

## CUSTODY AGREEMENT

This Agreement is between the State Treasurer of Ohio (“**Treasurer**”), 30 East Broad Street, 9<sup>th</sup> Floor, Columbus, Ohio 43215-3461 and \_\_\_\_\_ (“**Financial Institution**”) \_\_\_\_\_ (ADDRESS), who will collectively be referred to as “Parties”. The Agreement is authorized by the provisions of Ohio Revised Code (“**ORC**”) § 113.051. The term of this Agreement is July 2, 2012 through July 6, 2014 and may be extended by written agreement of the Parties. This Agreement sets forth the custody services to be provided by the Custodian for the accounts of the Beneficial Owner(s) listed in Exhibit 1.

### 1. GENERAL TERMS AND CONDITIONS; DEFINITIONS

#### 1.1 Intention of the Parties

(a) This Agreement sets out the terms governing custodial, settlement and certain other associated services offered by Custodian to Treasurer. Custodian shall be responsible for the performance of only those Securities custody duties that are set forth in this Agreement. Treasurer acknowledges that Custodian is not providing any legal, tax or investment advice in connection with the services hereunder.

(b) Pursuant to Ohio law, Treasurer is custodian for the Financial Assets and Cash of each Beneficial Owner. Treasurer hereby appoints Custodian to serve as its agent for the safekeeping of Financial Assets and Cash of Beneficial Owners and for the collection of any principal, income, distributions or claims due Beneficial Owners. Custodian hereby agrees to accept such appointment. Custodian understands that the duties pursuant to this appointment are not discretionary in nature.

#### 1.2 Definitions

(a) As used herein, the following terms each have the meaning hereinafter stated.

“**ACH**” means Automated Clearing House.

“**Active Proxy Voting Service**” has the meaning set forth in Section 2.8.

“**Accounts**” has the meaning set forth in Section 1.3 of this Agreement.

“**Affiliate**” has the meaning set forth in ORC § 1109.53.

“**Affiliated Subcustodian**” means a Subcustodian that is an Affiliate.

“**Agreement**” means this Custody Agreement and all properly executed amendments, exhibits or any other writing.

**“Applicable Law”** means any statute, whether national, state or local, applicable in the United States or any other country, the rules of the treaty establishing the European Community, any other law, rule, regulation or interpretation of any governmental entity, any applicable common law, and any decree, injunction, judgment, order, ruling, or writ of any governmental entity.

**“Authorized Person”** means Treasurer or any person who has been designated by written notice from Treasurer or Beneficial Owner (or by any agent designated by Treasurer, including, without limitation, an investment manager of Beneficial Owner) to act on behalf of Treasurer or Beneficial Owner hereunder. Authorized Persons may have limited authority to act. Such persons shall continue to be Authorized Persons until such time as Custodian receives Instructions from Treasurer (or its agent) that any such person is no longer an Authorized Person.

**“Authorized Representative”** has the meaning set forth in Section 1.4.

**“Beneficial Owner”** means any entity established under the laws of the State of Ohio for which Treasurer serves as custodian and is listed in Exhibit 1, as may be amended from time to time by agreement of Custodian and Treasurer.

**“Cash”** means all cash or cash equivalents in any currency received and held on the terms of this Agreement.

**“Cash Account”** has the meaning set forth in Section 1.3(a)(ii).

**“Corporate Action”** means any subscription right, bonus issue, stock repurchase plan, redemption, exchange, tender offer, or similar matter with respect to a Financial Asset in the Accounts that requires discretionary action by the holder, but does not include proxy solicitations.

**“Custodian”** means Financial Institution, including all its Affiliates.

**“Custodian Indemnities”** means Custodian, its Subcustodians and their respective nominees, directors, officers, employees and agents.

**“Custody Account”** means each custody account on Custodian’s records to which Financial Assets are, or may be, credited pursuant hereto.

**“Eligible Securities Depository”** has the same meaning set forth in Section 2.1(c).

**“Entitlement Holder”** means the person named on the records of a Securities Intermediary as the person having a Securities Entitlement against the Securities Intermediary.

**“Financial Asset”** means a Security and refers, as the context requires, either to the asset itself or to the means by which a person’s claim to it is evidenced, including a

Security, a security certificate or a Securities Entitlement. The term “Financial Asset” does not include Cash.

“**Indebtedness**” has the same meaning set forth in Section 4.2.

“**Instruction**” means written instructions that: (i) contain all necessary information required by Custodian to enable Custodian to carry out the Instructions; (ii) are received by Custodian in writing or via Custodian’s electronic instruction system, SWIFT, telephone, facsimile or other methods as are for the time being agreed to by Treasurer (or an Authorized Person) and Custodian; and (iii) Custodian has made good faith efforts to determine if Instructions have been given by an Authorized Person or are transmitted with proper testing or authentication pursuant to terms and conditions which Custodian may specify.

“**Liabilities**” means any liabilities, losses, claims, costs, damages, penalties, fines, obligations, or expenses of any kind whatsoever (which may include reasonable attorneys’, accountants’, consultants’ or experts’ fees and disbursements).

“**Notifications**” has the meaning set forth in Section 2.8(a).

“**ORC**” has the meaning set forth in the preamble.

“**Request for Proposal**” means Treasurer’s 2012 Request for Proposal for Custody Services.

“**SEC**” means the Securities and Exchange Commission.

“**Securities**” means stocks, bonds, rights, warrants and other negotiable and non-negotiable instruments, whether issued in certificated or uncertificated form that are commonly traded or dealt on securities exchanges or financial markets. The term “Securities” also means other obligations of an issuer, or shares, participations and interests in an issuer recognized in the country in which it is issued or dealt in as a medium for investment and any other property as may be acceptable to Custodian for the Accounts.

“**Securities Depository**” has the meaning set forth in Section 2.1(c) of this Agreement.

“**Securities Entitlement**” means the rights and property interest of an Entitlement Holder with respect to a Financial Asset, as set forth in the Uniform Commercial Code, as the same may be amended from time to time.

“**Securities Intermediary**” means Custodian, a Subcustodian, a Securities Depository and any other financial institution that in the ordinary course of business maintains Securities custody accounts for others and acts in that capacity.

**“Statement of Account”** has the meaning set forth in Section 2.9(a).

**“Subcustodian”** has the meaning set forth in Section 5.1 and includes any Affiliate of a Subcustodian.

**“Treasurer”** has the same meaning set forth in the preamble.

**“Uniform Commercial Code”** means the Uniform Commercial Code, ORC Chapter 1308.

**“U.S.”** means the United States of America.

**“USA PATRIOT Act”** means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001.

(b) All terms in the singular shall have the same meaning in the plural unless the context otherwise provides and vice versa.

