



STATE OF KANSAS  
**Dennis McKinney**  
TREASURER

900 SW JACKSON ST., STE 201  
TOPEKA KS 66612-1235

PHONE: 785-296-3171  
FAX: 785-296-7950

## Linked Deposit Packet Instructions

- ▶ *“Linked Deposit Participation Agreement”* – Complete and/or sign pages 4, 6, 7 and 8.
- ▶ *“Resolution”* (Attachment E) – Complete and sign **ONLY** if you do not have a current document on file with the Pooled Money Investment Board (PMIB).
- ▶ *“Security Agreement”* (Attachment F) – Complete and sign page 6 **ONLY** if you do not have a current document on file with the Pooled Money Investment Board (PMIB).
- ▶ *“Custodial Agreement”* (Attachment G) – Complete and sign page 5 **ONLY** if you do not have a current document on file with the Pooled Money Investment Board (PMIB), or if you are changing your custodial bank. *Note: A “Custodial Agreement” is not required if the Federal Reserve Bank or Federal Home Loan Bank is your custodian.*
- ▶ Completed forms should be sent to:  
Kansas State Treasurer  
Attn: Linked Deposit Coordinator  
900 SW Jackson, Suite 201  
Topeka KS 66612
- ▶ Contact the Linked Deposit Coordinator if you have any questions:  
Phone: 785-296-4150  
E-Mail: [accountant@treasurer.ks.gov](mailto:accountant@treasurer.ks.gov)

***NOTE:** Please keep a copy of all forms for your files. We will send a copy back to you after all signature pages have been completed.*

## LINKED DEPOSIT PARTICIPATION AGREEMENT

THIS AGREEMENT is entered into between the Kansas State Treasurer (Treasurer), the Pooled Money Investment Board (PMIB), and the participating lending institution (Participant) for the purpose of providing state funds to facilitate low interest loans to eligible borrowers for various linked deposit programs established by the Kansas Legislature.

1. ELIGIBLE PARTICIPANTS: In order to participate in this Program, a bank must have its home office or a branch located within the State of Kansas as required by K.S.A. 75-4201(d). Institutions of the Farm Credit System organized under the *Federal Farm Credit Act of 1971* (12 U.S.C. 2001) with offices located within the State of Kansas are also eligible for the Agricultural Production Loan Deposit Program. Savings Banks and Savings and Loan Associations with offices located within the State of Kansas are also eligible for the Kansas Housing Loan Deposit Program.

2. APPROVAL OF ELIGIBLE BORROWERS: Participants shall be responsible for reviewing each borrower's application to determine the borrower's credit worthiness and eligibility for the program's lending criteria. Lending criteria for various linked deposit programs are attached as Attachment A. If the Treasurer discovers at any time that a borrower or the terms of the loan offered by the Participant to the borrower do not meet the Program's criteria, the Treasurer may immediately withdraw any State deposits linked to that loan.

3. INITIAL DEPOSIT AND DURATION: Upon receipt of an approved loan request consisting of the "Borrower's Certification of Eligibility" and the "Certification of Compliance by Lending Institution" from the Participant, the Treasurer shall certify to the PMIB the amount required for the linked deposit and its duration. The amount and duration of the linked deposit shall be no greater than the amount and duration of the Participant's loan to the eligible borrower.

4. ALLOCATION OF AVAILABLE FUNDS: The total amount of available funds for each linked deposit program shall be distributed on a first-come first-served basis based on the date and time loan requests are received by the Treasurer. When funds are available, loan requests will be processed from the waiting list in the order they were received.

5. FUNDING: The PMIB will forward deposits to the Participant after certification by the Treasurer. (*See Attachment B for Wire Transfer Instructions form.*) Upon receipt of funds, Participant will provide to the PMIB a Certificate of Deposit (CD) for the amount of funds received for each borrower. The CD will be deposited with the Treasurer and held until the loan matures or is paid in full, at which time it will be returned to Participant.

6. INTEREST RATE: The interest rate for each linked deposit shall be based on the market rate determined by the PMIB pursuant to K.S.A. 75-4237 on the date that the linked deposit is certified by the Treasurer to the PMIB. Effective July 1, 2009, the deposit rate shall be 2% below the market rate – **except** when the market rate falls below 2.5%, the deposit rate shall be 0.5%. The loan rate to the borrower shall be no more than 4% greater than the deposit rate. Linked Deposit interest rates are adjusted the first working day of each January and July based on the current market rate and are effective the first day of the month.

7. INTEREST PAYMENTS: Interest shall be remitted by ACH transfer initiated by the PMIB on the first banking day (for settlement the next banking day) following June 30 and December 31 of each year. The Treasurer will notify the Participant of the estimated amount to be transferred at least ten (10) business days prior to the transfer. (*See Attachment C for Automated Clearing House information form.*)

8. **REPAYMENT OF PRINCIPAL:** The Participant shall immediately forward any payment of principal by an eligible borrower to the Treasurer to reduce the outstanding principal of the Participant's linked deposit. The Participant shall confirm each borrower's outstanding principal balance as of December 31 on the first banking day following January 1 of each year.

