

LINKED DEPOSIT PARTICIPATION AGREEMENT

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

This Agreement pertains to Participant’s continuing participation in all linked deposit loan programs offered through the Kansas State Treasurer’s Office, provided, however, that this Agreement may be superseded with respect to future loans as set forth in Section 14 below. The parties acknowledge the continuing nature of this Agreement even though from time to time Participant may not have any linked deposit loans outstanding.

1. **ELIGIBLE PARTICIPANTS:** In order to participate in a linked deposit 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 *et seq.*) 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. Credit Unions as defined by K.S.A. 17-2231 are eligible to participate in the Economic Recovery Loan Program and the Extraordinary Utility Costs Loan 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. The participant shall apply all of its usual lending standards to determine the credit worthiness of eligible agricultural borrowers. Program criteria for various linked deposit programs are summarized in 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 the 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.
 - a. *Agricultural Production Loan Deposit Program*- The deposit rate shall be 2.00% below the market rate with a minimum of 0.50%. If the market rate falls below 2.50%, the deposit rate shall be 0.50%. The loan rate to the borrower shall be no more than 4.00% greater than the deposit rate. Deposit 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.
 - b. *Housing Loan Deposit Program* – The deposit rate shall be 2.00% below the market rate with a minimum of 0.50%. If the market rate falls below 2.50%, the deposit rate shall be 0.50%. The loan rate to the borrower shall be no more than 4.00% greater than the deposit rate. Deposit 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.
 - c. *Economic Recovery Loan Program* – The deposit rate shall be 2.0% below the market rate with a minimum of 0.25%. If the market rate falls below 2.25%, the deposit rate shall be 0.25%. The loan rate to the borrower shall be no more than 3.00% greater than the deposit rate. Deposit rates are adjusted the first working day of each January based on the current market rate and are effective the first day of the month.
 - d. *Extraordinary Utility Costs Loan Program and other programs* – see applicable statutes and administrative regulations.
7. INTEREST PAYMENTS: Interest shall be remitted by ACH transfer initiated by the PMIB on the first banking day (for settlement in two banking days) 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 Clearinghouse 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. Participant acknowledges and agrees that, for any payment received by the Treasurer later than 2:00 p.m. (Central time), the Treasurer may process such payment and credit it to Participant effective as of the following business day. 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-linked deposit certificate of deposit.
11. **TERMINATION BY PARTICIPANT:** The Participant may terminate this Agreement with respect to an individual linked deposit loan 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.)* Notwithstanding such termination with respect to an individual loan, this Agreement survives with respect to Participant's obligation to pay interest and all other obligations which by their nature survive the repayment of principal; and further, this Agreement shall remain fully in effect with respect to any other of Participant's outstanding and subsequent linked deposit loans (subject to Section 14 below).
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") or the National Credit Union Association ("NCUA"), 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 the resolution authorizing the pledging of securities. ***(The 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 Custodial Agreement. The Custodial 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. **ASSIGNMENT.** This Linked Deposit Participation Agreement may not be assigned in whole or in part and is binding on the parties, their successor and assigns.
14. **MODIFICATION:** This Agreement may only be modified by written agreement of the parties. Notwithstanding the foregoing, Treasurer may require that Participant agree to a new participation agreement on the Treasurer's then-current form linked deposit participation agreement, which agreement shall supersede this Agreement with respect to linked deposit loans approved after such agreement. The parties acknowledge that the various Attachments included within this Agreement are provided for convenience as examples only and such information and forms may change from time to time. Prior to approving any linked deposit loan or making a corresponding deposit, the Treasurer or PMIB, as applicable, may require Participant to use then-current forms of the documents attached hereto, and to provide other information and instruments as may be reasonably required to approve and administer the loan and corresponding deposit.

15. **GOVERNING LAW.** 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. In the event of any conflict between this Agreement (including any Attachment) and applicable statutes, administrative regulations, or other law, the applicable statute, regulation, or other law controls. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, it is to be deemed reformed to the minimum extent necessary to be valid and enforceable while giving maximum possible effect to the intent of the parties hereto.
16. **REMEDIES.** The Treasurer and PMIB shall be each entitled to withdraw any and all funds, including accrued interest, without penalty from Participant if the Participant fails to comply with the terms of this Agreement, the Security Agreement, or the Custodial Agreement. Waiver of any breach of any provision in this Agreement 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 or an amendment of this Agreement. The rights and remedies of the Treasurer, the PMIB, and 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.