### **1.3 Accounts**

(a) Treasurer authorizes Custodian to establish and maintain on its books, pursuant to the terms of this Agreement, the following accounts:

- (i) Any account (**“Custody Account”**) in the name of Treasurer for Financial Assets, which may be received by or on behalf of Custodian or its Subcustodian for the account of Treasurer, including as an Entitlement Holder;
- (ii) Any account (**“Cash Account”**) and, collectively with the Custody Account, (**“Accounts”**) in the name of Treasurer for any and all cash received by or on behalf of Custodian for the account of Treasurer.

The Custody Account will be a custody account for the receipt, safekeeping and maintenance of Securities, and the Cash Account will be a current account for Cash. Custodian is responsible for the recording and safekeeping of all Cash and Financial Assets deposited by Treasurer. Custodian further agrees to pay over or transfer any Financial Asset or Cash held by Custodian for Treasurer on the Instruction of an Authorized Person.

(b) At the request of Treasurer, additional Accounts may be opened in the future, which shall be subject to the terms of this Agreement.

Except as otherwise provided in Instructions acceptable to Custodian, all Cash held in the Cash Account will be deposited during the period it is credited to the Accounts in one (1) or more deposit accounts at Custodian.

#### **1.4 Authorized Representatives**

Custodian shall assign specific individuals indentified on Exhibit 5 (“**Authorized Representatives**”) to assume responsibility for compliance with the terms and conditions of this Agreement. Each Authorized Representative shall be knowledgeable of this Agreement, have the ability to adapt to the particular needs determined by Treasurer, have the authority to immediately address problems, and provide responses in a timely manner. Custodian shall also assign specific Authorized Representatives responsible for daily problem resolution, as needed. Custodian shall provide Exhibit 5 upon the execution of this Agreement and may amend Exhibit 5 from time to time. All personnel named in Exhibit 5 by Treasurer and Custodian shall be considered “Authorized Representatives.”

Custodian shall also participate in a chain of escalation for relationship and/or custody operational issues. The chain of escalation shall consist of Bank personnel set forth in Exhibit 6, which is hereby incorporated and made a part of this Agreement. The personnel therein shall:

- (a) Be knowledgeable about this Agreement;
- (b) Have the ability to adapt to the particular needs determined by Treasurer;
- (c) Have the authority to respond, address, and remedy, within no more than three (3) business days of contact by Treasurer’s staff or third parties involved in all matters, problems, or questions required to ensure functional and effective Securities custody duties performed by Custodian to Treasurer as set forth in this Agreement;
- (d) Respond via e-mail, fax, or telephone to all matters, problems, or questions presented by Treasurer’s staff. Treasurer’s staff contacts are set forth in Exhibit 6 to this Agreement.

#### **1.5 Collateral**

Custodian shall pledge collateral to the benefit of Treasurer for the purpose of securing any account balance in the Cash Account. All collateral shall meet the requirements of ORC § 135.18 (B). Custodian shall enter into a valid Collateral Agreement with Treasurer pursuant to any rules, regulations, federal or state laws, as may be required by Treasurer to secure Treasurer’s interest in said collateral.

Custodian shall follow the collateral guidelines established by Treasurer for securing public deposits as provided for in attached Exhibit 2.

#### **1.6 Information Disclosure**

All information made available to Treasurer shall also be made available at the same time and in the same format to the applicable Beneficial Owner.

## **1.7 Network Access**

Custodian controls access to its network through the utilization of security measures which restrict access. Treasurer has no ability to modify security methods and is in total reliance upon Custodian for the protection of Treasurer's internal system against access through the use of Custodian's network. Custodian represents that its security measures are designed, consistent with best industry practices, to: (i) ensure that Treasurer's internal system cannot be accessed without Treasurer's express authorization; (ii) monitor Custodian's internal system against unsecure access and abuse; (iii) enable Custodian to immediately terminate any unauthorized access; and (iv) enable Custodian to identify the entity making unauthorized access. Custodian shall make no changes to its security measures that would increase the risk of unauthorized access.

## **1.8 Internal Controls**

(a) Custodian represents that it has, and shall maintain, a strong internal control system, which includes: (i) policies and procedures, adopted to ensure continuous safety of Cash and Financial Assets; (ii) reliability and accuracy of all data on the system; (iii) operational efficiency; and (iv) adherence to prescribed managerial policies.

(b) Custodian shall annually provide to Treasurer's Trust Department and each Beneficial Owner an independent report acceptable to Treasurer's Trust Department, i.e., SSAE-16, assuring enforcement of policies and procedures. Custodian shall also provide annually (within thirty (30) days after publication) to the Trust Department a copy of its Annual Report and SSAE-16 for any Subcustodian that held, holds, or may hold Cash or Financial Assets of Treasurer or a Beneficial Owner.

(c) Custodian agrees that any representative of Treasurer or Beneficial Owner may visit Custodian with a twenty-four (24) hour notice to observe and inspect the operation of Custodian's services provided under this Agreement.

(d) Custodian agrees to make space available for and cooperate with auditors when audits are made by Treasurer, Beneficial Owner or their agents.

(e) Custodian shall furnish to Treasurer's Internal Audit Department, and shall make available to Beneficial Owner, the current retention schedules for all applicable records, including, but not limited to, deposit records, records of incoming and outgoing wire transfers, records of corrections and adjustments to accounts, and account activity statements. Current retention schedules shall also be provided to Beneficial Owner. Custodian shall notify Treasurer and Beneficial Owner of any changes to these schedules. Custodian shall provide detailed documentation outlining the procedures of how the records shall be secured.

(f) Custodian certifies it maintains a business continuity plan which ensures that the flow of services shall continue without interruption.

(g) Custodian shall, in the event of a disaster, assist Treasurer and Beneficial Owner's business continuity efforts to ensure continued operations without interruption.

## **1.9 Information Services**

(a) Custodian shall provide Treasurer and any Beneficial Owner with Internet inquiry access to Custodian's custody/safekeeping system for purposes of reviewing accounts. Custodian shall promptly assist Treasurer in resolving all reconciliation differences.

(b) For all accounts, Custodian shall make available by 10:00 a.m. Eastern Time two (2) files in a format as required by Treasurer. One file shall contain detailed information related to holdings as of the close of the previous business day; the other file shall contain detailed information related to transactions from the previous business day. Formats for these files, as defined in the RFP, may be amended by Treasurer from time to time. Custodian agrees to maintain five (5) prior business days of the files in the event that Treasurer requires any files be resent. Custodian shall have a reasonable period of time, as determined by the Parties, to make any of Treasurer's modifications to the file format or transmission method after the date of the Agreement.