9. **RECERTIFICATION:** On the first banking day following January 1 every odd-numbered year, the Participant shall forward to the Treasurer a new Borrower's Certification of Eligibility wherein each borrower certifies that they continue to meet the program's criteria. *(The Treasurer will provide a listing of all loans requiring recertification not less than 15 days prior to the recertification date.)* Notwithstanding, the Treasurer reserves the right to inquire about the status of any linked deposit loan made under this program at any time.

10. **DEFAULT BY BORROWER:** In the event of a default by an eligible borrower, the Participant shall remain responsible for payment of the outstanding principal and accrued interest. The Treasurer shall have the option to recall the linked deposit from the Participant, or convert the deposit to a non-APLDP linked deposit certificate of deposit.

11. **TERMINATION BY PARTICIPANT:** The Participant may terminate this Agreement at any time by returning the principal balance of the deposited funds to the Treasurer. (Note: Accrued interest should not be remitted as it will be debited from the Participant's bank account of record for ACH debits and credits.)

12. **SECURITIES PLEDGED AS COLLATERAL:** If the total state deposits with the Participant from this program or any other source exceed the maximum amount insured by the Federal Deposit Insurance Corporation (FDIC), the Participant shall pledge securities acceptable to the PMIB as collateral for the amount of the linked deposits plus accrued interest. Participant shall execute a Security Agreement with the PMIB and a Custodial Agreement among Participant, PMIB and a custodial bank which shall be executed by an authorized representative of each party and be retained in the records of Participant along with a corporate resolution authorizing the pledging of securities. *(A Corporate Resolution, Security Agreement and, Custodial Agreement are attached hereto as Attachments E, F, & G.)* Custodial bank shall issue a joint custody receipt to Participant and the Treasurer for each specific security held by it under the terms of the agreement. The agreement shall authorize transfer of the securities only on joint written authorization of the Treasurer and the Participant, except as provided below. If securities are pledged to the Federal Reserve Bank of Kansas City, Missouri, or to the Federal Home Loan Bank of Topeka, Kansas, a custodial agreement will not be executed but the parties acknowledge and understand that all transfers of securities by the Federal Reserve Bank or the Federal Home Loan Bank are subject to the then applicable rules, procedures and operating letters of such Federal Reserve Bank or such Federal Home Loan Bank

13. The PMIB shall be entitled to withdraw any and all funds, including accrued interest, without penalty from Participant if the Participant fails to comply with the terms of either the Security Agreement or the Custodial Agreement.

14. This Linked Deposit Participation Agreement may not be assigned in whole or in part and is binding on the parties, their successor and assigns.

15. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this contract shall not be affected, and each provision of this contract shall be enforced to the fullest extent permitted by law.

16. **MODIFICATION:** This Agreement may only be modified by written agreement of the parties.

17. This Agreement shall be governed by the laws of the State of Kansas and incorporates by reference to Kansas statutes and administrative regulations relevant to the subject matter of this Agreement. Any amendments thereto are likewise incorporated herein without further action or acknowledgement by the parties.

18. Waiver of any breach of any provision in this contract shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by the Treasurer, the PMIB or the State of Kansas shall not constitute a waiver.

19. The rights and remedies of the Treasurer, the PMIB or the State of Kansas provided for in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.

*(The rest of this page was intentionally left blank.)*

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year listed below.

**Pooled Money Investment Board (PMIB)**

By: \_\_\_\_\_ Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_  
*Director of Investments*

**Kansas State Treasurer**

By: \_\_\_\_\_ Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_  
*State Treasurer*

**Participating Bank Name:** \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

## PROGRAM CRITERIA

### AGRICULTURAL LOANS (2000 H.B. 2527):

- **Loan Amount:** Only one loan may be made or outstanding to any one agricultural borrower at any given time. No loan shall exceed \$250,000.
- **Total Funds Available:** \$55,000,000
- **Maximum Term of Loans and Linked Deposits:** Eight (8) years
- **Linked Deposit Interest Rate:** The linked deposit (CD) interest rate is a variable rate 2% below the market rate and recalculated each January 1 and July 1. Effective July 1, 2009, the minimum CD rate is 0.5%.
- **Loan Interest Rate:** The loan interest rate is a variable rate no greater than 4% above the linked deposit (CD) interest rate and is recalculated each January 1 and July 1.
- **Borrower's Debt-to-Asset Ratio:** 40% or greater
- **Purpose:** Loan proceeds may only be used for operating expenses involved in farming.
- **Residency Requirements:** Eligible agricultural borrower must be a Kansas resident and the majority of the farm must be located within the State of Kansas.

