystems.com>
Subject: August Invoice
Date: September 6, 2019 at 1:09:47 PM EDT
To: Sally Zhang <sally@mycred.io>
Cc: James Alexander <James.alexander@mycred.io>, joe podulka <joe@mycred.io>

Sally, please see attached invoice. Thanks for your attention to this.

Exhibit III

Filed Under Seal

Exhibit JJJ

Filed Under Seal

Exhibit KKK

To: Lu Hua[lu@mycred.io]; Dan Schatt[dan@mycred.io]; Daniyal Inamullah[d.inamullah@mycred.io]; Sally Zhang[sally@mycred.io]; joe podulka[joe@mycred.io]
From: James Alexander[james.alexander@mycred.io]
Sent: Thur 3/12/2020 10:09:22 AM (UTC-04:00)
Subject: Cash needs - urgent

Hi Lu,
We need to recall cash urgently to support our hedge positions. Our immediate cash requirement is approximately \$10 million.

Could you please call as soon as you get this message? +12132626000.

Regards,

James

Exhibit LLL

To: Daniyal Inamullah[d.inamullah@mycred.io]
From: Dan Schatt[dan@mycred.io]
Sent: Wed 3/25/2020 1:35:43 PM (UTC-04:00)
Subject: FW: Update

Case 22-50398-JTD Doc 1-64 Filed 07/22/22 Page 2 of 2

From: Daniel Wheeler <dan.wheeler@mycred.io>

Date: Tuesday, March 24, 2020 at 5:29 PM

To: Lu Hua <lu@mycred.io>, Dan Schatt <dan@mycred.io>, James Alexander <james.alexander@mycred.io>, Joe Podulka <joe@mycred.io>

Subject: RE: Update

Thank you Lu. This is a strong message of support and true partnership. I greatly appreciate it.

Daniel F. Wheeler

General Counsel

dan.wheeler@mycred.io

415.218.9074



From: Lu Hua <lu@mycred.io>

Sent: Tuesday, March 24, 2020 4:57 PM

To: Dan Schatt <dan@mycred.io>; James Alexander <james.alexander@mycred.io>; Daniel Wheeler <dan.wheeler@mycred.io>; Joe Podulka <joe@mycred.io>

Subject: Update

Team,

It was great to speak with you yesterday, and my apologies for the delay in getting back to you. As we discussed, although we're facing some tighter liquidity challenges in the short term, we have seen some encouraging signs in the economy and we expect to be in a much stronger position by the summer. I realize our inability to provide you with a significant amount of principal in the short term is quite challenging for you and I want to assure you that we will continually look for ways to release more principal as the liquidity environment improves. After discussing at length with our finance team, this is a payment schedule that we can support at minimum:

April: Full payment of Interest @ 20% [~\$650,000] + \$100,000 of principal.

May: Full payment of Interest @ 20% [~\$650,000] + \$200,000 of principal.

June: Full payment of interest @ 20% [~\$650,000] + \$4 million of principal.

July: Full payment of interest @20% [~\$650,000] + \$4 million of principal.

We expect our business to be operating normally beginning in August.

Thank you for your support during these interesting times, we will get through this together.

Thanks,

Lu

Exhibit MMM

Cred LLC
2121 S El Camino Real, Ste 500
San Mateo, CA 94403

Prepared for:

Cred LLC Investment Committee: Liquidity Analysis by Cred Capital, Inc.

Re: Liquidity Analysis Post March 2020 Flash Crash and Recommended Steps

The following analysis is intended to reflect recommendations for Cred LLC's portfolio following the significant decline in cryptocurrency prices over March 11-12, 2020. The change in closing prices for the primary cryptocurrency assets on Cred's platform are below:

Token / Coin	March 11	March 12	Change
BTC	\$7,911	\$4,971	-37%
ETH	\$195	\$112	-43%
XRP	\$0.2080	\$0.1396	-33%
BCH	\$267	\$152	-43%

Over the last 5 years, this is the single largest daily drawdown in BTC price.

As a result of the event, several financial hedging instruments of Cred LLC were liquidated given the falling market prices. The resulting short position on BTC has a strike price of approximately \$5,900 – about 800 BTC was lost in the arrangement.

