

AGREEMENT

for

Custody Services

Agreement Number CSL-11-001

October 1, 2011

**JAMES L. McINTIRE
STATE TREASURER
STATE OF WASHINGTON**

WASHINGTON STATE
OFFICE OF THE STATE TREASURER
AGREEMENT NUMBER CSL-11-001

CUSTODY SERVICES

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**WASHINGTON STATE
OFFICE OF THE STATE TREASURER
PO BOX 40200
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GENERAL PROVISIONS

1. CONTRACTING PARTIES

THIS AGREEMENT is entered into by and between the OFFICE OF THE STATE TREASURER, STATE OF WASHINGTON, an agency of the Washington State government, hereinafter referred to as the "State" and _____, hereinafter referred to as the "Bank."

2. HEREBY WITNESSETH

The state of Washington, acting by and through the OFFICE OF THE STATE TREASURER of the STATE OF WASHINGTON, issued a Request for Proposal (RFP), dated February 2, 2011, for the purpose of obtaining proposals for providing Custody and Securities Lending Services.

The State hereby awards to the Bank this Agreement for Custody Services, hereinafter referred to as the "Services," as described in the Bank's proposal, attached hereto at the prices stated therein, in accordance with the terms of this Agreement.

3. ADDITIONAL SERVICES

The Parties agree that additional services, appropriate to the scope of this Agreement, may be added to this Agreement by written amendment and only with the written consent of both parties. Such writing shall include a specific description of the additional services, pricing, and additional terms and conditions as relevant. The additional services shall be available under the same terms and conditions established herein except as specifically amended between the parties.

4. CONSIDERATION

In consideration whereof, the mutual promises made to each other, as hereinafter set forth, the parties further agree as follows:

The State and the Bank agree that this Agreement is the complete and exclusive statement between the parties which supersedes all proposals or prior agreements,

oral or written, and all other communications between the parties relating to the subject matter of this Agreement.

To the extent that any terms and conditions are in conflict with any other terms and conditions, the order of authority is as follows: (1) these General Provisions are controlling, followed by (2) the Office of the State Treasurer RFP for Custody and Securities Lending Services; and (3) the Bank's Proposal, inclusive of related Exhibits and Schedules.

Unless otherwise agreed in writing, all amendments, addenda, and orders signed during the life of this Agreement shall be governed by these General Provisions.

5. DEFINITIONS

Definitions as used throughout this Agreement shall have the meanings set forth below:

"Bank" shall mean _____. It shall also include any Subcontractor retained by the Bank as permitted under the terms of this Agreement.

"Bank's Account Manager" shall mean an employee of the Bank who is permanently assigned as the primary contact person with whom the State Contract Administrator shall work for the duration of this Agreement.

"Custody Services" may also be referred to as "Services," and shall be inclusive of all services, including associated support services and maintenance provided pursuant to this Agreement.

"Depository" shall include the Federal Reserve/Treasury book-entry system for receiving and delivering securities, the Depository Trust Company (DTC), and any other securities depository, book-entry system, or clearing agency (and their respective successors and nominees) authorized to act as a securities depository, book-entry system, or clearing agency pursuant to applicable law.

"Exhibit A" shall mean the Request for Proposal (RFP) for Custody and Securities Lending Services issued by the Office of the State Treasurer, dated February 2, 2011.

"Exhibit B" shall mean the Bank's proposal in response to the State RFP for Custody and Securities Lending Services.

"Exhibit C" shall mean the Bank's schedule of fees for all Services provided under this Agreement.

“**Exhibit D**” shall mean the Funds Transfer Authorization Agreement which shall run concurrently with this Agreement.

"**RCW**" shall mean the Revised Code of Washington (Washington State law).

“**State Contract Administrator**” shall mean the staff person appointed by the State to administer this Agreement on behalf of the State.

"**Subcontractor**" shall mean one not in the employment of the Bank, who is performing all or part of those Services under this Agreement under a separate contract with the Bank. The term "Subcontractor" means Subcontractor(s) of any tier.

6. APPOINTMENT OF CUSTODIAN

The State, in accordance with RCW 43.08.015, hereby appoints the Bank as Custodian for certain assets of the State and authorizes the Bank to hold such assets in registered form in its name or the name of its nominees. All property delivered to the Bank, its agents, or Subcustodians, shall be held and dealt with as herein provided. The Bank hereby accepts this appointment.

7. PERSONAL LIABILITY

It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the State be in any way personally liable or responsible for any covenant or agreement herein contained, whether expressed or implied, nor for any statement or representation made herein or in any connection with this Agreement.