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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 Lending Institution Name:

By: _____ Printed Name: _____ Date: _____

Attachment A
Linked Deposit Participation Agreement

Program Criteria

Agricultural Production Loans

[\(K.S.A. 75-4268 et seq.; K.A.R. 3-3-1\)](#)

Loan Amount:	Only one loan may be made or outstanding to any one agricultural borrower at any given time. No loan shall exceed \$250,000.00.
Funds Available:	The total aggregate amount of agricultural production loan deposit loans under this program shall not exceed \$55,000,000.00.
Maximum Term:	No loan shall be amortized for a period of more than eight (8) years.
Linked Deposit Interest Rate:	The deposit rate shall be variable at 2.00% below the market rate with a minimum of 0.50%. This rate is recalculated the first business day of every January and July.
Loan Interest Rate:	The loan interest rate to the borrower shall be no more than 4.00% greater than the deposit rate and is recalculated the first business day of every January and July.
Borrower's Debt-to-Asset Ratio:	To be eligible to obtain an agricultural production loan, an eligible agricultural borrower must have a debt-to-asset ratio of 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 for which the proceeds of the loan are expended must be located within the State of Kansas. A limited liability agricultural company, limited agricultural partnership, or family farm corporation shall be considered a resident if it meets the requirements of K.S.A. 17-5903.

Program Criteria

Kansas Housing Loans (Houses and Adult Care Homes)

[\(K.S.A. 75-4276 et seq.; K.A.R. 3-3-2\)](#)

Loan Amount:	<p>No more than \$2,000,000 shall be outstanding at any one time to any developer borrower.</p> <p>Each loan for rehabilitating a residential structure shall be at least \$15,000.</p>
Funds Available:	<p>The total aggregate amount of housing loan deposit loans under this program shall not exceed \$60,000,000.</p> <p>Loans for <i>adult care homes</i> shall not exceed 40% of the aggregate amount available under this program, except such limitation shall not apply to loans for assisted living, residential health care or home plus facilities. Loans for assisted living, residential health care, home plus facilities and other adult care homes shall not exceed 90% of the aggregate amount available.</p>
Maximum Term:	<p>No loan <i>for a house</i> shall be amortized for a period of more than five (5) years and no loan for an adult care home shall be amortized for a period of more than twenty (20) years.</p>
Linked Deposit Interest Rate:	<p>The deposit rate shall be variable at 2.00% below the market rate with a minimum of 0.50%. This rate is recalculated the first business day of every January and July.</p>
Loan Interest Rate:	<p>The loan interest rate to the borrower shall be no more than 4.00% greater than the deposit rate and is recalculated the first business day of every January and July.</p>
Purpose:	<p>Loan proceeds <i>for houses</i> must be exclusively used for expenses involved in building or rehabilitating residential structures for a single-family dwelling or multi-family dwelling or four attached living units or less.</p> <p>Loan proceeds <i>for adult care homes</i> must be used for expenses involved in building or rehabilitating “adult care homes” as defined in K.S.A. 39-923.</p>
Residency and Appraised Value Requirements:	<p>Eligible developer/borrower must be a Kansas resident and the homes being built must be located within the State of Kansas.</p> <p><i>For houses:</i> All residential structures newly built or rehabilitated with proceeds from this loan will either be sold or appraised at or below the values set forth in K.A.R. 3-3-2 (as of January 2023: \$287,434 for a single-family residence, \$367,975 for a two-family residence, \$444,751 for a three-family residence, and \$552,757 for a four-family residence.) The value of the property shall include the value of the land upon which the improvement is located only if the cost of the land is included in the housing loan. For rehabilitation projects, the value can be based on either the county’s appraised value before the project plus the project’s cost, or an appraisal by an independent certified or licensed real estate appraiser estimating the home’s value upon completion of the project.</p>
Certification of Compliance:	<p>The State reserves the right to request written verification of the final appraised/sale price of all homes built under this program.</p>

Program Criteria

Economic Recovery Loans

(K.S.A. 75-4290 *et seq.*)