The simultaneous decline in global liquidity created additional balance sheet issues for Cred LLC. Specifically, a principal recall of approximately \$10 million from a lending partner (MoKredit) was delayed given liquidity issues in the Chinese Consumer loan portfolio. As a result, it was not possible to reconstitute the appropriate hedging instruments at a more favorable market price.

JST, Cred's primary counterparty for the swap transactions and other derivative contracts, issued a margin call for outstanding swaps. Given the illiquidity in the loan portfolio, Cred was unable to acquire the funds to provide additional contributions. Cred negotiated a Loan Modification Summary and executed the agreement with JST. The workout plan includes the following:

Obligations:

- 4,700 BCH
- 27,298 ETH
- \$35,580.70 accrued interest

JST Repayment Plan:

- Payment of 90 BTC from Cred's exchange accounts to satisfy BCH liability on a 30:1 ratio.
- Repayment of the remaining BCH balance on July 16, 2020 with an 8% annualized interest rate.
- Repayment of ETH loan beginning on July 16, 2020 on a monthly cadence (minimum \$500k USD equivalent of ETH per month).

In addition to repayment of the above Loan Modification Agreement, there is an additional operational requirement to re-apply hedging instruments for the current portfolio. The current liabilities that need to be hedged include the following:

Summary (as of 4.2.2020)

Total Principal Outstanding	\$64,468,514
Next 12 Mo Interest	\$1,940,235
YTW	3.01%
Wgt Avg Interest Rate	9.17%

Maturity Statistics*

Average Days to Maturity	171
Avg Months to Maturity	5.6
Wgt Avg Days to Maturity	211
Avg Mo to Maturity	6.9
Median Days to Maturity	103
Median Months to Maturity	3.4

Top 4 Assets**BTC**

Total Units	37,437,284
Avg USD Rate	3,669,043
BTC Yield	9.80%
Wgt Avg Price	\$8,113

XRP

Total Units	5,198,803
Avg USD Rate	379,577
BTC Yield	7.30%
Wgt Avg Price	\$0.2182

ETH

Total Units	5,293,365
Avg USD Rate	346,119
BTC Yield	6.54%
Wgt Avg Price	\$179

BCH

Total Units	2,881,796
Avg USD Rate	264,185
BTC Yield	9.17%
Wgt Avg Price	\$282

Current Market Prices for the assets as of today:

BTC: \$6,780
 XRP: \$0.1789
 ETH: \$142
 BCH: \$234

The sources for liquidity today include:

- Cash on balance sheet (~\$350,000)
- Loan from portfolio (~\$2 million)
- Principal from MoKredit – workout plan is as follows:
 - April - \$100k
 - May - \$200K
 - June - \$4 million
 - July - \$4 million
- Revenue from generating net interest margin from the current loan portfolio (\$700k-\$1mil per month)
- Additional contributions to CredEarn

Recommendations:

- Once proceeds from MoKredit return of capital are received. Immediately:
 - Use cash from MoKredit return of principal to acquire 2,003 units of BCH (estimated total cost is \$500K)
 - Acquire 8,074 ETH with cash from MoKredit to acquire hedges for 27,298 of ETH. Also, use excess cash to repay initial 3,077 ETH (at today's market price this is a total of \$2.0 million for the hedges and a total of \$3.8 million for the entire payment)
- Request an additional \$3.3 million from MoKredit
- Adjust global target leverage from 4.0x to 3.3x in order to make the portfolio more resilient to a rapid decline in market prices. A lower strike price means additional cash is available for the business given the difference in the strike prices of the loan liabilities and hedging instruments.
- Request additional capital from MoKredit, assuming conditions for their underlying portfolio improve. While the situation in China seems to be improving, there is little insight to the short term liquidity with MoKredit due to (i) the Chinese government's relaxation of debt repayment terms and (ii) uncertainty to the amount of cash that will be available.