8. HOLD HARMLESS AND INDEMNIFICATION

8.1 The Bank shall be financially responsible (liable) for any direct money damages suffered by the State which are caused by the Bank's own negligence, fraud, or failure to exercise Due Care as defined in Section 30, in the Bank's performance of its duties under this Agreement. For the purposes of this Agreement, direct money damages shall include those situations where interest charges are incurred by the State or any loss of earnings occurs that would otherwise have been realized by the State through an overnight investment of funds, and where such interest charges or loss of earnings are caused by the Bank's own negligence, fraud, or failure to exercise Due Care, as defined in Section 30.

8.2 The Bank shall not be financially responsible (liable) for any damages or for any losses to the State, unless such losses constitute direct money damages caused by the Bank's own negligence, fraud, or failure to

exercise Due Care, as defined in Section 30, in the Bank's performance of its duties under this Agreement.

8.3 Each party to this Agreement agrees to indemnify and hold harmless the other party, to the extent authorized by law, from all losses (excluding attorneys' fees and expenses) which relate to or result from lawsuits brought by non-parties to this Agreement from activities covered by this Agreement from:

8.3.1 A failure by the indemnifying party or its subsidiaries, affiliates, agents, Subcontractors, representatives, or employees to comply with any applicable federal, state, or local law, rule, or regulation;

8.3.2 A negligent act or omission or the breach of this Agreement (as defined in subsection 18.3.3) by the indemnifying party, its subsidiaries, affiliates, agents, Subcontractors, representatives, or employees; or a failure to exercise due care as defined in subsection 30.1 herein.

8.4 Nothing in this section shall be construed to mean either party is prevented from commencing a legal action against the other.

9. SEVERABILITY

Any provision of this document found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the document.

10. NONDISCRIMINATION AND AFFIRMATIVE ACTION

During the performance of this Agreement, the Bank shall comply with all federal and state nondiscrimination statutes and regulations. These requirements include, but are not limited to:

10.1 Nondiscrimination in Employment. The Bank shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin, creed, marital status, age, or the presence of any sensory, mental, or physical disability.

10.2 Nondiscrimination in Client Services. The Bank shall not, on grounds of race, color, sex, religion, national origin, creed, marital status, age, or the presence of any sensory, mental, or physical disability:

10.2.1 Deny an individual any services or other benefits provided under this Agreement;

10.2.2 Provide any service(s) or other benefits to an individual which are different, or are provided in a different manner, from those provided to others under this Agreement;

10.2.3 Subject an individual to segregation or separate treatment in any manner related to the receipt of any service(s) or other benefits provided under this Agreement; or

10.2.4 Deny any individual an opportunity to participate in any program provided by this Agreement through the provision of services or otherwise, or afford any opportunity which is different from that afforded others under this Agreement.

10.3 The Bank, in determining (1) the types of services or other benefits to be provided or (2) the class of individuals to whom, or the situation in which, such services or other benefits will be provided or (3) the class of individuals to be afforded an opportunity to participate in any services or other benefits, will not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, sex, religion, national origin, creed, marital status, age, or the presence of any sensory, mental, or physical disability.

10.4 Noncompliance With Nondiscrimination Requirements. In the event of the Bank's noncompliance or refusal to comply with the nondiscrimination requirements, this Agreement may be rescinded, canceled, or terminated in whole or in part, and the Bank may be declared ineligible for further contracts with the State. The Bank shall, however, be given a reasonable time in which to cure the noncompliance. Any dispute may be resolved in accordance with the Disputes section set forth in this Agreement.

11. GIFTS AND GRATUITIES

In accordance with RCW 42.52, Ethics in Public Service Act, it is unlawful for any person to accept, directly or indirectly, any compensation, gratuity, or reward in connection with this Agreement from any person beneficially interested therein.

12. RIGHTS AND REMEDIES

In the event of any claim for default or breach of contract, no provision in this document nor in the Bank's proposal for services shall be construed, expressly or by implication, as a waiver by the State of any right to insist upon the strict performance of any term or condition of the Agreement or to exercise or delay the exercise of any right or remedy provided in the Agreement or by law, or as the acceptance of (or payment for) materials, equipment, or services, or to release the

Bank from any responsibilities or obligations imposed by this Agreement or by law.

13. PERFORMANCE

Acceptance by the State of unsatisfactory performance with or without objection or reservation shall neither waive the right to claim damage for breach nor constitute a waiver of requirements for satisfactory performance of any obligation remaining to be performed by the Bank.

14. GOVERNING LAW

This Agreement shall be governed in all respects by, and construed in accordance with, the law and statutes of the state of Washington. The venue of any action hereunder shall be exclusively in the Superior Court for Thurston County, Washington. The Bank, by execution of this Agreement, acknowledges the jurisdiction of the courts of the state of Washington in this matter.

15. SUBCONTRACT/ASSIGNMENT

The Bank shall not subcontract or assign its obligations under this Agreement without the prior written consent of the Contract Administrator. The Bank shall be responsible to ensure that all requirements of the Agreement shall be communicated to any and all Subcontractors.