### KANSAS HOUSING LOAN DEPOSIT PROGRAM (K.S.A. 2009 Supp. 75-4276 et. seq.):

- **Loan Amount:** No more than \$2 million may be outstanding to any one developer/borrower at any given time. All houses built with proceeds from this loan will either be sold or appraised at less **\$287,434.00**. The value of the land is included if the land is to be purchased with the loan.
- **Total Funds Available:** \$60,000,000. During the first 3 years (thru 12/31/2010), \$30 million will be available to borrowers building homes in, or within 1 mile of the city limits of: Chanute, Coffeyville, Erie, Fredonia, Greensburg, Independence, Iola, Neodesha, and Osawatomie.
- **Maximum Term of Loans and Linked Deposits:** Five (5) years
- **Linked Deposit Interest Rate:** The linked deposit (CD) interest rate is a variable rate 2% below the market rate and recalculated each January 1 and July 1. Effective July 1, 2009, the minimum CD rate is 0.5%.
- **Loan Interest Rate:** The loan interest rate is a variable rate no greater than 4% above the linked deposit (CD) interest rate and is recalculated each January 1 and July 1.
- **Purpose:** Loan proceeds must be used exclusively for expenses involved in building houses.
- **Residency Requirements:** Eligible developer/borrower must be a Kansas resident and the homes being built must be located within the State of Kansas.
- **Certification of Compliance:** Per KAR 3-3-2, the State reserves the right to request written verification of the final appraised/sale price of all homes built under this program.

Date: \_\_\_\_\_

*CORRESPONDENT BANK INFORMATION*  
**FOR FED WIRES**

For future investment transactions with the Pooled Money Investment Board (PMIB) we request that the following correspondent bank be utilized for transacting all Federal Reserve Wire Transfers.

CORRESPONDENT BANK: \_\_\_\_\_

ABA #: \_\_\_\_\_

ACCOUNT #: \_\_\_\_\_

By: \_\_\_\_\_  
(Authorized Bank Officer)

LENDING BANK: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

ABA #: \_\_\_\_\_ TELEPHONE #: \_\_\_\_\_

**Lender completes and sends to State Treasurer with  
the executed Linked Deposit Participation Agreement**

Date: \_\_\_\_\_

*CORRESPONDENT BANK INFORMATION*  
**FOR ACH (The Automated Clearing House)**

For future investment transactions with the Pooled Money Investment Board (PMIB) we request that the following correspondent bank be utilized for transacting all Automated Clearing House (ACH) debits and credits.

CORRESPONDENT BANK: \_\_\_\_\_

ABA #: \_\_\_\_\_

ACCOUNT #: \_\_\_\_\_

By: \_\_\_\_\_  
(Authorized Bank Officer)

LENDING BANK: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

ABA #: \_\_\_\_\_ TELEPHONE #: \_\_\_\_\_

**Lender completes and sends to State Treasurer with  
the executed Linked Deposit Participation Agreement**

Office of Kansas State Treasurer  
**APLDP & KHLDP Programs**  
CONTACT INFORMATION

Lender completes and sends to State  
Treasurer with the executed Linked  
Deposit Participation Agreement.

Bank Name: \_\_\_\_\_  
Home Office Address: \_\_\_\_\_  
Information Provided By: \_\_\_\_\_  
Name Title

**CONTACT(S) FOR SEMI-ANNUAL INTEREST RATE CHANGES (CD's and LOANS)**

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

**CONTACT(S) FOR ACH INTEREST AND PRINCIPAL DEBITS**

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

**CONTACT(S) FOR GENERAL ACCOUNTING & BALANCE CONFIRMATIONS**

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

**NOTE: The officer requesting funds will remain the main contact  
for specific borrower information unless we are notified otherwise.**

**RESOLUTION**

The State of Kansas, **Pooled Money Investment Board** has requested that a Security Agreement for Certificates Of Deposit be executed between the Pooled Money Investment Board and \_\_\_\_\_(bank, city). Said Security Agreement clarifies the secured position the State of Kansas holds in collateral pledged by this bank to secure deposits of the state agency, in excess of the insured limits of the Federal Deposit Insurance Corporation. Said Security Agreement has been written by legal counsel of the State of Kansas and is being requested from all depositories holding State of Kansas deposits.

"THEREFORE, BE IT RESOLVED, that an officer of \_\_\_\_\_ is hereby authorized to execute said Security Agreement, and other documents required by the State of Kansas or the Pooled Money Investment Board; that this Agreement has been approved and is authorized by the board of directors of this bank; and that this Agreement is reflected in the minutes of said board of directors and in the records of this bank and shall remain continuously throughout its term an official record of this bank."

\_\_\_\_\_  
(Date)

The foregoing is a true and correct copy of a resolution adopted at a regular scheduled meeting of the Board of Directors of \_\_\_\_\_.