## **1.10 Custodian Fees**

(a) Pursuant to ORC, Treasurer may contract for custody services for the benefit of a Beneficial Owner. Custodian acknowledges that any fees incurred under this Agreement with respect to a Beneficial Owner, shall be billed to Beneficial Owner at the address listed on Exhibit 1, with a copy sent to Treasurer at the address listed in Section 9.1. Custodian shall invoice Beneficial Owner within sixty (60) days of services being rendered. Beneficial Owner shall be accorded thirty (30) business days for review of the custody fee invoice prior to instructing Treasurer to release payment to Custodian.

(b) Custodian shall be compensated for services according to the schedule of fees attached hereto as Exhibit 3. Custodian shall not modify or change the fee schedule during the term of this Agreement unless agreed to in writing by Custodian and Treasurer. No payment for new services shall be made until an amendment has been signed by the Parties.

(c) Custodian shall be compensated for any Cash Account overdraft at a rate not to exceed the Fed funds rate plus 100 basis points.

## **1.11 Trust/Custody Services**

Additional custody service requirements are provided in the Custody Operating Procedures attached as Exhibit 4.

## **1.12 Additional Services**

Custodian shall provide any additional services to Treasurer or Beneficial Owner as mutually agreed upon by Treasurer, Beneficial Owner if applicable, and Custodian.

## 2. CUSTODIAN REQUIREMENTS

### 2.1 Acceptance of Securities

(a) Custodian shall receive or deliver Securities and shall credit or debit the Cash Account in accordance with properly authorized Instructions, as described in Exhibit 5. Custodian shall also receive into custody all: (i) interest and dividends, including securities lending income in lieu of interest or dividends; and (ii) stock dividends, rights and similar Securities issues, in connection with Securities held by Custodian under this Agreement. Custodian shall also, in a timely manner, surrender all items maturing or called for redemption and shall take other action(s) as Treasurer may direct in Instructions. Any Securities now held by Custodian for Treasurer under a prior Agreement shall be deemed to have been deposited hereunder. Accounting for all Security trades shall be on a contractual basis unless otherwise specified by Treasurer.

(b) Custodian shall segregate and identify on its books and records all Securities delivered by or for the Account of Treasurer or Beneficial Owner.

(c) Treasurer authorizes Custodian, for any Securities held hereunder, to use the services of any United States central securities depository Custodian deems appropriate and where it may hold any of its own Securities, including, but not limited to, the Depository Trust Company (“DTC”) and the Federal Reserve Custodian Book Entry System. The term “central securities depository” shall also include any depository service which acts as a Custodian of Securities in connection with a system for the central handling of Securities whereby all Securities of a particular class or series of any issuer deposited within the system are treated as fungible and may be transferred by bookkeeping entry without physical delivery of Securities. Placement by Custodian of Securities into a central securities depository or safekeeping facility shall neither augment nor diminish Custodian’s duties or obligations under any other paragraph of this Agreement, provided that Custodian shall have no liability for the acts or failure to act of any central securities depository. Nothing in this paragraph shall be interpreted to allow for the holding of any physical Security by any party other than a Subcustodian as defined in this Agreement.

(d) Custodian agrees, to the extent permitted by law that all Securities held for Treasurer with a central securities depository, whether in physical form or book-entry, shall be held in a segregated account at that securities depository and shall not be held in an omnibus account with any central securities depository. Any segregated account shall carry the name of Custodian’s nominee and Beneficial Owner.

(e) Custodian is authorized to register the Securities in its nominee name unless alternative registration instructions are furnished by Treasurer.

(f) The Securities held by Custodian shall not be subject to any right, charge, security, interest, lien or claim of any kind in favor of Custodian. Beneficial ownership of the Securities will be freely transferable without the payment of money or value other than for safe custody or administration. Custodian shall ensure that any agreement with

any Subcustodian prohibits Subcustodian and its subcustodians from subjecting Securities to any right, charge, security, interest, lien or claim in favor of Subcustodian or its subcustodians.

(g) Custodian shall exercise due care in receiving Securities, but shall not warrant or guarantee the form, authenticity, value or validity of any Security received by Custodian. If Custodian becomes aware of any defect in title or forgery of any Security, Custodian shall promptly notify Treasurer.

(h) Custodian shall, subject to restrictions under applicable law, seek to obtain from any Subcustodian records of such entity relating to any Account as may be required by Treasurer or its agents. Upon a reasonable request from Treasurer, Custodian shall use its best efforts to furnish to Treasurer reports (or portions thereof) of the external auditors of each Subcustodian as related directly to such entity's system of internal accounting controls applicable to its duties under its Agreement with Custodian.

(i) Custodian shall, upon request, supply to Treasurer, from time to time, written operational procedures, which shall govern the day-to-day operations of the Accounts.

(j) Custodian is authorized on Treasurer's behalf to accept and open all mail or communications received by Custodian or directed in its care.

(k) Custodian shall promptly notify Treasurer, Beneficial Owner or any authorized investment manager as described in Section 2.7(a), of any calls for redemption, mergers, tenders, consolidations, reorganizations, recapitalizations or similar proceedings, affecting Securities held in the Accounts.

## **2.2 Settlement of Trades**

When Custodian receives an Instruction directing settlement of a transaction in Financial Assets, Custodian will use reasonable care to effect settlement as instructed. Settlement of transactions in Financial Assets will be conducted in accordance with prevailing standards of the market in which the transaction occurs. In the case of the failure of Treasurer's counterparty (or other appropriate party) to deliver the expected consideration as agreed, Custodian will contact the counterparty to seek settlement, but Custodian will not be obligated to institute legal proceedings, file a proof of claim in any insolvency proceeding or take any similar action.

## **2.3 Contractual Settlement Date Accounting**

(a) Custodian will effect book entries on a "contractual settlement date accounting" basis as described below:

- (i) **Sales:** On the settlement date for a sale, Custodian will credit the Cash Account with the proceeds of the sale and transfer the relevant Financial Assets to an account at Custodian pending settlement of the trade, where not already delivered;

- (ii) **Purchases:** On the settlement date for the purchase (or earlier, if market practice requires delivery of the purchase price before the settlement date), Custodian will debit the Cash Account for the settlement amount and credit a separate account at Custodian. Custodian then will post the Accounts as awaiting receipt of the expected Financial Assets. Treasurer will not be entitled to the Financial Assets that are awaiting receipt until Custodian or a Subcustodian actually receives them.