Substitution of another financial institution to act as the Bank under this Agreement may occur in the event of a takeover, merger, or acquisition. In this event, the Successor Bank shall provide an automatic continuation of all terms of this Agreement, provided the Successor Bank can meet all required terms of the Agreement. However, the State reserves the right to terminate the Agreement in the event a Successor Bank is substituted, after providing 60 calendar days' written termination notice.

16. SCOPE OF SERVICES

The Bank agrees to provide custody, record keeping, and cash management, as further described in the Office of the State Treasurer RFP (Exhibit A) and the Bank's Proposal (Exhibit B), under the terms of this Agreement, subject to the provisions of Section 4 - Consideration.

AGREEMENT TERM AND TERMINATION

17. TERM OF AGREEMENT AND SURVIVORSHIP OF TERMS

This Agreement shall commence on October 1, 2011, and continue until September 30, 2015.

The term of this Agreement may be extended for additional contract periods or portions thereof, whereby the total contract period with extensions shall not exceed six (6) years, PROVIDED: the extension shall be by mutual agreement between the State and the Bank, and by the State giving written notice of the extension to the Bank not less than 180 days prior to the termination date of this Agreement.

18. TERMINATION AND REMEDIES

18.1 Termination for Convenience. The State may terminate this Agreement, in whole or in part, at any time and for any reason by giving 90 calendar days' written termination notice to the Bank. The Bank may terminate this Agreement, by giving 180 days' written termination notice to the State.

18.2 Termination for Reduction of Funding or Withdrawal of Authority. In the event that either funding from the State or other sources is withdrawn, reduced, or limited, or the authority of the State to perform any of its duties is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to its normal completion, the State may terminate this Agreement, in whole or in part, at any time by giving 60 calendar days' written termination notice to the Bank.

18.3 Termination for Breach. Except in the case of delay or failure resulting from circumstances beyond the control of and without the fault or negligence of the Bank or of the Bank's suppliers or Subcontractors, the State shall be entitled, by written or verbal notice, to cancel this Agreement in its entirety or in part, for breach of any of the terms herein, and to retain all other rights against the Bank by reason of the Bank's breach as provided by law.

A breach shall mean one or more of the following events: (1) the Bank fails to perform the services by the time and date required and such failure is not caused by a force majeure event; (2) the Bank breaches any warranty, or fails to perform or comply with any term or agreement in the Agreement; (3) the Bank fails to exercise Due Care as to any aspect of this Agreement, with Due Care being defined in subsection 30.1; (4) the Bank makes any general assignment for the benefit of creditors; (5) the Bank becomes insolvent or in an unsound financial condition so as to endanger performance hereunder; (6) the Bank becomes the subject of any proceeding under any law relating to bankruptcy, insolvency, or reorganization or relief from debtors; or (7) any receiver, trustee, or similar official is appointed for the Bank or any of the Bank's property. If it is subsequently found that the Bank was not in breach, the rights and

obligations of the parties shall be the same as if a Notice of Termination had been issued pursuant to subsection 18.1.

The State Contracting Officer shall issue a written notice of breach providing a period not to exceed 30 days in which the Bank shall have an opportunity to cure. Time allowed for cure shall not diminish or eliminate the Bank's liability for damages.

If the breach remains after the Bank has been provided the opportunity to cure, the State may do one or more of the following:

18.3.1 Exercise any remedy provided by law;

18.3.2 Terminate this Agreement and any related contracts or portions thereof, by written or verbal notice;

18.3.3 Seek damages.

18.4 Termination by Mutual Agreement. The State and the Bank may terminate this Agreement in whole or in part, at any time, by mutual agreement.

18.5 Termination Procedure. Upon termination of this Agreement, the State, in addition to any other rights provided in this Agreement, may require the Bank to deliver to the State any property specifically produced or acquired for the performance of such part of this Agreement as has been terminated.

The State shall pay to the Bank the agreed upon price, if separately stated, for completed work and services accepted by the State, and the amount agreed upon by the Bank for (a) completed work and services for which no separate price is stated, (b) partially complete work and services, (c) other property or services which are accepted by the State, and (d) the protection and preservation of property, unless the termination is for default, in which case the State shall determine the extent of the liability of the State. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" section of this Agreement. The State may withhold from any amounts due to the Bank such sum as the State determines to be necessary to protect the State against potential loss or liability.

The rights and remedies of the State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

18.6 Termination-Related Obligations Antecedent to Date of Termination. Upon nearing the end of the final term of this agreement, and without

respect to either the cause or time of such termination, the Bank shall take all reasonable and prudent measures to facilitate the transition to a successor provider's system.

The Bank shall provide, at any time during the nine (9) months preceding termination, such information about the Bank's systems as will be reasonably required by the State and/or the successor for purposes of planning the transition and conversion to the successor's system.