\_\_\_\_\_  
Secretary of the Board

(Corporate seal)

**SECURITY AGREEMENT  
For State of Kansas Certificates of Deposits**

This security agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the **Pooled Money Investment Board**, Topeka, Kansas, hereinafter called "PMIB", and the, \_\_\_\_\_, hereinafter called "depository bank," for the purpose of establishing a security interest in collateral pledged by depository bank or its agent, trustee, wholly-owned subsidiary, or affiliate bank having identical ownership, hereinafter called "affiliate."

WHEREAS, PMIB acknowledges and depository bank understands that the State of Kansas has deposited, and will in the future deposit, public funds in depository bank in amounts exceeding the amounts insured by the Federal Deposit Insurance Corporation (FDIC); and

WHEREAS, PMIB requires that the amounts of its deposits in excess of the amounts insured by the FDIC be secured by pledge of collateral as required by K.S.A. Supp. 75-4218 as amended by 1997 Senate Bill 132 Sec. 27; and

WHEREAS, depository bank or its affiliate desires to pledge collateral securities and undivided fractional interests therein (securities) to secure each and every deposit of public funds by the PMIB in depository bank; and

WHEREAS, the parties desire to reduce their security agreement to writing.

NOW, THEREFORE, PMIB and depository bank agree as follows:

1. The depository bank or its affiliate shall pledge securities permitted by the PMIB's Investment Policy to secure deposits made by the PMIB. As of the execution of this security agreement, permitted securities include:

a. direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof and obligations, letters of credit and securities of United States sponsored enterprises which under federal law may be accepted as security for public funds. (This includes only those mortgage-backed securities (MBS's) for which the issuing government agency has guaranteed the payment of principal and interest.);

b. Kansas municipal bonds that are general obligations of the municipality issuing the same;

c. revenue bonds of any agency or arm of the State of Kansas;

d. revenue bonds of any municipality within the State of Kansas except the following:

(1) bonds issued under the provisions of K.S.A. 12-1740 *et seq.*, and amendments thereto, unless such bonds are rated at least MIG-1 or Aa by Moody's Investors Service or AA by Standard & Poor's Corp., and

(2) bonds secured by revenues of a utility that has been in operation for less than three years;

e. temporary notes of any municipal corporation or quasi-municipal corporation within the State of Kansas that are general obligations of such corporation issuing the same;

f. warrants of any municipal corporation or quasi-municipal corporation within the State of Kansas, the issuance of which is authorized by the State Board of Tax Appeals and that are payable from the proceeds of a mandatory tax levy;

g. bonds of any municipal or quasi-municipal corporation of the State of Kansas that have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, or direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by the United States of America. A copy of the escrow agreement shall be furnished to the state treasurer;

h. A letter of credit issued by a United States sponsored enterprise that under federal law may be accepted as security for public funds.

(1) The letter of credit (LOC) must be in the format acceptable to the Office of the State Treasurer.

(2) The Kansas State Treasurer must be designated as the irrevocable and unconditional beneficiary of the letter of credit.

(3) The issuer and the depository bank must notify the Office of the State Treasurer by certified or registered mail at least 45 days prior to cancellation or the non-renewal of a letter of credit;

(4) The issuer may not provide letters of credit for any one-depository bank in an amount, which exceeds ten percent of the issuer's capital and surplus.

PMIB reserves the right to revise the list of permitted securities at any time.

2. All of the above listed securities shall be current as to interest according to the terms thereof.

3. Whenever a bond is authorized to be pledged as a security under paragraph 1, above, such bond shall be accepted as a security if:

a. in the case of a certificated bond, it is assigned, delivered or pledged to the holder of the deposit for security;

b. in the case of an uncertificated bond, registration of a pledge of the bond is authorized by the system and the pledge of the bond is authorized by the system and the pledge of the uncertificated bond is registered; or

c. in a form approved by the attorney general, which assures the availability of the bond proceeds pledged as a security for public deposits.

4. If the PMIB removes a security that has been pledged by the depository or its affiliate from the list of permitted securities in its Investment Policy, the depository bank shall have 30 days to provide permitted securities or to refund the full amount of the deposit.

5. Depository bank hereby grants to the State of Kansas a security interest in securities pledged to secure payment of deposits made by the PMIB in depository bank. Depository bank shall obtain and provide to the PMIB and the State Treasurer a written agreement from its affiliate that the affiliate grants a security interest to the State of Kansas in securities owned by the affiliate which are pledged on behalf of the depository bank to secure payment of deposits made with the depository bank. Such agreement shall be in a form approved by the PMIB. Such agreement shall be approved by the board of directors of the affiliate and reflected in its minutes. A copy of such minutes shall be provided to the PMIB. From the time of execution of such agreement, the agreement shall remain continuously an official record of the affiliate. Any such deposit of securities, except with the State Treasurer, shall have a joint custody receipt which shall constitute a perfected security interest taken therefore with one copy going to the State Treasurer and one copy going to such affiliate.