It's important to note the key risk in the recommended strategy is a significant increase in cryptocurrency prices. With the strategy above, assuming a 100% increase in cryptocurrency prices by the end of 2020, an additional \$5 million will be needed from MoKredit (in addition to the \$3.3 million) in order to reconstitute the hedging program absent significant acceleration in growth of the loan portfolio.

Another key tradeoff to consider is that recalling principal from MoKredit will also reduce the weighted average return of the loan portfolio for Cred, cannibalizing a critical source of revenue. Given this situation, assets will be allocated to more liquid positions in Cred's "All Weather Strategy"; specifically, the allocation to 100 Acre Ventures and Quanta Coin will be increased given the weekly / monthly liquidity profile and investment strategy.

Other items:

Confidential

Based on the cash flow analysis, there seems to be a potential cash liquidity issue for May 2020 given the delay in receiving principal back from MoKredit.

[EXHIBITS ON FOLLOWING PAGES]

Exhibit NNN

To: Dan Schatt[dan@mycred.io]
Cc: Daniyal Inamullah[d.inamullah@credcapital.io], James.Alexander@mycred.io[james.alexander@mycred.io]
From: Lu Hua[lu@mycred.io]
Sent: Sun 4/5/2020 7:20:56 AM (UTC-04:00)
Subject: Re: Please DocuSign: Cred LLC - Register of Directors and W9

Hi, Dan:

There is no change to the payment schedule since we discussed last time. I am working on more BTC lending leads and will update you guys next week.

Best

Lu

Dan Schatt <dan@mycred.io>于2020年4月5日 周日下午2:14写道：

+ Lu

Hi Lu – I assume there are no updates since your last email regarding the repayment schedule? If not, no worries... The team is looking for funds as soon as possible to rebuild the hedges...BTW - if you can access any more BTC to borrow, it would be awesome!

Thanks,

Dan

From: Daniyal Inamullah <d.inamullah@credcapital.io>
Date: Saturday, April 4, 2020 at 9:45 AM
To: Dan Schatt <dan@mycred.io>
Subject: Re: Please DocuSign: Cred LLC - Register of Directors and W9

Btw, resent with just your name. Please sign at your convenience, we are targeting a Tuesday allocation.

Another question - did you get any updates from Lu on the MoKredit repayment schedule? All technical signs are pointing to quite a precipitous drop in crypto prices in the near term - any chance to reconstitute more of these hedges over the next few wks would be tremendously helpful.

Best regards,

Daniyal Inamullah, CFA
VP
Cred Capital

213 344 6983

d.inamullah@credcapital.io

Exhibit 000

Filed Under Seal

Exhibit PPP

This is where the solvency analysis stands. The memo, which I will send when I put it in Word format, sets a minimum \$4 million capital raise by June 30.

CRED
CAPITAL

Daniel Wheeler
General Counsel

415.218.9074
dan.wheeler@credcapital.io
credcapital.io



From: Dan Schatt <dan@mycred.io>
Sent: Sunday, May 24, 2020 6:26 PM
To: Daniel Wheeler <dan.wheeler@credcapital.io>
Cc: Daniyal Inamullah <d.inamullah@credcapital.io>; Joe Podulka <joe@mycred.io>; James Alexander <james.alexander@credcapital.io>
Subject: Re: Strategic Priorities Update - Liquidity Analysis

Dan W - you have made your position clear through your written analysis draft, your emails, and your calls. I hear you and I'm positive the team has heard you as well. I will be sending a more comprehensive note over the weekend on next steps. We will address issues holistically and comprehensively, based on dates that are in line with our financial plan. We are not alone in the challenges that we, and the rest of the world are experiencing. As CFO, Joe owns and has put together the analysis, metrics and recommendations for our financial plan, with input from all of us. We will move forward together swiftly to make Cred successful and trust in each other. Stay tuned, and stay focused.

And, remember, we are all Cred.
Dan

From: Daniel Wheeler <dan.wheeler@credcapital.io>
Date: Sunday, May 24, 2020 at 5:29 PM
To: Daniyal Inamullah <d.inamullah@credcapital.io>, Joe Podulka <joe@mycred.io>, James Alexander <james.alexander@credcapital.io>, Dan Schatt <dan@mycred.io>
Subject: RE: Strategic Priorities Update - Liquidity Analysis

I take this analysis with the utmost seriousness. It is a serious effort to quantify an extremely serious risk to Cred Inc., its users and the livelihoods and reputations of its employees. History and origins of the problem are secondary in priority to raising the necessary capital by the deadline.