18.7 Obligations Upon Termination. After receipt of a notice of termination, and except as otherwise directed by the State Contract Administrator, the Bank shall:

18.7.1 Stop work under the Agreement on the date, and to the extent, specified in the notice;

18.7.2 Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Agreement as is not terminated;

18.7.3 Assign to the State, in the manner, at the times, and to the extent directed by the State Contract Administrator all of the rights, titles, and interest of the Bank under the orders and subcontracts so terminated, in which case the State has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

18.7.4 Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the State Contract Administrator to the extent he or she may require, which approval or ratification shall be final for all the purposes of this clause;

18.7.5 Transfer title to the State and deliver in the manner, at the times, and to the extent, if any, as directed by the State Contract Administrator, any property which, if the Agreement had been completed, would have been required to be furnished to the State;

18.7.6 Complete performance of such part of the work as shall not have been terminated; and

18.7.7 Take such action as may be necessary, or as the State Contract Administrator may direct, for the protection and preservation of the property related to this Agreement which is in the possession of the Bank and in which the State has or may acquire an interest and to transfer that property to the successor Bank.

By such termination, neither the State nor the Bank may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

19. FORCE MAJEURE

19.1 Definition. Neither party shall be liable to the other or deemed in default under this Agreement if and to the extent that such party's performance of this Agreement is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and could not have been avoided by exercising Due Care. Force majeure shall include acts of God, war, riots, strikes, fire, floods, earthquakes, epidemics, or other similar occurrences.

19.2 Allocation of Service. When force majeure affects only part of the Bank's capacity to perform, the Bank may allocate services among its customers, including regular customers not included in this Agreement, in any manner which is fair and reasonable.

19.3 Notification. If either party is delayed by force majeure, said party shall provide reasonable notice that there will be delay or non-delivery of reports or services. The notification shall provide evidence of the force majeure to the satisfaction of the other party. Such delay shall cease as soon as practicable and written notification of same shall be provided. The time of completion shall be extended for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Agreement.

19.4 Rights Reserved. The State reserves the right to cancel the Agreement and/or purchase services from the best available source during the time of force majeure, and Bank shall have no recourse against the State.

20. CONFLICT OF INTEREST

20.1 The Bank warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement.

20.2 The State may terminate this Agreement, by written notice to the Bank, if it is found after due notice and examination that there is a violation by the Bank of the Ethics in Public Service Act, RCW 42.52, or any other similar statute involving the Bank in its performance under this Agreement.

20.3 In the event this Agreement is terminated as provided above, the State shall be entitled to pursue the same remedies against the Bank as it could pursue in the event of a breach of this Agreement by the Bank. The rights

and remedies of the State provided by this clause shall not be exclusive and are in addition to any other rights and remedies provided by law.

CONTRACT ADMINISTRATION

21. INCORPORATED DOCUMENTS

This Agreement shall consist of the terms and conditions as set forth herein, and the following documents which are incorporated herein by reference:

- 21.1 “**Exhibit A**” - The Request for Proposal (RFP) for Custody and Securities Lending Services, dated February 2, 2011.
- 21.2 “**Exhibit B**” - The Bank's proposal in response to the State RFP for Custody and Securities Lending Services.
- 21.3 “**Exhibit C**” - The Bank's schedule of fees for all Services provided under this Agreement.
- 21.4 “**Exhibit D**” - The Funds Transfer Authorization Agreement which shall run concurrently with this Agreement.

22. ORDER OF PRECEDENCE

- 22.1 The headings used herein are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions.
- 22.2 If any provision of this Agreement shall be deemed to be in conflict with any statute or rule of law, such provisions shall be deemed modified to conform to said statute or rule of law. In the event of any inconsistency in this Agreement, the inconsistency shall be resolved in the order of precedence stated below:
 - 22.2.1 Applicable Federal and State Statutes and Regulations.
 - 22.2.2 The Terms and Conditions of this Agreement.
 - 22.2.3 **Exhibit A** - The Request for Proposal (RFP) for Custody and Securities Lending Services issued by the Office of the State Treasurer, dated February 2, 2011.
 - 22.2.4 **Exhibit D** - The Funds Transfer Authorization Agreement.
 - 22.2.5 **Exhibit B** - The Bank's proposal in response to the State RFP for Custody and Securities Lending Services.

23. ENTIRE AGREEMENT

This document, including all addenda and subsequent amendments, comprises the entire agreement between the State and the Bank and shall be governed by the laws of the State of Washington incorporated herein by reference.

24. LIMITATION OF STATE'S AUTHORITY

Only the State Contracting Officer, or delegate by writing, shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding until made in writing and signed by the State and the Bank unless otherwise provided herein.

25. STATE CONTRACT ADMINISTRATOR

The State shall appoint an individual who will be the Contract Administrator for this Agreement and will provide oversight of the activities conducted hereunder. The State Contract Administrator will manage this Agreement on behalf of the State, and will be the State point of contact for the Bank concerning the Bank's performance hereunder. The State shall notify the Bank, in writing, when there is a change in staffing and a new Contract Administrator is assigned to this Agreement.