(b) Custodian may, in its discretion, upon oral or written notification to Treasurer and Beneficial Owner, reverse any debit or credit made pursuant to Section 2.3(a) prior to a transaction's actual settlement, and Custodian acknowledges that Beneficial Owner will be responsible for any costs or liabilities resulting from reversal. Treasurer acknowledges that the procedures described in this sub-section are of an administrative nature, and Custodian does not undertake to make loans and/or Financial Assets available to either of Treasurer or Beneficial Owner.

#### **2.4 Actual Settlement Date Accounting**

With respect to any sale or purchase transaction that is not posted to the Account on the contractual settlement date as referred to in Section 2.3, Custodian will post the transaction on the date on which the Cash or Financial Assets received as consideration for the transaction is actually received by Custodian.

#### **2.5 Income Collection**

(a) Custodian will credit the Cash Account with income and redemption proceeds on Financial Assets in accordance with the times notified by Custodian from time to time, on or after the anticipated payment date, net of any taxes, if applicable, that are withheld by Custodian or any third party. Custodian may reverse credits upon written notification to Treasurer and Beneficial Owner that Custodian believes that the corresponding payment will not be received by Custodian within a reasonable period or the corresponding payment differed from the amount credited to the account.

(b) Custodian will make good faith efforts to contact appropriate parties to collect unpaid interest, dividends or redemption proceeds, but Custodian will not be obliged to file any formal notice of default, institute legal proceedings, file a proof of claim in any insolvency proceeding or take any similar action.

#### **2.6 Certain Ministerial Acts**

(a) Until Custodian receives Instructions to the contrary, Custodian will:

- (i) Present all Financial Assets for which Custodian has received notice of a call for redemption or that have otherwise matured, all income and interest coupons and other income items that call for payment upon presentation;

- (ii) Execute in the name of Treasurer such certificates as may be required to obtain payment in respect of Financial Assets;
- (iii) Exchange interim or temporary documents of title held in the Accounts for definitive documents of title;
- (iv) Provide information concerning the Accounts to subcustodians, Securities Depositories, counterparties, issuers of Financial Assets, governmental entities, securities exchanges, self-regulatory entities and similar entities, to the extent required by Applicable Law, as may be required in the ordinary course by market practice or otherwise in order to provide the services contemplated by this Agreement.

## **2.7 Corporate Actions**

(a) Custodian will notify Treasurer and Beneficial Owner of any Corporate Action of which information is either (i) received by it to the extent that Custodian's central corporate actions department has actual knowledge of the Corporate Action in time to notify its customers in a timely manner, or (ii) published via a formal notice in publications and reporting services routinely used by Custodian for this purpose in time for Custodian to notify its customers in a timely manner; and (iii) within twenty-four (24) hours after the deadline for filing a Corporate Action response on behalf of Beneficial Owner, make information available to both Treasurer and Beneficial Owner regarding Corporate Action elections made by Custodian on behalf of Beneficial Owner. Custodian also will use its reasonable efforts to notify Customer of any class action litigation, including class action litigation relating to Financial Assets held during any period in which Custodian or any entity which merged into Custodian served as custodian for Financial Assets, for which information is actually received by Custodian's central corporate actions department but shall not be liable for any Liabilities arising out of Custodian's failure to identify Customer's interest in any class action litigation. Custodian does not commit, however, to provide information concerning Corporate Actions or class action litigation relating to Financial Assets being held at Treasurer's request in a name not subject to the control of Custodian or its Subcustodian.

(b) If an Authorized Person fails to provide Custodian with timely Instructions with respect to any Corporate Action or class action, Custodian will not take any action in relation to that Corporate Action or class action, except as otherwise agreed in writing by Custodian and Treasurer or as may be set forth by Custodian as a default action in the notification it provides under section 2.7(a) with respect to that Corporate Action or class action.

(c) Custodian may sell or otherwise dispose of fractional interests in Financial Assets arising out of a Corporate Action or class action litigation and, to the extent necessary to protect Treasurer's interest in that Corporate Action or class action, credit the Cash Account with the proceeds of the sale or disposition. If some, but not all, of an outstanding class of Financial Asset is called for redemption, Custodian may allot the

amount redeemed among the respective beneficial holders of such class of Financial Asset on a pro rata basis to the extent reasonably practicable.

(d) Notices of Corporate Actions and class actions dispatched to Treasurer may have been obtained from sources which Custodian does not control and may have been summarized. Although Custodian believes such sources to be reliable, Custodian has no duty to verify the information contained in such notices nor the faithfulness of any summary. Therefore, Custodian does not guarantee its accuracy, completeness or timeliness and shall not be liable to Treasurer for any loss that may result from relying on such notice, unless Custodian's central corporate actions department has actual knowledge that such notice is materially incorrect.

## **2.8 Proxies**

(a) Subject to and upon the terms of this sub-section, Custodian will provide Treasurer and Beneficial Owner with information which it receives on matters to be voted upon at meetings of holders of Financial Assets ("**Notifications**"), and Custodian will act in accordance with Beneficial Owner's Instructions in relation to Notifications ("**Active Proxy Voting Service**"). If information is received by Custodian at its proxy voting department too late to permit timely voting by Beneficial Owner, Custodian's only obligation will be to provide, so far as reasonably practicable, a Notification (or summary information concerning a Notification) on an "information only" basis.

(b) Custodian will act upon Instructions to vote on matters referred to in a Notification, provided Instructions are received by Custodian at its proxy voting department by the deadline referred to in the relevant Notification. If Instructions are not received in a timely manner, Custodian will not be obligated to provide further notice to Treasurer and Beneficial Owner and shall not be obliged to vote. It is Beneficial Owner's obligation to monitor the agreed means of providing Notifications to determine if new Notifications have been received.

(c) Treasurer acknowledges that Notifications and other information furnished pursuant to the Active Proxy Voting Service are proprietary to Custodian, and Custodian owns all intellectual property rights, including copyrights and patents, embodied therein. Accordingly, Treasurer will not make any use of information except in connection with the Active Proxy Voting Service.

(d) Treasurer acknowledges that the provision of proxy voting services (whether active or passive) may be precluded or restricted under a variety of circumstances. These circumstances include, but are not limited to:

- (i) The Financial Assets being on loan or out for registration;
- (ii) The pendency of conversion or another Corporate Action;
- (iii) Financial Assets being held at Treasurer's request in a name not subject to the control of Custodian or its Subcustodian;

- (iv) In a margin or collateral account at Custodian or another Custodian or broker, or otherwise in a manner which affects voting;
- (v) Custodian may be required to vote all shares held for a particular issue for all of Custodian's customers on a net basis (i.e., a net yes or no vote based on voting instructions received from all its customers). Where this is the case, Custodian will inform Treasurer by means of the Notification.