CRED
CAPITAL

Daniel Wheeler
General Counsel

415.218.9074
dan.wheeler@credcapital.io
credcapital.io



From: Daniyal Inamullah <d.inamullah@credcapital.io>
Sent: Friday, May 22, 2020 1:00 PM
To: Joe Podulka <joe@mycred.io>; Daniel Wheeler <dan.wheeler@credcapital.io>; James Alexander <james.alexander@credcapital.io>; Dan Schatt <dan@mycred.io>
Subject: Strategic Priorities Update - Liquidity Analysis

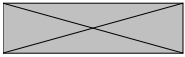
All,

See below for the work in progress for an internal liquidity analysis to be presented to the investment committee. The intent for the meeting today is to agree on a path to finalize this document and comment on the structure.

Joe, Addy and I are still working on reconciling historical transactions to describe how we got to where we are today; however, the attached gives a glimpse into our current liquidity situation and recommendations for a path forward.

<https://drive.google.com/drive/u/1/folders/1NCGCWcryERWo998IQTeXQjnuhRqVXD6j>

Let me know if you have any questions beforehand.



Daniyal Inamullah, CFA

VP, Capital Markets

(213) 344-6983

d.inamullah@credcapital.io

credcapital.io

Exhibit QQQ

Got it.

CRED
CAPITAL

Daniel Wheeler
General Counsel

415.218.9074

dan.wheeler@credcapital.io

credcapital.io



From: James Alexander <james@credcapital.io>
Sent: Tuesday, May 26, 2020 2:51 PM
To: Daniel Wheeler <dan.wheeler@credcapital.io>
Subject: Re: employee email domains

[PRIVILEGED]

Hi Dan,

The underlying issue appears to be a struggle by Dan S. for control.

At this point Cred Capital needs to distance itself from Cred. Based on the recent solvency analysis I'm not sure Cred can continue as a going concern. Except as outlined in the AMA, I'm not inclined to have any other point of connection with Cred.

It's a blessing Cred suddenly wants all the sales--and sales support, people working for Cred. Cred Capital does not want to be perceived as enabling Cred's asset gathering.

I don't need any Cred Inc. people or services to complete--and place--securitizations. And if Cred does fail, Cred Capital could hire the Cred salespeople anyway.

I'm trying to be measured and maintain cordial relations with our largest client Cred Inc.; and not "throwing my toys out of the pram".

Regards,

James

On Tue, May 26, 2020 at 2:07 PM Daniel Wheeler <dan.wheeler@credcapital.io> wrote:

Let me know your thoughts on this before I send this out to Joe and Dan S. We need to simplify employee oversight and simplify life for employees.

I think it will be unlikely as a practical matter for employees to know in every case the right email domain to use if they are given the choice of two domains. Once I have the Cred Capital compliance policy in place, there will be rules around what can be done and what can't be done in Cred Capital and I think that framework is the best one for the in-person salesforce to be under. Simple, clear rules are generally the most effective.

I think the operational employees that handle the existing retail portfolio should do so under the mycred.io / Cred Inc. domain. Same thing for the marketing team members that work on general retail marketing campaigns, not one-on-one sales calls. We have a loan servicing policy and marketing policy in place that governs all the retail marketing and servicing activities and these

Employees are on a spectrum in terms of employees whose role is purely related to the retail user portfolio, employees whose role is purely Cred Capital (e.g., securitization) and some who are truly shared purpose employees (e.g., me). My suggestions is that, for the shared purpose employees who seldom touch the retail user portfolio, the default choice would be to use only the Cred Capital domain. Any email sent from a Cred Capital domain that is actually a Cred Inc. matter would be covered from a compliance perspective under the agency relationship.