26. BANK'S ACCOUNT MANAGER

The Bank shall appoint an individual who will be the Account Manager for the State account. The Bank's Account Manager will be the principal point of contact for the State concerning the Bank's performance hereunder. The Bank's Account Manager will also serve as the focal point for business matters, support coordination, and administrative activities. The Bank shall notify the State in writing if a new Account Manager is assigned.

27. AMENDMENTS

No modifications or amendments to this Agreement shall be effective unless it is in a written amendment signed by an authorized officer of the Bank and the State Contract Administrator.

28. DISPUTES

28.1 Except as otherwise provided in this Agreement, when a bona fide dispute concerning a question of fact arises between the State and the Bank and it cannot be resolved, either party may initiate the dispute resolution procedure provided herein.

- 28.2 Time is of the essence in resolving disputes. The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party must respond in writing within two (2) State working days. Then, both parties shall have three (3) State working days to negotiate in good faith to resolve the dispute.
- 28.3 Both parties agree to exercise good faith in dispute resolution and to avoid arbitration and litigation whenever reasonably possible. Nothing in this Agreement shall prevent either party, after the expiration of the three (3) day period in subsection 28.2, from pursuing other methods of dispute resolution.
- 28.4 The State and the Bank agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Agreement which are not affected by the dispute.

29. CONSENT

Both parties agree that whenever a party's consent is required under the terms of this Agreement, that consent shall not be unreasonably delayed or withheld.

BANK RESPONSIBILITIES

30. RESPONSIBILITY OF CUSTODIAN

- 30.1 The Custodian shall perform its duties hereunder with "Due Care." For the purposes of this agreement, "Due Care" shall mean the degree of care and skill demonstrated by fiduciaries acting in like capacity as a safekeeping Custodian. The Custodian shall not be responsible for the title, validity, or genuineness, including good deliverable form, of any property or evidence of title thereto received by it or delivered by it pursuant to this Agreement. The Custodian may at its discretion appoint and remove agents or Subcustodians to carry out such of the provisions of this Agreement as the Custodian may from time to time direct; provided, however, that such appointment shall not relieve the Custodian of its responsibilities or liabilities under this Agreement, and provided further that any depository selected with Due Care by the Bank shall not be deemed for purposes of this Agreement an agent or Subcustodian of the Bank.
- 30.2 Provided always that the Custodian and its agents and Subcustodians act in good faith and with the exercise of Due Care in performance of such duties as would ordinarily be expected of a financial institution in the relevant market and subject to the terms of the Custody Agreement:

- 30.2.1 It is not liable for any loss or damage caused by the delay or failure of any central bank, any depository, or any commercially prevalent payment or clearing system to deliver to or for the Bank or its Subcustodians securities purchased or sold, or to make or receive and remit, any payment in connection with purchases or sales of securities, for delays or failures in providing corporate action notices, or for delays or inability by the Bank to perform its duties due to acts or omissions of any depository or to disorder in market infrastructure with respect to any particular security, security exchange, central depository, or clearing system; and
- 30.2.2 It is not liable for any delay or failure of any non-parties, company, corporation, or other body in charge of registering or transferring Securities in the name of the Custodian, any customer of the Custodian, or the Subcustodian, its nominee or agent, or for any consequential losses arising out of such delay or failure to transfer such Securities including non-receipt of bonus, dividends, and rights and other accretions or benefits.

31. CONFIDENTIALITY OF STATE RECORDS

- 31.1 The Bank acknowledges that material and information which has or will come into its possession or knowledge in connection with this Agreement or its performance, may consist of confidential and proprietary data, the disclosure of which to, or use by, third parties could be damaging.
- 31.2 Access to information concerning the State or individual recipients of the State's services shall not be granted except as authorized by law or in writing by the State.
- 31.3 The Bank, therefore, agrees to hold all such material and information in strictest confidence, not to make use thereof other than for the performance of this Agreement, to release it only to authorized employees requiring such information, and not to release or disclose it to any other party.
- 31.4 Notwithstanding anything apparently to the contrary in the preceding provisions of this section, the Bank may release the material and information described in this section to authorized bank examiners and to its internal and external auditors for official use and may also release it pursuant to a subpoena or other order issued by a court of competent jurisdiction. The Bank shall promptly notify the State of any such subpoena or order upon its receipt.