6. Depository bank shall take such action as is necessary to perfect the security interest herein granted. Depository bank shall furnish satisfactory proof thereof to the State Treasurer.

7. The parties agree that the State Treasurer is the person responsible for approving exchanges of pledged securities.

8. Depository bank shall pledge collateral on a market value basis. The collateral requirement is defined as the total deposits of public funds in depository bank, including accrued interest, less the amounts of such deposits which are insured by the FDIC. The aggregate market value of collateral must be no less than:

a. 100% of the collateral requirement for the following security types having final maturities of five years or less: U.S. Treasury or government agencies securities, excluding Collateralized Mortgage Obligations (CMO's) and mortgaged-backed securities (MBS's).

b. 105% of pledge requirement for all other acceptable collateral.

9. Depository bank shall transfer or deposit the pledged securities to or with the State Treasurer, the Federal Reserve Bank of Kansas City, Missouri, the Federal Home Loan Bank of Topeka, Kansas, or a custodial bank having adequate modern facilities for the safekeeping of securities which shall have received the prior approval of the PMIB. Any such custodial bank receiving securities for safekeeping shall be liable to the state for any loss suffered by the State of Kansas in the event such custodial bank relinquishes the custody of any such securities contrary to the provisions of the state moneys law (K.S.A. 75-4201 *et seq.*) or any rules and regulations adopted by the State Treasurer or the PMIB.

10. A "custodial agreement" among depository bank, PMIB and a custodial bank shall be executed by an authorized representative of each party and be retained in the records of depository bank. Custodial bank shall issue a joint custody receipt to depository bank and the State Treasurer for each specific security held by it under the terms of the agreement. The agreement shall authorize transfer of the securities only on joint written authorization of the State Treasurer and the depository bank, except as provided below.

If securities are pledged to the Federal Reserve Bank of Kansas City, Missouri, or to the Federal Home Loan Bank of Topeka, Kansas, a custodial agreement will not be executed but the parties acknowledge and understand that all transfers of securities by the Federal Reserve Bank or the Federal Home Loan Bank are subject to the then applicable rules, procedures and operating letters of such Federal Reserve Bank or such Federal Home Loan Bank.

11. Depository bank represents and warrants to the State of Kansas and to the PMIB that:

a. it or its affiliate is the sole legal and equitable owner of the securities transferred to secure the deposits made by the PMIB in depository bank;

b. no security interest in the securities pledged has been or will be granted by it or its affiliate other than that granted herein to secure deposits made by the PMIB with depository bank or which has been or may be granted in an undivided fractional interest in securities not pledged to State Treasurer;

c. deposits made by the State of Kansas in depository bank are insured by the Federal Deposit Insurance Corporation (FDIC) in the amount of the deposit or deposits up to the maximum deposit insurance amount for one depositor at one financial institution as determined by the FDIC;

d. it and its affiliate have received value by virtue of the operation of this agreement and the deposit of public funds in depository bank by the PMIB.

e. depository bank is duly authorized to execute this agreement; that this agreement has been approved and authorized by the board of directors of depository bank; and that this agreement is reflected in the minutes of said board and in the records of depository bank and shall remain continuously throughout its term an official record of such bank; and depository bank shall furnish certified copies of such minutes to the PMIB.

12. Depository bank shall be permitted to release or substitute securities pledged hereunder at any time pursuant to prior written authorization by the State Treasurer. On substitution of securities, written notice stating the CUSIP and pool number, if applicable, par value, interest rate, maturity date and market value of the withdrawn securities and of the substituted securities will be sent to the State Treasurer by depository bank within three days of any substitution. Depository bank, at least monthly, and at any time on demand by the State Treasurer or the PMIB, shall furnish to the State Treasurer or the PMIB a statement describing by CUSIP and pool number, par value, interest rate, maturity date and current market value of the securities pledged by depository bank.

13. Depository bank or its affiliate pledging securities for depository bank shall be in default and the State of Kansas shall be entitled to foreclose on the security interest in securities pledged pursuant to this agreement by depository bank or its affiliate bank on the occurrence of any of the following:

a. depository bank fails to pay all or any part of a matured certificate of the State of Kansas, including earned interest;

b. depository bank fails to pay any check, draft or warrant drawn by the State Treasurer and Director of Accounts and Reports which is properly payable and there are sufficient funds on deposit for its payment;

c. depository bank fails to account for any check, draft, warrant, order or certificate of deposit or any money entrusted to such bank by the State Agency; or

d. a conservator or receiver is appointed for depository bank.

14. In the event of a default, securities pledged by depository bank or its affiliate and held by the State Treasurer, the Federal Reserve Bank of Kansas City, Missouri, Federal Home Loan Bank of Topeka, Kansas, or a custodial bank shall be subject to sale pursuant to the laws of the state of Kansas to satisfy the obligations of depository bank to the PMIB and the State of Kansas.