(e) In performing Active Voting Proxy Services, Custodian will be acting solely as the agent of Treasurer and Beneficial Owner, and will not exercise any discretion with regard to proxy services or vote any proxy, except when directed by an Authorized Person.

## **2.9 Information Available Online and Statements**

(a) Custodian will send, or make available online, to Treasurer and Beneficial Owner, at times mutually agreed upon, a formal statement of account in Custodian's standard format for each Account maintained by Treasurer with Custodian, identifying the Financial Assets and Cash held in each Account, each statement a "**Statement of Account**". Additionally, Custodian will send to Treasurer, or make available online, an advice or notification of any transfers of Cash or Financial Assets with respect to each Account. Custodian will not be liable with respect to any matters set forth in those portions of any Statement of Account or any advice, or reasonably implied therefrom, to which Treasurer or Beneficial Owner has not given Custodian a written exception or objection within one (1) year of receipt of the Statement of Account, provided such matter is not the result of Custodian's willful misconduct or bad faith. References in this Agreement to Statements of Account include a Statement of Account in electronic form.

(b) Prices and other information obtained from third parties which may be contained in any Statement of Account or other statement sent to Treasurer have been obtained from sources Custodian believes to be reliable. Custodian does not, however, make any representation as to the accuracy of such information or that the prices specified necessarily reflect the proceeds that would be received on a disposal of the relevant Financial Assets.

(c) Treasurer acknowledges that, except for Statements of Account or as otherwise expressly agreed by Custodian, records and reports available to it online may not be accurate due to mis-postings, delays in updating Account records, and other causes.

(d) Custodian affirms that it will comply with 31 United States Code section 5314 for the Report of Foreign Bank and Financial Assets.

### 3. INSTRUCTIONS

#### 3.1 Acting on Instructions; Unclear Instructions

- (a) Treasurer authorizes Custodian to accept and act upon any Instructions.
- (b) Unless otherwise expressly provided, all Instructions shall continue in full force and effect until canceled or superseded.
- (c) Custodian shall seek clarification or confirmation of unclear Instructions or Instructions with respect to which it has actual knowledge are conflicting from an Authorized Person and shall decline to act upon an Instruction if it does not receive clarification or confirmation satisfactory to it; provided, however, that Custodian shall have no responsibility with respect to Instructions that are submitted via “straight through processing”. Custodian shall not be liable for any loss arising from any delay while it seeks clarification or confirmation.
- (d) In executing or paying a payment order, Custodian may rely upon the identifying number (e.g., Fedwire routing number or account) of any party as instructed in the payment order. Treasurer, on behalf of Beneficial Owner, assumes full responsibility for any inconsistency between the name and identifying number of any party in payment orders issued to Custodian in Treasurer’s name.

#### 3.2 Confirmation of Oral Instructions/Security Devices

Any Instructions delivered to Custodian by telephone will, within two (2) hours thereafter, be confirmed in writing by an Authorized Person. Each confirmation is to be clearly marked “Confirmation.” Custodian will not be liable for having followed Instructions, notwithstanding the failure of an Authorized Person to send confirmation in writing or the failure of confirmation to conform to the telephone Instructions received. Notwithstanding the foregoing, Custodian shall attempt to resolve any conflict between the oral Instruction and written Confirmation if practicable to do so. Either Party may record any of their telephonic communications. Treasurer and Beneficial Owner shall comply with any security procedures reasonably required by Custodian and mutually agreed to by all Parties from time to time with respect to verification of Instructions. Treasurer and Beneficial Owner shall be responsible for safeguarding any test keys, identification codes or other security devices that Custodian shall make available to Treasurer or any Authorized Person.

#### 3.3 Instructions: Contrary to Law/Market Practice

Custodian need not act upon Instructions which it reasonably believes to be contrary to law, regulation or market practice, but Custodian shall be under no duty to investigate whether any Instructions comply with Applicable Law or market practice. However, Custodian shall promptly notify Treasurer of any Instructions it believes to be contrary to law, regulation or market practice.

### **3.4 Cut-off Times**

Custodian has established cut-off times for receipt of some categories of Instruction, which shall be made available to Treasurer, Beneficial Owner or other third parties, as appropriate. If Custodian receives an Instruction after its established cut-off time, Custodian shall attempt to act upon the Instruction on the day requested on a commercially reasonable basis or otherwise as soon as practicable on the next business day.

## **4. FEES, EXPENSES AND OTHER AMOUNTS OWING TO CUSTODIAN**

### **4.1 Overdrafts**

If a debit to any currency in the Cash Account results (or will result) in a debit balance, then Custodian may, in its discretion: (i) advance an amount equal to the overdraft; (ii) refuse to settle in whole or in part the transaction causing such debit balance; or (iii) if any transaction is posted to the Accounts, reverse any posting. If Custodian elects to make an advance, the advance shall be deemed a loan to Beneficial Owner, payable on demand, bearing interest at the Federal Funds rate plus 100 basis points, from the date of advance to the date of payment (both after as well as before judgment) and otherwise on the terms on which Custodian makes similar overdrafts available from time to time. No prior action or course of dealing on Custodian's part with respect to the settlement of transactions on Treasurer's behalf shall be asserted by Treasurer or Beneficial Owner against Custodian for Custodian's refusal to make advances to the Cash Account or to settle any transaction for which Treasurer does not have sufficient available funds in the applicable currency in the Account.

### **4.2 Custodian's Right Over Securities; Set-off**

(a) Treasurer understands that Custodian may from time to time, at its sole discretion, advance funds on behalf of Treasurer to facilitate the settlement of Securities transactions pursuant to Section 4.1 or the administration of the Accounts ("Indebtedness"). Whenever an advance is made, Custodian shall have a security interest in the Securities and Cash in the Accounts to the extent and for the duration of such advance, until repaid, and all the rights of a secured party under the Uniform Commercial Code.

(b) Without prejudice to Custodian's rights under Applicable Law, Custodian may set off against any Indebtedness any amount in any currency standing to the credit of any of Beneficial Owner's accounts (whether deposit or otherwise) with any Custodian branch or office or with any Affiliate of Custodian. For this purpose, Custodian shall be entitled to accelerate the maturity of any fixed term deposits and to effect currency conversions as may be necessary at its current rates for the sale and purchase of the relevant currencies.