32. AUDITING

The Bank shall permit representatives of the State Treasurer, an auditor selected by the State, and/or the Auditor of the state of Washington or their authorized assistant to examine the records of the Bank relating to the services rendered under this Agreement, including securities transactions. Such audits may include, but are not limited to, examination of the securities themselves. If the Bank has contracted for deposit of the securities with another bank, the Bank shall require its Subcontractor to provide similar access to the designated State officials or their representatives. Any audits required by this section which do not necessitate the compilation of records in addition to those which are otherwise required by other sections of this Agreement may be conducted without notice. Any audits required by this section which require the compilation of records in addition to those which are otherwise required by this Agreement may be conducted upon ten (10) days' written notice from the State to the Bank. The provisions of this section shall remain in effect for eighteen (18) months after the expiration, or sooner termination, of this Agreement. Records of State transactions must be kept and maintained by the Bank for a period of no less than seven (7) years from the date of the transaction.

33. BANK COMMITMENTS, WARRANTIES, AND REPRESENTATIONS

- 33.1 Any written commitment by the Bank within the scope of this Agreement shall be binding upon the Bank. Failure of the Bank to fulfill such a commitment may constitute breach and shall render the Bank liable for damages due the State under the terms of this Agreement.
- 33.2 For purposes of this Agreement, a commitment by the Bank, which must be in writing, includes: (1) prices and options committed to remain in force over a specified period(s) of time; (2) any warranty or representation made by the Bank in a proposal as to Service performance; (3) any warranty or representation made by the Bank concerning the characteristics of items in (2) above, contained in any literature, descriptions, or specifications accompanying or referred to in a proposal; (4) any modification of or affirmation or representation as to the above which is made by the Bank in writing whether or not incorporated into a formal amendment to the proposal in question; and (5) any representation by the Bank in a proposal, supporting documents or amendments thereto as to services to be performed, prices, and options committed to remain in force over a fixed period of time, or any other similar matter regardless of the fact that the duration of such commitment may exceed the duration of this Agreement.

34. PRICE INCREASES

- 34.1 The Bank agrees to provide the Services at the costs, rates, and fees set forth in **Exhibit C**, Custody Fee Schedule. No other costs, rates, or fees shall be payable to the Bank for services covered under this Agreement.
- 34.2 The fee schedule applies for the initial four years of the Agreement. The Bank may make annual adjustments to the fee schedule after the first two years to any or all items no greater than the national Consumer Price Index (CPI) as published by DRI/McGraw Hill for the preceding calendar year. The annual adjustment limitation to the fee schedule shall continue if the term of the Agreement is extended.

35. ANCILLARY SERVICES

- 35.1 Contingency Plan.** The Bank shall have a comprehensive contingency plan for timely disaster recovery in the event systems are rendered inoperative due to fire, flood, or other disaster.
- 35.2 Settlement of Transactions.** Settlement of and payment for securities received for, and delivered from, the account may be made in accordance with the customary or established securities trading or securities processing practices and procedures in the jurisdiction or market in which the transaction occurs, including without limitation, the delivery of securities to a purchaser, broker, dealer, or their respective agents either against a receipt for future payment or without any payment (so-called “free delivery”).
- 35.3 Taxes.** The State is solely responsible and liable for the payment of and the reclamation, where applicable, of all taxes, assessments, duties, and other governmental charges (including any interest or penalties with respect thereto) with respect to the cash or securities held hereunder or the Account. The Bank, however, will cooperate with the State in connection with the State’s payment or reclamation of taxes.
- 35.4 Pricing Services.** To the extent that the Bank provides values of, and pricing information with respect to, securities, the Bank is authorized to utilize generally recognized pricing services (including brokers, dealers, and market makers). The Bank shall not be liable or responsible for or be under any duty to inquire into, nor be deemed to make any assurances or warranties with respect to, the accuracy or completeness of such values or information, even if the Bank, in performing services for itself and others, including services similar to those performed for the State, receives different valuations of the same or similar securities of the same issuer. In the event such services are unable to provide a value of or pricing information with respect to securities, and the Bank, nevertheless,

provides values and pricing information, the Bank shall so advise the State, but shall have no other obligation or liability with respect to such valuation or pricing information.

36. PROPER INSTRUCTIONS AND EVIDENCE OF AUTHORITY

The term "Proper Instructions" shall mean instructions received by the Bank from the State or any person duly authorized by it. Such instructions may be in writing signed by the authorized person or may be in a tested communication or in a communication utilizing access codes effected between electro-mechanical or electronic devices or may be by such other means as may be agreed to from time to time by the Bank and the party giving such instructions (including, without limitation, oral instructions). The State shall cause its duly authorized officer to certify to the Bank in writing the names and specimen signatures of persons authorized to give proper instructions. The Bank shall be entitled to rely upon the identity and authority of such persons until it receives notice from the State to the contrary.

The Bank shall be protected in acting upon any instructions, notice, request, consent, certificate, instrument, or paper reasonably believed by it to be genuine and to have been properly executed or otherwise given by or on behalf of the State. The Bank may receive and accept a certificate from the State as conclusive evidence (i) of the authority of any person to act in accordance with such certificate or (ii) of any determination or of any action by the State as described in such certificate, and such certificate may be considered as in full force and effect until receipt by the Bank of written notice to the contrary.