Loan Amount:	Only one loan may be made or outstanding to any one economic recovery borrower at any given time. No loan shall exceed \$250,000.00.
Funds Available:	The total aggregate amount of economic recovery loan deposit loans under this program shall not exceed \$60,000,000.00.
Maximum Term:	No loan shall be amortized for a period of more than ten (10) years.
Linked Deposit Interest Rate:	The deposit rate shall be variable at 2.00% below the market rate with a minimum of 0.25%. This rate is recalculated the first business day of every January.
Loan Interest Rate:	The loan rate to the borrower shall be no more than 3.00% greater than the deposit rate and is recalculated the first business day of every January.
Purpose:	Loan proceeds may only be used for operating expenses involved in operating the borrower's business in Kansas.
Residency Requirements:	Eligible economic recovery borrower must be an individual or entity operating a business primarily for commercial or agricultural purposes with not more than 200 full-time employees maintaining offices or operating facilities and transacting business in the State of Kansas.

Program Criteria

Extraordinary Utility Costs Loan

(K.S.A. 75-4283 *et seq.*)

This loan program is for the purpose of making loans to eligible borrowers for extraordinary natural gas costs incurred during the extreme weather event of February 2021 (K.S.A. 75-4285).

For program criteria and other information please contact the State Treasurer's Office.

Program Criteria

Remediation Loan

(K.S.A. 2-3703 *et seq.*)

This loan program for the purpose of providing loans to eligible persons to pay the costs of corrective action approved by the department of health and environment or taken in accordance with requests or orders issued by the Kansas Department of Health and Environment. Such loans shall be made only for projects approved by the Kansas Agricultural Remediation Board. (K.S.A. 2-3703).

For program criteria and other information please contact the State Treasurer's Office.

Attachment B
Linked Deposit Participation Agreement

Correspondent Bank Information for Fed Wires

Date: _____

For future investment transactions with the Pooled Money Investment Board (PMIB), we request that the following correspondent bank/eligible lending institution be utilized for transacting all Federal Reserve wire transfers.

CORRESPONDENT BANK: _____

ABA Number: _____

Account Number: _____

By: _____

(Authorized Bank Officer)

Lending Bank: _____

Address: _____

ABA Number: _____

Telephone Number: _____

Attachment C
Linked Deposit Participation Agreement

Correspondent Bank Information for ACH Transfer

Date: _____

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

CORRESPONDENT BANK: _____

ABA Number: _____

Account Number: _____

By: _____

(Authorized Bank Officer)

Lending Bank: _____

Address: _____

ABA Number: _____

Telephone Number: _____

Attachment D
Linked Deposit Participation Agreement

Contact Information

Financial Institution Name:

Home Office Address:

Information Provided By:

Name

Title

CONTACT(S) FOR 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 #: _____

CONTACT(S) FOR ACH INTEREST AND PRINCIPAL DEBITS (cont.)

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.

Attachment E
Linked Deposit Participation Agreement

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 _____ (financial institution, city). Said Security Agreement clarifies the secured position the State of Kansas holds in collateral pledged by this financial institution to secure deposits of the state agency, in excess of the insured limits of the Federal Deposit Insurance Corporation or the National Credit Union Administration as the case may be. 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 Security Agreement has been approved and is authorized by the board of directors of this financial institution; and that this Security Agreement is reflected in the minutes of said board of directors and in the records of this financial institution and shall remain continuously throughout its term an official record of this financial institution.”

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)

Attachment F
Linked Deposit Participation Agreement

**Security Agreement
For State of Kansas Certificates of Deposit**

This Security Agreement for State of Kansas Certificates of Deposit (the “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 _____, (an eligible lending institution, as defined in article 42 of chapter 75 of the Kansas Statutes Annotated and amendments thereto, 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”) or the National Credit Union Administration (“NCUA”) as the case may be; and

WHEREAS, PMIB requires that the amounts of its deposits in excess of the amounts insured by the FDIC or the NCUA be secured by pledge of collateral as required by K.S.A. 75-4218, and amendments thereto; 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:

- i. 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;
 - ii. 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.
 - i. The letter of credit (LOC) must be in the format acceptable to the Office of the State Treasurer.
 - ii. The Kansas State Treasurer must be designated as the irrevocable an unconditional beneficiary of the letter of credit.
 - iii. 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 the cancellation or the non-renewal of a letter of credit.
 - iv. 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.
- 2. PMIB reserves the right to revise the list of permitted securities at any time.
- 3. All of the above listed securities shall be current as to interest according to the terms thereof.
- 4. 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.