## **5. SUB-CUSTODY AGREEMENTS**

### **5.1 Appointment of Subcustodian**

During the term of this Agreement, Treasurer may elect to appoint a Subcustodian to hold Securities which are issued by foreign governments or foreign companies, for which principal trading markets are located outside the U.S. or for any other reason as Treasurer may determine is appropriate. Custodian shall enter into an agreement with Subcustodian (“Subcustody Agreement”). Treasurer shall approve said Subcustody Agreement and any amendments to the Subcustody Agreement. No Subcustody Agreement shall diminish Custodian’s obligation or liability to Treasurer. Custodian shall have a duty to perform initial and ongoing due-diligence reviews of all Subcustodians and shall report to Treasurer the results of reviews. Custodian agrees to execute other agreements from time to time as required by Treasurer to facilitate the movement of Securities, such as for the lending of Securities. No agreement shall be executed without the approval of Treasurer. An executed agreement between Custodian and any other necessary part(ies) shall be in place prior to the movement of any Financial Assets.

In case of conflict between the terms of this Agreement and a Subcustody Agreement, the terms of this Agreement shall control.

### **5.2 Liability for Subcustodian**

Subject to Section 7.1(b), Custodian shall be liable for direct losses incurred by Treasurer that result from:

- (i) The failure by a Subcustodian to use reasonable care in the provision of custodial services by it in accordance with the standards prevailing in the relevant market or from the fraud or willful misconduct of Subcustodian in the provision of custodial services by it; and
- (ii) The insolvency of any Affiliated subcustodian.

### **5.3 Use of Agents**

(a) Custodian may provide certain services under this Agreement through third parties, which may be Affiliates. Custodian will not be responsible for any loss as a result of a failure by any non-Affiliated broker or any non-Affiliated third party vendors (“Vendors”) that it selects and retains using reasonable care to provide ancillary services that it may not customarily provide itself, including, without limitation, Vendors providing delivery services and providers of information regarding matters such as pricing, proxy voting, corporate actions and class action litigation. Nevertheless, Custodian shall be liable for the performance of any broker selected by Custodian that is an Affiliate to the same extent as Custodian would have been liable if it performed such services itself. It is understood that “ancillary services” shall not mean core custody services (i.e., the safekeeping of Financial Assets; the settlement of purchases and sales of Financial Assets; the transfer of Financial Assets; and the collection of interest, dividend, principal and other amounts on Financial Assets). In the event that Custodian

has knowledge that any information provided by a Vendor is incorrect, Custodian shall use reasonable efforts to correct information promptly.

(b) In the case of the sale under Section 2.6 of a fractional interest, or in other cases where Treasurer has requested Custodian to arrange for execution of a trade, Custodian may place trades with a broker which is an Affiliate to the extent that Custodian has established a program for trading with such Affiliate and to the extent that best execution can be obtained through an Affiliate.

## **6. ADDITIONAL PROVISIONS RELATING TO TREASURER**

### **6.1 Representations of Treasurer and Custodian**

(a) Treasurer represents and warrants that: (i) it has full authority and power and has obtained all necessary authorizations and consents to: deposit and control the Financial Assets and Cash in the Accounts, use Custodian as its custodian in accordance with the terms of this Agreement, to incur indebtedness as contemplated by this Agreement, pledge Financial Assets as contemplated by Section 4.2 and enter into foreign exchange transactions; (ii) assuming execution and delivery of this Agreement by Custodian, this Agreement is Treasurer's and each Beneficial Owner's legal, valid and binding obligation, enforceable in accordance with its terms, and it has full power and authority to enter into and has taken all necessary action to authorize the execution of this Agreement; (iii) it has not relied on any oral or written representation made by Custodian or any person on its behalf; and (iv) acknowledges that this Agreement sets out to the fullest extent the duties of Custodian.

(b) Custodian represents and warrants that: (i) assuming execution and delivery of this Agreement by Treasurer, this Agreement is Custodian's legal, valid and binding obligation, enforceable in accordance with its terms; and (ii) it has full power and authority to enter into and has taken all necessary corporate action to authorize the execution of this Agreement.

Custodian may rely upon the above or the certification of other facts as may be required to administer Custodian's obligations hereunder.

### **6.2 Treasurer's Duties**

(a) Treasurer shall provide Custodian with a written certificate containing the specimen signatures of each Authorized Person. Custodian shall be entitled to rely upon such certificate until notified otherwise by Treasurer in writing.

(b) Beneficial Owner may appoint one or more investment manager(s) with respect to the Accounts. Custodian is authorized to act upon Instructions received from any investment manager to buy or sell any Security if that Security is delivered or received versus payment, provided that Custodian has received copies of the instruments appointing the investment manager and written confirmation from the investment

manager evidencing its acceptance of such appointment, or other evidence satisfactory to Custodian.

## **7. WHEN CUSTODIAN IS LIABLE TO TREASURER**

### **7.1 Standard of Care; Liability**

(a) Custodian shall exercise due care in performing its obligations under this Agreement and shall give Securities and Cash the same care and safeguards as are afforded similar property owned by Custodian. Custodian shall exercise the due care expected of a professional custodian for hire with respect to the Securities and Cash in Custodian's possession or control. Custodian will not be in violation of this Agreement with respect to any matter as to which it has satisfied its obligation of due care.

(b) Custodian shall be liable for Treasurer's direct damages to the extent they result from Custodian's negligence or willful misconduct in performing its duties, as set out in this Agreement and to the extent provided in Section 5.2.

(c) Custodian Indemnities shall have no liability for any Liabilities that may be imposed on, incurred by or asserted against any of Custodian Indemnities in connection with or arising out of: (i) Custodian's performance under this Agreement, provided Custodian Indemnities have not acted with negligence or engaged in fraud or willful misconduct in connection with the Liabilities in question; or (ii) any Custodian Indemnity's status as a holder of record of Treasurer's Financial Assets.

(d) Without limiting Subsections 7.1 (a), (b) or (c), Custodian shall have no duty or responsibility to: (i) question Instructions or make any suggestions to Treasurer, Beneficial Owner or an Authorized Person regarding Instructions; (ii) supervise or make recommendations with respect to investments or the retention of Financial Assets; (iii) advise Treasurer, Beneficial Owner or an Authorized Person regarding any default in the payment of principal or income of any Security other than as provided in Section 2.5(b) of this Agreement; (iv) evaluate or report to Treasurer, Beneficial Owner or an Authorized Person regarding the financial condition of any broker, agent or other party to which Custodian is instructed to deliver Financial Assets or Cash; or (v) review or reconcile trade confirmations received from brokers (and Treasurer, Beneficial Owner or its Authorized Person issuing Instructions shall bear any responsibility to review confirmations against Instructions issued to and Statements of Account issued by Custodian).