37. SECURITY CODES

If the Bank has issued security codes or passwords to the State in order that the Bank may verify that certain transmissions of information, including proper instructions, have been originated by the State, the Bank shall, to the extent authorized by law, be without liability to the State for any action taken or omitted by it in reliance upon receipt by the Bank of transmissions of information with the proper security code or password, including instructions purporting to be proper instructions, which the Bank reasonably believes to be from the State.

38. REGISTRATION WITH THE DEPARTMENT OF REVENUE

The Bank shall complete registration with the Department of Revenue, General Administration Building, Olympia, Washington 98504, and be responsible for payment of all taxes due on payments made under this Agreement.

39. LICENSING AND ACCREDITATION STANDARDS

The Bank shall comply with all applicable local, state, and federal licensing requirements and standards necessary in the performance of this Agreement.

40. WORKERS' COMPENSATION INSURANCE COVERAGE

The Bank shall provide or purchase applicable workers' compensation insurance coverage prior to performing work under this Agreement. The State will not be responsible for payment of industrial insurance premiums for the Bank or any Subcontractor or employee of the Bank, which might arise under the workers' compensation insurance laws during performance of duties and services under this Agreement. Should the Bank fail to secure workers' compensation insurance coverage or fail to pay premiums on behalf of its employees, the State may deduct the amount of premiums owing from the amounts payable to the Bank under this Agreement and transmit the same to the appropriate workers' compensation insurance fund.

41. ADVERTISING

The Bank shall not advertise or publish information concerning this Agreement in any form or media without prior written consent from the State.

CUSTODY PROVISIONS

42. CUSTODY OF SECURITIES

42.1 Custodial Services. The Bank shall take custody of the securities owned by the State and tendered for transfer to its custody; provide safekeeping services for them and accept complete responsibility as a fiduciary for their safekeeping from the moment of delivery to it and/or its transfer agent until their safe return and delivery to the State or its designated agent upon expiration or sooner termination of this Agreement.

When ownership of a security is manifested by a certificate, bond, note, or other physical document, the Bank will verify proper registration of the security in the name of the State; keep the physical specimen in a secure vault, safe from destruction, damage, embezzlement, and/or other loss; readily available to the State; and in a condition suitable for sale or transfer. When ownership is reflected in a book entry on official records only, the Bank shall be shown on the books of the Federal Reserve System, DTC, or other depository agencies, as Bank of the State's book-entry security; the Bank shall verify the proper registration, evidenced by an entry in the Bank's books reflecting that the Bank holds those particular securities (or a quantity of securities that are part of a fungible bulk of government book-entry securities) as bank for the State; and the Bank

shall obtain and maintain the confirmatory documents in a secure area and unless expressly authorized by the State, keep the securities ready for immediate sale or transfer free and clear of all encumbrances.

42.2 Inventory; Delivery and Redelivery. The Bank shall keep an accurate, current inventory of all securities held within its custody for the State. The inventory will contain precise identification of each security including, when applicable, the date of purchase and maturity date; CUSIP numbers; and other sources of identification.

42.3 Deposit of Securities. The Bank shall keep tangible securities in the facilities of the Bank, unless the Bank and the State agree in writing to another location. Where securities are eligible for deposit in a book-entry system or a depository, the Bank may use that depository.

Security arrangements shall restrict access to the State securities, record all entries and withdrawals, and provide physical safety for records at least equal to customs and standards of banks in large metropolitan financial centers for maintenance of valuable commercial securities.

In addition, the Bank shall maintain a “back-up” system of confirmatory records at another location so that if the vault at the Bank’s approved facility is inaccessible or its material damaged, destroyed, or stolen, the Bank can establish to a reasonable degree of certainty, the securities belonging to the State.

42.4 State Clearing Account. The Bank shall establish clearing accounts for the State, as directed by the State. These accounts shall accurately reflect transactions of all kinds, with respect to securities of the State. These accounts are not to be construed as Depository Accounts.

The Bank shall credit the following to the accounts immediately upon the earlier of the settlement date or the payment date:

42.4.1 All interest and other distributions received on account of the securities (including mortgages) held for the State;

42.4.2 All payments of principal or other return of capital, including, securities backed by mortgages and financing contracts;

42.4.3 All proceeds from the sale or transfer of securities, or rights appurtenant to the securities;

42.4.4 All payments made by the State to the Bank and by the Bank to the State;

42.4.5 The Bank may debit the account with disbursements authorized by the State.

At the close of business, there shall be no cash in the clearing accounts. At the option of the State, all funds in an account at the close of business shall be invested in an investment authorized by state statutes and approved by the State.