15. In all cases wherein it appears to the State Treasurer or the PMIB that the securities pledged by depository bank have become inadequate, it shall be the duty of the State Treasurer to immediately notify

depository bank and demand that additional security be pledged to make good such inadequacy. In default of such additional security being promptly furnished the PMIB shall close the account.

16. The State of Kansas and the PMIB shall be entitled to either: (a) withdraw any and all funds, including accrued interest, from depository bank without penalty if the deposit exceeds seven days; or (b) convert this agreement to a repurchase agreement for up to the full amount of any funds, including accrued interest and without penalty, if the deposit exceeds seven days, if any one of the following events occur:

a. capital, surplus and undivided profits as shown on the balance sheet portion of the quarterly call report fall below the minimum regulatory guidelines;

b. tier I and tier II risk based capital as shown on the risk based capital schedule of the quarterly call report shall fall below the minimum regulatory guidelines;

c. the capital accounts of the depository bank deteriorate to levels indicated in a or b, above, for any reason between quarterly call reports; or

d. a conservator or receiver is appointed for depository bank's trustees or affiliate banks having identical ownership.

Depository bank shall notify the PMIB (Director of Investments, Pooled Money Investment Board, 900 SW Jackson, Suite 209, Topeka, KS 66612) and the State Treasurer (900 SW Jackson, Suite 201, Topeka, KS 66612) in writing within 48 hours when any of the above mentioned events of default occur.

17. In the event of insolvency or dissolution of depository bank, as a result of any cause, the PMIB shall be entitled to file a claim for the full amount of such account and the State Treasurer shall retain or collect dividends or interest on securities pledged by depository bank or its affiliate until the amount of the dividends and interest added to the amount realized from sale of any securities so pledged to the state equals the amount of the account.

18. The State Treasurer shall be responsible to depository bank for the safe return of any securities deposited in the state treasury pursuant to this agreement.

19. Depository bank shall provide copies of its most recent call reports, directors' examination reports and such other additional financial information as may be requested by the State Treasurer or the PMIB, to the extent allowed by applicable law.

20. The PMIB shall be entitled to withdraw any and all funds, including accrued interest, without penalty from depository bank, if:

a. depository bank fails to pledge securities in accordance with paragraphs 8 and 12 above; or

b. depository bank fails to abide by paragraph 11 and its subparts above.

21. This security agreement may not be assigned in whole or in part and is binding on the parties, their successor and assigns.

22. If any provision of this agreement is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this contract shall not be affected, and each provision of this contract shall be enforced to the fullest extent permitted by law.

23. Depository bank and PMIB agree and understand that the State Treasurer is a third party beneficiary to this agreement.

24. This agreement may be modified by written agreement of the parties and with notice of such modification to the State Treasurer.

25. This agreement shall be governed by the laws of the State of Kansas, and incorporates by reference Kansas statutes and administrative regulations relevant to the subject matter of this agreement, and any amendments thereto are likewise incorporated herein without further action or acknowledgment by the parties.

26. Waiver of any breach of any provision in this contract shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by the State Treasurer, PMIB or the State of Kansas shall not constitute a waiver.

27. The rights and remedies of the State Treasurer, the PMIB or the State of Kansas provided for in this agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.

IN WITNESS WHEREOF, the parties have executed this agreement as of the day and year first above written.

**Participating Bank**

Bank: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Pooled Money Investment Board (PMIB)**

Printed Name: \_\_\_\_\_, Director of Investments

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## CUSTODIAL AGREEMENT

This Custodial Agreement dated \_\_\_\_\_, 20\_\_\_\_, is made and entered into by and among Pooled Money Investment Board of the State of Kansas (PMIB); \_\_\_\_\_ (depository bank) and \_\_\_\_\_ (custodian).

PMIB and depository bank have requested that custodian undertake certain custodial functions in connection with certain securities pledged by depository bank to PMIB. Accordingly, custodian, PMIB and depository bank agree as follows:

**1. Common Ownership or Control.** Custodian and depository bank hereby certify that custodian is not owned directly or indirectly by any parent corporation of depository bank and that custodian and depository bank do not have common controlling shareholders or a common majority of the board of directors or common directors with the ability to control or influence directly or indirectly the acts or policies of depository bank. Custodian and depository bank shall immediately notify PMIB of any change in ownership of either party that affects this certification and shall transfer the securities to another custodian that is acceptable to PMIB.