### **7.2 Force Majeure**

Custodian shall maintain and update from time to time business continuity and disaster recovery procedures with respect to its custody business that it determines from time to time meet reasonable commercial standards. Custodian shall have no liability, however, for any damage, loss, expense or liability of any nature that Treasurer may suffer or incur, caused by an act of God, fire, flood, civil or labor disturbance, war, terrorism, act of any governmental authority or other act or threat of any authority (de

jure or de facto), legal constraint, malfunction of equipment or software (except where malfunction is primarily attributable to Custodian's negligence in maintaining the equipment or software), failure of or the effect of rules or operations of any external funds transfer system, inability to obtain or interruption of external communications facilities, or any reasonable cause beyond the reasonable control of Custodian. Nothing in the foregoing shall relieve Custodian of its duty to maintain a business continuity plan which is designed to ensure that the flow of services shall continue without interruption, or in Custodian's obligation to perform any duty under this Agreement upon resuming business.

Custodian shall, in the event of a disaster, assist with Treasurer's and Beneficial Owner's business continuity efforts to ensure continued operations without interruption to the same extent it assists other similarly situated customers.

### **7.2.1 Custodian Provides Diverse Financial Services and May Generate Profits as a Result**

Treasurer acknowledges that Custodian may have a material interest in transactions entered into by Treasurer with respect to the Account or that circumstances are that Custodian may have a potential conflict of duty or interest. For example, Custodian may act as a market maker in the Financial Assets to which Instructions relate, provide brokerage services to other customers, act as financial adviser to the issuer of Financial Assets, act in the same transaction as agent for more than one customer, have a material interest in the issue of the Financial Assets; or earn profits from any of these activities. Treasurer and Beneficial Owner further acknowledge that Custodian may be in possession of information tending to show that the Instructions received may not be in the best interest of Treasurer or Beneficial Owner. However, Custodian is not under any duty to disclose any information. Custodian shall treat all transactions as arms-length transactions. The provisions hereof shall not limit any duties which Custodian may have under any separate agreement with any Beneficial Owner.

## **8. TAXATION**

### **8.1 Tax Obligations**

(a) Treasurer confirms that Custodian is authorized to deduct from any Cash received or credited to the Cash Account any taxes or levies required by any revenue or governmental authority for whatever reason in respect of Treasurer's Accounts. Custodian shall provide prior notice to Treasurer and Beneficial Owner of any deductions other than taxes withheld at the source or transaction taxes.

(b) Treasurer or Beneficial Owner shall provide to Custodian certifications, documentation, and information as it may require in connection with taxation, and warrants that, when given, this information is true and correct in every respect, not misleading in any way, and contains all material information. Treasurer or Beneficial Owner undertakes to notify Custodian immediately if any information requires updating or correcting. Custodian shall not be liable for any taxes, penalties, interest or additions

to tax, payable or paid that result from: (i) the inaccurate completion of documents by Treasurer, Beneficial Owner or any third party; (ii) provision to Custodian or a third party of inaccurate or misleading information by Treasurer, Beneficial Owner or any third party; (iii) the withholding of material information by Treasurer, Beneficial Owner or any third party; or (iv) as a result of any delay by any revenue authority or any other cause beyond Custodian's control.

(c) If Custodian does not receive appropriate certifications, documentation and information then, as and when appropriate and required, additional tax shall be deducted from all income received in respect of the Financial Assets issued.

(d) Beneficial Owner shall be responsible in all events for the timely payment of all taxes relating to the Financial Assets in the Accounts. Neither Treasurer nor Beneficial Owner shall be liable to Custodian for any penalty or additions to tax due solely as a result of Custodian's negligent acts or omissions with respect to paying or withholding tax or reporting interest, dividend or other income paid or credited to the Cash Account.

## **9. NOTICES**

### **9.1 Notices**

Notices (other than Instructions) shall sent to the address of the respective Parties as follows:

As to Financial Institution:

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

As to Treasurer:

Director, Trust Department  
30 East Broad Street, 9<sup>th</sup> Floor  
Columbus, Ohio 43215-3461

Notice shall deemed to be given upon receipt.

## **10. MISCELLANEOUS**

### **10.1 Applicable Law; Venue**

This Custody Agreement and the rights and obligations of Treasurer and Custodian shall be governed by the laws of Ohio. Venue for all actions shall occur in the appropriate court in Franklin County, Ohio.

## **10.2 Assignment**

Neither this Custody Agreement nor any portion thereof shall be assigned or transferred to a successor without prior written approval from Treasurer. In addition, during the term of this Custody Agreement, all successors and assigns shall be bound by the terms of this Custody Agreement.

## **10.3 Auditor of State Findings**

Custodian affirmatively represents and warrants to Treasurer that it is not subject to a finding for recovery under ORC § 9.24 or that it has taken the appropriate remedial steps required under ORC § 9.24 or otherwise qualifies under that section. Custodian agrees that if this representation and warranty is deemed to be false, this Agreement shall be void ab initio as between the parties to this Custody Agreement, and any funds paid by the State hereunder shall be immediately repaid to the State, or any action for recovery of the funds may be immediately commenced by the State for recovery of said funds.

## **10.4 Bond**

During the term of the Custody Agreement, Custodian shall maintain and furnish at its expense, a banker's blanket bond per occurrence coverage in a minimum amount of fifty million dollars (\$50,000,000) and additional coverage for electronic computer crime losses in the minimum amount of twenty-five million dollars (\$25,000,000) per occurrence containing terms and conditions acceptable to Treasurer.

## **10.5 Business Expenses**

Unless expressed otherwise in this Custody Agreement, Custodian shall be responsible for and assume all office and business expenses that are incurred as a result of the performance of this Agreement.

## **10.6 Custodian's Representations and Warranties - Compliance with Laws**

**Custodian, in the execution of its duties and obligations under this Custody Agreement, agrees to comply with all applicable federal, state and local laws, rules, regulations, ordinances and banking customs and practices, etc.**

### **1. Drug Free Workplace**

Custodian agrees to comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that none of its employees or permitted subcontractors engaged in the Work purchase, transfer, use or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

### **2. Nondiscrimination of Employment**

Pursuant to ORC § 125.111, Custodian agrees that Custodian, any subcontractor, and any person acting on behalf of Custodian or a subcontractor, shall not discriminate, by reason of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry against any citizen of this state in the employment of any person qualified and available to perform the services. Custodian further agrees that Custodian, any subcontractor, and any

person acting on behalf of Custodian or a subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of the services on account of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry.

3. **Affirmative Action Program**

Custodian represents that it has a written affirmative action program for the employment and effective utilization of economically disadvantaged persons pursuant to ORC § 125.111(B) and has filed an Affirmative Action Program Verification form with the Equal Employment Opportunity and Affirmative Action Unit of the Department of Administrative Services.