5. If the PMIB removes a security that has been pledged by the Depository Bank 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.
6. 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.
7. 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.
8. The parties agree that the State Treasurer is the person responsible for approving exchanges of pledged securities.
9. 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 or NCUA. 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 mortgage-backed securities (MBS's).
 - b. 105% of pledge requirement for all other acceptable collateral.
10. 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 money law (K.S.A. 75-4201 *et seq.*) or any rules and regulations adopted by the State Treasurer or the PMIB.
11. 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 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.

12. 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”), or the National Credit Union Association (“NCUA”) as the case may be, 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 or NCUA;
 - 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 Security Agreement; that this Security Agreement has been approved and authorized by the board of directors of Depository Bank; and that this Security 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.
13. 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.
14. 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 Security 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.
15. 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.
16. 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.
17. 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 Security 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:
 - i. capital, surplus and undivided profits as shown on the balance sheet portion of the quarterly call report fall below the minimum regulatory guidelines;
 - ii. 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;
 - iii. the capital accounts of the Depository Bank deteriorate to levels indicated in a or b above, for any reason between quarterly call reports; or
 - iv. 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.
18. 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.
19. The State Treasurer shall be responsible to Depository Bank for the safe return of any securities deposited in the state treasury pursuant to this Security Agreement.
 20. 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.
 21. 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 9 and 13 above; or
 - b. Depository Bank fails to abide by paragraph 12 and its subparts above.
 22. This Security Agreement may not be assigned in whole or in part and is binding on the parties, their successor and assigns.
 23. If any provision of this Security Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Security Agreement shall not be affected, and each provision of this Security Agreement shall be enforced to the fullest extent permitted by law.
 24. Depository Bank and PMIB agree and understand that the State Treasurer is a third-party beneficiary to this Security Agreement.
 25. This Security Agreement may be modified by written agreement of the parties and with notice of such modification to the State Treasurer.
 26. This Security 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 Security Agreement and any amendments thereto are likewise incorporated herein without further action or acknowledgment by the parties.
 27. Waiver of any breach of any provision in this Security Agreement 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.
 28. The rights and remedies of the State Treasurer, the PMIB or the State of Kansas provided for in this Security Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.

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

Participating Financial Institution

Financial Institution: _____

Address: _____

City, State, Zip _____

Printed Name: _____ Title: _____

Signature _____ Date: _____

Pooled Money Investment Board (PMIB)

Signature: _____ Date: _____

Director of Investments

Attachment G
Linked Deposit Participation Agreement

Custodial Agreement

This Custodial Agreement dated _____, 20_____, is made and entered into by and among the Pooled Money Investment Board of the State of Kansas (“PMIB”); _____ (an eligible lending institution, as defined in article 42 of chapter 75 of the Kansas Statutes Annotated and amendments thereto, “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 Custodial 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 Custodial 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 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, and 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 Custodial Agreement is authorized and shall comply fully with all terms and conditions of this Custodial 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 affect 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 Custodial 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 Custodial 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, attorney's fees or other expense in the defense of any claim by Custodian.
- 10. Entire Agreement, Modification or Amendment.** This Custodial 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 Custodial Agreement shall be binding unless in writing and executed by the parties.
- 11. Termination.** This Custodial 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 Custodial Agreement upon ten (10) days' written notice to all other parties hereto. Upon any termination of this Custodial 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 Custodial 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 Custodial Agreement.

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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 Custodial 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 Custodial 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 Custodial Agreement:

Name: _____
Title: _____
Bank: _____
Address: _____
Address: _____
Telephone: _____

16. This Custodial Agreement shall be governed by the laws of the State of Kansas.

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

In witness whereof, the parties have executed this Custodial Agreement as of the day and year listed below.

Custodian

Printed Name: _____ Title: _____

Signature _____ Date: _____

Depository Bank

Printed Name: _____ Title: _____

Signature _____ Date: _____

Pooled Money Investment Board (PMIB)

Printed Name: _____ Title: Director of Investments

Signature: _____ Date: _____