**2. Maintenance of Account.** Custodian will maintain a securities custody account (Account) in the name of depository bank to hold securities of depository bank, including securities designated from time to time by depository bank pursuant to the procedures provided for herein as being subject to a lien in favor of PMIB and from time to time deposited with or collected by custodian. From time to time hereafter, depository bank will send a written, facsimile, telephone or other communication (in form satisfactory to custodian) to custodian designating and identifying one or more securities then held by custodian in the Account, as being subject to a pledge and lien granted by depository bank to PMIB. Upon receipt of such communication and the securities described therein, custodian will (i) issue and deliver to each of PMIB and depository bank an identical joint safekeeping/custody receipt (JCR) identifying the securities and reflecting PMIB's status as a pledgee, and (ii) mark its books and records to reflect that PMIB is a lienholder. For purposes of this Agreement, the securities listed on all such JCR's are referred to herein as the "Pledged Securities." All Pledged Securities shall be held by custodian subject to the terms of this Agreement, and depository bank confirms and warrants that all such Pledged Securities are and will be subject to a lien in favor of PMIB and that custodian may deal with PMIB as a "secured party" under the Kansas Uniform Commercial Code.

**3. Income.** Until custodian has been notified in writing by PMIB that a default has occurred under any security agreement between PMIB and depository bank, custodian is authorized to deliver or pay over all principal payments, interest and other income received by custodian on the Pledged Securities to depository bank, or to deposit same in any account maintained by the depository bank (including, without limitation, the Account) and permit depository bank to withdraw or transfer same; provided, however, that if custodian receives a principal payment on a pledged security that constitutes the full repayment of the then-outstanding principal balance of such Pledged Security, custodian shall hold such principal payment in a cash collateral account maintained by the custodian in the name of depository bank as if, and to the same effect that it was included within the Pledged Securities. After receiving notification from PMIB of an event of default under any security agreement between PMIB and depository bank, custodian shall hold all principal payments, interest and other income received by it with respect to the Pledged Securities, in a cash account maintained by custodian in the name of depository bank, an all such sums shall be held as if, and to the same effect that, it was included within the Pledged Securities.

**4. Custodian's Obligation to Hold Securities.** Custodian shall hold the Pledged Securities, including any pledged Securities that constitute additions or substitutions that were designated by depository bank under the procedures provided for herein in order to satisfy any security agreement between depository bank and PMIB, and shall not sell, transfer, assign, pledge (except as otherwise agreed to by PMIB and depository bank or as provide for herein), or otherwise utilize such Pledged Securities or any cash that is to be held as Pledged Securities pursuant to the provision in Section 2 above. Custodian shall have no duty or obligation to examine or determine if the Pledged Securities, including any Pledged Securities offered by depository bank as additions or substitutions, are permitted collateral under the applicable laws and regulations in effect from time to time, or if the value of any Pledged Securities is sufficient under such applicable laws or regulations.

**5. Care of Property; Reliance on Instructions.**

a. Custodian shall exercise the same care with respect to the Pledged Securities as custodian exercises with respect to custodian's own property. Custodian assumes responsibility only for loss to any Pledged Securities occasioned by the negligence of, or conversion, misappropriation or theft by custodian's agents and/or employees, and then only to the extent of the market value on the date of the discovery of the loss. Custodian, at its option, may insure itself against loss from any cause but shall be under no obligation to obtain insurance directly for the benefit of either PMIB or depository bank.

b. Custodian, at any time, without any resulting liability to it, may act in reliance on any instructions custodian believes to be genuine, including instructions by a signed writing (via telecopy or otherwise), by electronic communication or by telephone. Custodian may rely upon any instruction that is in writing if it purports to be signed by a representative of PMIB whose name has been furnished to custodian as being a designated individual authorized to give such instructions to custodian on behalf of PMIB (Authorized Representative) or if it purports to be signed by a representative of the depository bank (as applicable), without any duty to investigate or confirm the actual authority of such named representative. Custodian is expressly authorized to rely upon any facsimile copy of any written document (including any JCR) as if, and to the same effect that, an original executed copy thereof had been received by it from the party purporting to have executed it.

c. All credits, debits or transfers shall be deemed to have been completed at such time as recorded on custodian's books.

d. Custodian undertakes to perform only the duties expressly set forth in this agreement, and assumes no responsibility other than for the safekeeping and disposition of the Pledged Securities as provided for herein.

e. Transfer of securities to custodian may be accomplished by crediting the account of custodian with the Federal Reserve Bank of Kansas City, Missouri, or by delivery of physical certificates to custodian in negotiable form. PMIB and depository bank agree that custodian's use of the Federal Reserve and other third-party custodians, depositories, financial intermediaries and agents in connection with the Pledged Securities and transactions contemplated under this agreement is authorized and shall comply fully with all terms and conditions of this agreement regarding custodian's transfer and custody of the securities. PMIB and depository bank acknowledge and understand that all transfers of securities by the Federal Reserve are subject to the Federal Reserve's then applicable rules and procedures and operating letters.