42.5 Transactions. The Bank shall assist the purchase of securities and the sale of securities within its possession, owned by the State. When so instructed, the Bank will:

42.5.1 Take possession of securities purchased by the State, and when authorized, make payment from the clearing accounts as established under this Agreement therefor;

42.5.2 Deliver securities sold or transferred by the State to the appropriate entity or person versus payment;

42.5.3 Register in its name or in its name as the Bank, securities owned by the State and held in its physical custody or those securities indicated on the records of the Federal Reserve System, DTC, or another depository, provided that adequate records are maintained to identify the actual ownership of the securities by the State and all rights to interest and sale proceeds are vested in the State;

42.5.4 Credit or debit the appropriate money account of the State in connection with the purchase, sale, maturity, redemption, income, dividends, or other disposition of securities and other assets held for the time being on behalf of the State in said accounts on an actual settlement basis; or make available provisional credit of settlement, maturity redemption proceeds, income, and dividends. The Bank reserves the right to reverse any such crediting at any time before actual receipt of the item associated with the credit when the Bank determines that actual receipt will not be received in due course for such an item.

42.5.4.1 In order to secure repayment of an advance of funds made in connection with a purchase of securities, the Bank shall have a purchase money security interest in, and a security entitlement with respect to, all of the State's right, title, and interest in and to the securities acquired with such advance (including proceeds thereof). The Bank shall, with respect to such purchase money security interest, be entitled to all the rights and

remedies of a pledgee and secured creditor under applicable laws, rules, or regulations as then in effect.

42.5.4.2 If the Bank, in its sole discretion, advances funds to the State, or there shall arise for whatever reason an overdraft in the State's account, the Bank may at any time charge any such overdraft or indebtedness together with interest due thereon.

42.5.5 Disburse funds as requested and remit funds to the State before the close of each business day.

Outside of security lending provisions, the State retains the exclusive authority to manage the assets of the State within the Bank's custody. This includes the determination of which investments shall be made, what and when securities shall be sold or encumbered, the terms or conditions of any transaction, and the disposition of cash on hand. The Bank shall make no transaction without instructions from the State, except the advance crediting of principal, interest, and other proceeds to the State's clearing account.

42.6 Income on Defective Transactions. The Bank shall pay the State the following sums when a transaction is defective without fault of the State as follows:

42.6.1 If a seller fails to deliver the securities in proper form on the settlement date, the Bank shall invest those funds in an investment authorized by state statutes and approved by the State.

42.6.2 If a buyer fails to make payment on the settlement date, the Bank shall pay the State the interest or other income, if any, actually received by it from the party in default.

43. NOTICES

Notices and other writings shall be delivered by the most expeditious means available, with due regard given to the time sensitivity of the notice or demand being made:

To the State:

To the Bank

Office of the State Treasurer
PO Box 40200
Legislative Building, Room 240
416 - 14th Avenue SW
Olympia, WA 98504-0200

or to such other address as the State or the Bank may hereafter specify in writing. Telephone and facsimile notices shall be sufficient if communicated to the party entitled to receive such notice at the following numbers:

If to the State:

Telephone: (360) 902-9012

Fax: (360) 902-9044

If to the Bank:

Telephone:

Fax:

or to such other numbers as either party may furnish the other party by written notice under this section.

PAYMENT PROVISIONS

44. PAYMENTS

Quarterly, after the last business day of each calendar quarter, the Bank shall submit to the State an invoice containing an itemized list of all costs and expenses incurred by the Bank in connection with this Agreement. The first payment will be for the calendar quarter ending December 31, 2011.

The State will forward payment for service charges to the Bank, after the State verifies all activity and charges, within thirty (30) days of receipt of the invoice, provided there are no significant unreconciled differences.

In the event services are rendered for less than a calendar quarter, or this Agreement is terminated prior to the end of a calendar quarter, the State shall pay the Bank's fee prorated for the portion of the calendar quarter such services are rendered or the Agreement is in effect, plus any costs and expenses incurred by the Bank for the Accounts up to or subsequent to the date of termination.

If the Bank does not meet its Service obligations, as detailed in Section 42 of this Agreement, the Bank shall be required to negotiate a settlement with the State Contract Administrator for an appropriate reduction in charges.

45. TAXES

It is mutually agreed and understood that all payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance, or other expenses for the Bank's staff shall be the sole liability of the Bank.

CONTRACT EXECUTION

46. COUNTERPARTS

This Agreement is to be executed in duplicate originals and each duplicate shall be deemed an original copy of the Agreement signed by each party, for all purposes.

47. SIGNATURE BLOCKS

IN WITNESS WHEREOF the parties hereto, having read this Agreement in its entirety, including all attachments hereto, do agree in each and every particular.

APPROVED:

APPROVED:

STATE OF WASHINGTON

JAMES L. McINTIRE
State Treasurer

Date

Date

APPROVED AS TO FORM:

THE STATE OF WASHINGTON
OFFICE OF THE ATTORNEY
GENERAL

JOHNNA S. CRAIG
Assistant Attorney General

Date