From: Dan Schatt <dan@mycred.io>
Sent: Tuesday, May 26, 2020 1:34 PM
To: Dan Hummer <dan.hummer@credcapital.io>; Joe Podulka <joe@mycred.io>; James Alexander <james@credcapital.io>; Daniel Wheeler <dan.wheeler@credcapital.io>
Subject: Re: Devon and Josh

Sounds like we have some shared CRM systems that Cred Capital and Cred Inc sales professionals need to access. In that case, both emails for Randy make sense to me.

If we do this, we'll need to reinforce with Randy that he must only use his Cred Capital email for all correspondence related to Cred Capital.

From: Dan Hummer <dan.hummer@credcapital.io>
Date: Tuesday, May 26, 2020 at 11:44 AM
To: Joe Podulka <joe@mycred.io>, James Alexander <james@credcapital.io>, Dan Schatt <dan@mycred.io>, Daniel Wheeler <dan.wheeler@credcapital.io>
Subject: Re: Devon and Josh

Just a heads up, I am going to be processing the @mycred.io account onboarding this afternoon and tomorrow morning with Both Devon and Josh to get them into the systems they need.

After further review with Randy on Friday, it looks like he will be doing sales similar to Mike and Travis so he as well will need access to all the similar @mycred.io systems.

Do I have the Green Light to also set up Randy with @mycred.io system access for now?

On Tue, May 26, 2020 at 8:33 AM Joe Podulka <joe@mycred.io> wrote:
 Hi James.

I spoke with Dan H. on this last week. From a systems perspective, it's better for Devon and Josh to have @mycred.io emails. It makes access much cleaner.

For the agreements, I also worked with Josh and Devon last week. Both understand the change and have signed new Cred Inc. offer letters. We're all good!

Joe

From: James Alexander <james@credcapital.io>
Sent: Tuesday, May 26, 2020 8:23 AM
To: Joe Podulka <joe@mycred.io>
Cc: Dan Schatt <dan@mycred.io>; Daniel Wheeler <dan.wheeler@credcapital.io>; Dan Hummer <dan.hummer@credcapital.io>
Subject: Re: Devon and Josh

Hi Joe,

There will need to be an IT transition for Josh and Devon. [@Dan Hummer](#)

And I need advance notice before you send any agreements so I can explain the transition.

Regards,

James

On Thu, May 21, 2020 at 4:17 PM Joe Podulka <joe@mycred.io> wrote:
I agree. For now we can leave them with Cred Inc. They were already onboarded that way, so no incremental work.

Joe

-----Original Message-----

From: Dan Schatt <dan@mycred.io>

Sent: Thursday, May 21, 2020 4:15 PM

To: James Alexander <james.alexander@credcapital.io>; Joe Podulka <joe@mycred.io>

Subject: Devon and Josh

Hi guys - based on what Devon and Josh are doing for the company, I don't see a reason they should be classified as Cred Capital. I'd opt to keep people at Cred unless their role is primarily connected to securitizations.

Dan

Sent from my iPhone

--

James Alexander

President

213 262 6000

james@credcapital.io

credcapital.io

--

James Alexander

President

213 262 6000

james@credcapital.io

credcapital.io

Exhibit RRR

Dan Schatt
 Chief Executive Officer
 Cred, Inc.
 2121 El Camino Real, Ste 500
 San Mateo, CA 94403

Re: Cred, Inc. - Liquidity Analysis and Plan to Overcome Current Undercapitalization

As of June 1, 2020, Cred's current liabilities exceeded its invested assets and current assets by approximately \$19.5 million or 19% of the total principal balance of liabilities. Below is a breakout of assets and liabilities.

Cred, Inc. Investment Assets & Liability Position as of 6.1.2020

Investment Assets & Cash	\$ 85,773,874
Liability*	\$105,248,240
Net	\$ (19,474,365)
<i>Assets % Liabilities</i>	<i>81%</i>

Notes: Excludes interest expense/income, JST liability and Luxembourg assets/liabilities..

Although Cred does not have the capacity to repay the full liabilities if assets were liquidated today, Cred is well-positioned to cover customer principal redemptions in spite of the shortfall. Through the end of the year, if every customer redeemed his/her full principal, Cred would still have enough assets to cover 100% redemptions. In reality, 50%-80% of customers choose to re-enroll their assets, delaying redemptions while Cred continues to bring in more assets and generate positive gross profit on those assets.