**6. Release of Securities.** Depository bank shall transfer or deposit Pledged Securities to custodian which shall act as a financial intermediary. No Pledged Security shall be released or substituted without the written instruction of an Authorized Representative and an instruction (written, facsimile, telephone, electronic or otherwise) of a representative of depository bank, **except:**

a. on written notice of default sent by an Authorized Representative to custodian, custodian is authorized to release, deliver or transfer the Pledged Securities to the State Treasurer of Kansas without further authorization or consent of depository bank and without return or execution of JCR (describing the Pledged Security) that was issued to depository bank;

b. custodian shall thereupon provide written notice to depository bank of delivery or transfer to the state treasurer of the Pledged Securities; and

c. custodian shall therefore be discharged of all further responsibility with respect to the Pledged Securities.

Delivery to custodian of (i) a writing executed by an Authorized Representative releasing PMIB's lien on a Pledged Security, or (ii) the JCR describing the Pledged Security, if executed by an Authorized Representative, shall constitute a release and discharge by PMIB of any lien in and to such Pledged Security, and custodian is thereupon authorized to deliver or transfer such Pledged Security to depository bank or to any account or entity designated by depository bank. If custodian is required to transfer, deliver or sell any Pledged Securities pursuant to provisions of any statute or regulation applicable to securities pledged for state deposits, custodian is hereby expressly authorized to effect such transfer, delivery or sale pursuant to such statute or regulation, and upon doing so shall be released and discharged from any further duty or liability hereunder or otherwise with respect to such Pledged Securities.

**7. Reporting.** On a monthly basis, or as requested, custodian shall provide to the State Treasurer of Kansas written notice stating the CUSIP and pool number, par value, interest rate and maturity date of all Pledged Securities. This notice shall be accepted by the State Treasurer of Kansas as sufficient evidence of the depositing of Pledged Securities with custodian by depository bank.

**8. Compensation.** Depository bank agrees to pay custodian compensation for the services to be rendered under this Agreement based on rates which shall be determined by custodian from time to time.

**9. Indemnification.** PMIB subject to the Kansas Tort Claims Act, and depository bank agree, jointly and severally, to indemnify custodian from and hold it harmless against any liability in connection to, arising out of or in any way related to the transactions contemplated and relationship established by this agreement, **except** that PMIB and depository bank shall not be liable for any liability that is determined to be the direct result of acts or omissions on the part of custodian constituting negligence or willful misconduct **nor** shall PMIB be liable for any costs, attorneys fees or other expense in the defense of any claim by custodian.

**10. Entire Agreement, Modification or Amendment.** This agreement constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior oral or written agreements. No modification of or amendment to this agreement shall be binding unless in writing and executed by the parties.

**11. Termination.** This agreement shall terminate upon ten-business days' written notice of termination, signed by PMIB and depository bank. It is further provided that custodian may terminate this agreement upon ten (10) days' written notice to all other parties hereto. Upon any termination of this Agreement, custodian is authorized to transfer or deliver the Pledged Securities to any person, entity or account specified in any written instructions signed by PMIB and custodian, and if no such written instructions are received, then the Pledged Securities may be transferred or delivered to PMIB or any entity or account designated by PMIB, or, at custodian's sole discretion, may continue to be held by custodian until custodian receives written instructions signed by both PMIB and depository bank. Upon any termination, custodian may defer any transfer or delivery of the Pledged Securities until it has first received all JCR's issued by custodian with respect to the Pledged Securities, duly executed by PMIB and depository bank as applicable.

12. **Severability.** If any provision of this agreement is held to be unenforceable by a court of competent jurisdiction, the other terms and provisions shall not be affected and shall remain in full force and effect.

13. **Rights and Remedies.** The rights and remedies conferred on the parties shall be cumulative and the exercise or waiver of any right or remedy shall not preclude or inhibit the exercise of any additional rights and remedies.

14. **Headings.** Headings are for reference purposes only and shall not be construed as part of this agreement.

15. **Notices.** All notices shall be given to the party entitled to receive notices at the following addresses and telephone numbers:

a. Unless and until PMIB shall give written notice to depository bank and custodian to the contrary, the following person shall be authorized to act on behalf of **PMIB** and to give and receive all notices and otherwise act under this agreement:

Director of Investments  
Pooled Money Investment Board  
Landon State Office Building  
900 S.W. Jackson, Ste. 209  
Topeka, Kansas 66612-1220  
Telephone (785) 296-3701

b. Unless and until **depository bank** shall give written notice to PMIB and custodian to the contrary, the following person shall be authorized to act on behalf of depository bank and to give and receive all notices and otherwise act under this agreement:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Bank: \_\_\_\_\_  
Address: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

c. Unless and until **custodian** shall give written notice to PMIB and depository bank to the contrary, the following person shall be authorized to act on behalf of custodian and to give and receive all notices and otherwise act under this agreement:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Bank: \_\_\_\_\_  
Address: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**16. This agreement shall be governed by the laws of the State of Kansas.**

**Custodian:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Depository Bank:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Pooled Money Investment Board:**

By: \_\_\_\_\_

Title: Director of Investments

Date: \_\_\_\_\_