Cred plans to gradually improve its current A%L ratio to at least 96% by year end. With a forecast to increase customer liabilities to \$187.6M in December 2020, holding the current deficit at \$19.5 alone would increase the A%L to 90%. The gap would be closed further as a result of a reasonable net spread between customer liability costs and invested assets, as well as other revenue sources.

The MoKredit loan is currently Cred's largest asset partner by volume. While it has a high average interest rate payable to Cred (~20%), the yield and volume alone are not enough to cover the weighted average interest rate payable by Cred on its much larger liability base. Cred will need to generate enough income on the other ~\$50M in invested assets to cover the cost of liabilities and fund the company's operating expenses. While the MoKredit loan is on forbearance and the prospect of full payment is not certain, the current amortization schedule includes a \$4,000,000 redemption in June, and another \$4,000,000 redemption in July. The Company's initial amortization payments of \$100k and \$200K were paid on the final days of April and May respectively.

If Cred is not able to consistently maintain a reasonable net spread on customer liability expenses and invested assets, and sustained profitability is delayed, a number of actions can be taken to bridge the gap as needed.

- (1) Cred can raise equity capital or convertible debt to cover operating expenses and provide working capital flexibility throughout 2020. This would provide more leeway in Cred's effort to achieve sustainable profitability which is forecasted for Q4 2020. On a related note, Cred generated a net profit of \$1.5M in April and another \$1.5M in May. While this exceptional performance is not expected every month in the short-term, it makes the prospects of a profitable Q4 and FY 2020 more likely.
- (2) Wait for BTC and other digital assets to decline in market value and reconstitute hedging instruments at a favorable market price. Based on high level calculations, a 10%, 20%, and 30% drop in cryptocurrency prices (on a USD equivalent basis) would lead to A%L ratios of approximately 88%, 97%, and 109%, respectively. If there is sufficient liquidity available, Cred could take advantage of a potential reduction in prices. Please note that it is impossible to accurately predict the future direction of crypto prices with certainty - they could also rise in value during the period that Cred needs those prices to fall.
- (3) Cred can continue its securitization activities and the related lending as this is not a demand on Cred's liquidity and does not involve credit risk to Cred. This can generate material fee and interest income, accelerating or increasing profitability for Cred.

For the purpose of calculating net assets, we excluded Luxembourg assets, interest income, market variance, short position, interest paid, loss, employee loan, and the Cred Loan accounts to more accurately reflect liquid assets.

Exhibit A - Cash Flow Projections

The current plan below leverages a high yield target and cost of capital to implement roughly a 6% net interest margin throughout 2020. Assuming these targets could be met, an additional \$1.2 - 2.5 million in working capital would provide sufficient short term financing. Any improvement to the net interest margin or monthly AUM additions would reduce the working capital gap. The opposite scenario obviously applies.

Monthly AUM Additions*	96% A%L Target Date	Working Capital Gap
\$7.5 million	June 2021	\$2.5 million
\$10.0 million	February 2021	\$1.9 million
\$12.5 million	November 2020	\$1.5 million
\$15.0 million	August 2020	\$1.2 million

* The average monthly AUM additions in 2020 is more than \$10 million. With the addition of new Salespeople and Sales support, this number is expected to increase throughout 2020.

Using the same 6% target net interest margin, the adjusted profitability assumptions are as follows:

Monthly AUM Additions	Profitability Target Date	12/31/2020 Profits/OpEx
\$7.5 million	May 2021	71%
\$10.0 million	February 2021	85%
\$12.5 million	January 2021	100%
\$15.0 million	November 2020	114%

Based on these assumptions, achieving both a 96% target and profitable operations can be achieved by June 2021 if Cred (i) has access to working capital as needed, (ii) brings in an additional \$7.5 million (net) per month to CredEarn, and (iii) keep expense growth less than 10% (annualized), after 2020.

Both objectives can be achieved in 2020 if more favorable scenarios materialize.

Exhibit SSS

Filed Under Seal

Exhibit TTT

Filed Under Seal

Exhibit UUU

xrpchat.com/topic/31706-lba-discussion/

Some questions:

- Has anyone on XrpChat used the cred earn program?
- How risky do you feel cred earn is?
- How does cred earn compare to other crypto lending programs?
- Do you think it is worth grabbing 10k LBA now for a rainy day?

As you can tell i'm pretty positive on LBA. Not as much as i am XRP but i can see LBA doing well for itself in a prolonged bull run.

Thanks for reading and i hope you found it interesting. (I am known to waffle on!)

Edited September 1, 2019 by Mitty

Troll, Zedy44, Skylerbigs and 2 others



dr_ed

Posted May 29, 2019

...



Gold Member



4.4k

As a potential depositor my problem with it is the time commitment and lock-up.

I use one of the other lenders (Celsius) and when I look at their business model, which is hodlr friendly (and yet pays substantially less than CredEarn) it makes me wonder how sustainable CredEarn actually is.

The other thing that is often touted, which is that CredEarn is insured, is something that you should scrutinize.. When I investigated it a couple of months back, I didn't come away with a strong sense that they truly had what I would consider an insurance policy, more an ASSURANCE by the management at that point. The situation might be different now.

moncho



Exhibit VVV

**Closing Statement – Tranche Agreement No. 7
(Credit Enhanced)**

May 1, 2019

Re: The Master Sale and Repurchase Agreement (the “**Agreement**”) by and between Cred LLC (“**Seller**”) and JST Capital, LLC (“**Purchaser**”)

To: Cred LLC
123 Mission Street San Francisco, CA 94105

This Closing Statement relates to Tranche Agreement No. 7. Capitalized terms used but not defined herein have the meanings given to such terms in the Agreement and in Tranche Agreement No. 7.

On the date of delivery set forth below, you delivered and posted Tokens in the number and type specified below to JST’s Digital Wallet pursuant to the Agreement. The sales price for the Tokens is set forth below. Accordingly, the Purchase Price, Repurchase Price, Closing Date, Balance Payment, the date and amount of the first quarterly management fee and other information related to this Tranche are set forth below:

Date of delivery and posting of the Tokens by Seller to Purchaser’s Digital Wallet	May 1, 2019
Number of Token delivered and posted to Purchaser’s Digital Wallet:	3,500,000 XRP (Ripple)
Conversion Price:	\$0.285714 XRP/USD
Closing Sale Price	\$1,00,000 USD
Closing Date for this Tranche	May 1, 2019
Purchase Price for this Tranche	\$0 USD
Repurchase Price for this Tranche	\$0 USD
Balance Payment for this Tranche	\$0 USD
Origination Fee	\$0 USD

Annual Management Fee	\$180,000 USD
Maturity Date	October 31, 2019, unless otherwise mutually agreed.
Amount of first Management Fee	\$45,000 USD, payable quarterly on each of the 90 th day from the Closing Date and unless this Agreement is terminated early, on the Maturity Date.

The Balance Payment will be transmitted to your account on the Closing Date in accord with the Agreement and the following:

Bank/Institution Name	
Swift No.	
Account Number	
Routing Number	
Account Name	

Credit Enhancement: Cred hereby acknowledges that Purchaser's obligations hereunder, including Purchaser's obligation to pay Management Fees when due and to re-deliver the Number of Tokens at maturity is expressly conditioned upon Purchaser receiving Management Fees and taking redelivery of the Number of Tokens from Uphold Inc, pursuant to a Swap and Tranche Agreement executed between Purchaser and Uphold Inc on or about May 1, 2019. This Tranche Agreement will be terminated early if the Tranche Agreement between Purchaser and Uphold is terminated before Maturity. In such case, Purchase will pay Seller an early termination fee of \$22,500.

JST Capital LLC appreciates your business and please do not hesitate to contact us at any time should you have any questions or concerns.

Acknowledged and agreed to by Seller on May 1, 2019:

DocuSigned by:

6E984A8E73A643D...

Name: James Alexander
Title: Chief Capital Officer