4. **Conflicts of Interest**

During the term of the Custody Agreement, no personnel of Custodian who exercise any functions or responsibilities in connection with the review or approval of this Custody Agreement or carrying out of any of the services shall voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of the Custody Agreement. Any such person who acquires an incompatible or conflicting personal interest on or after the effective date of this Custody Agreement, or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to Treasurer in writing. Thereafter, he or she shall not perform any services under this Custody Agreement, unless Treasurer shall determine in his sole discretion that, in light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

5. **Ethics Compliance**

Custodian represents, warrants and certifies that it and its employees engaged in the administration or performance of this Custody Agreement are knowledgeable of and understand the Ohio Ethics and Conflict of Interest laws. Custodian further represents, warrants, and certifies that neither Custodian nor any of its employees will do any act that is inconsistent with such laws.

6. **Qualifications to Do Business**

Custodian affirms that it has all of the approvals, licenses, or other qualifications needed to conduct business in Ohio and that all are current. If at any time during the term of this Custody Agreement, Custodian, for any reason, becomes disqualified from conducting business in the State of Ohio, Custodian will immediately notify Treasurer in writing and will immediately cease performance of the services under the Custody Agreement.

7. **Campaign Contributions**

Custodian hereby certifies that neither Custodian nor any of Custodian's partners, officers, directors or shareholders, nor the spouse of any such person, has made contributions in excess of the limitations specified in ORC § 3517.13.

8. **Debarment**

Custodian represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either ORC §§ 153.02 or 125.25.

9. **Declaration Regarding Material Assistance/ Non-Assistance to a Terrorist Organization**

If Custodian has received, or will receive as a result of this Custody Agreement, an aggregate amount greater than \$100,000.00 in business or funding, excluding personal benefits, from the state, its instrumentalities or political subdivisions during the state's current fiscal year, Custodian hereby represents and warrants to Treasurer that it is a federally insured financial institution subject to federal anti-money laundering laws and is exempt from ORC § 2909.33.

10.7 **Force Majeure**

Custodian shall not be responsible or liable for any failure or delay in the performance of its obligations under this Custody Agreement arising out of or caused, directly or indirectly, by circumstances beyond its control, including without limitation, acts of God; earthquakes; fires; floods; wars; civil or military disturbances; acts of terrorism; sabotage; epidemics; riots; interruptions; loss or malfunctions of utilities; transportation; computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority; governmental actions; or inability to obtain labor, material, equipment or transportation.

Nothing in the preceding paragraph shall relieve Custodian of its duty to maintain a business continuity plan which ensures that the flow of services shall continue without interruption, or in Custodian's obligation to perform any duty upon resuming business.

10.8 **Incorporation**

This Custody Agreement incorporates the Request for Proposal, the Response to the Request for Proposal, and all attachments and exhibits. However, if a conflict should arise between the Custody Agreement and the Request for Proposal, the Response to the Request for Proposal and any attachment or exhibit, the Custody Agreement shall govern. This Custody Agreement is the only Agreement that is valid between the parties. No oral representations shall be honored. All amendments to this Custody Agreement shall be in writing.

10.9 **Inspection and Audit**

Custodian agrees that Treasurer, its officers, agents, employees, and auditors may visit Custodian at any time to observe and inspect the operations and internal controls of Custodian in providing service under this Custody Agreement. Custodian agrees to make space available for and cooperate with Treasurer, its officers, agents, employees, and auditors.

### **10.10 Internal Controls**

Custodian shall maintain a strong internal control system, which includes policies and procedures adopted to ensure continuous safety of assets, accuracy and reliability of accounting data, operational efficiency, and adherence to prescribed managerial policies. Custodian shall annually provide to Treasurer an independent report (e.g., SSAE 16, Type II or SAS 70 Type II), assuring enforcement of such policies and procedures. Custodian shall also provide annually to Treasurer an independent report of internal controls for any subcustodian.

### **10.11 Liability**

1. Custodian agrees to indemnify and to hold the State of Ohio harmless and immune from any and all claims for injury or damages arising from this Agreement which are attributable to Custodian's own actions or omissions or those of its trustees, officers, employees, subcontractors, suppliers, third party agents or joint venturers while acting under this Custody Agreement. Such claims shall include any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime or employment matters and any claims involving patents, copyrights and trademarks.
2. Custodian shall bear all costs associated with defending Treasurer and the State of Ohio against any claims.
3. In no event shall either party be liable to the other party for indirect, consequential, incidental, special or punitive damages, or lost profits.

### **10.12 Miscellaneous:**

#### **1. Waiver**

A waiver by any party of any breach or default by the other party under this Custody Agreement shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.

#### **2. Notices**

Except to the extent expressly provided otherwise herein, all notices, consents and communications required hereunder (each, a "Notice") shall be in writing and shall be deemed to have been properly given when: (i) hand delivered with delivery acknowledged in writing; (ii) sent by U.S. Certified mail, return receipt requested, postage prepaid; (iii) sent by overnight delivery service (Fed Ex, UPS, etc.) with receipt; or (iv) sent by fax or email. Notices shall be deemed given upon receipt thereof, and shall be sent to the addresses first set forth above. Notwithstanding the foregoing, notices sent by fax or email shall be effectively given only upon acknowledgement of receipt by the receiving party. Any party may change its address for receipt of Notices upon notice to the other party. If delivery cannot be made at any address designated for Notices, a Notice shall be deemed given on the date on which delivery at such address is attempted.

3. **Conflict**

In the event of any conflict between the terms and provisions of the body of this Agreement and any exhibit hereto, the terms and provisions of the body of this Custody Agreement shall control.

4. **Headings**

The headings in this Custody Agreement have been inserted for convenient reference only and shall not be considered in any questions of interpretation or construction of this Custody Agreement.

5. **Severability**

The provisions of this Custody Agreement are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless be binding and enforceable.

6. **Entire Agreement**

This Custody Agreement contains the entire agreement between the parties hereto and shall not be modified, amended or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto. This Custody Agreement supersedes any and all previous agreements, whether written or oral, between the parties.

7. **Execution**

This Custody Agreement is not binding upon Treasurer unless executed in full, and is effective as of the last date of signature by Treasurer.

8. **Counterparts**

This Custody Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

9. **Facsimile Signatures**

Any party hereto may deliver a copy of its counterpart signature page to this Custody Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile signature of any other party delivered in such a manner as if such signature were an original.

**10.13 No Third-Party Beneficiaries**

In performing hereunder, Custodian is acting solely on behalf of Treasurer and no contractual or service relationship shall be deemed to be established hereby between Treasurer and any other person.

#### **10.14 Publicity**

Any use or reference to this Custody Agreement by Custodian to promote, solicit, or disseminate information regarding the scope of this Custody Agreement is prohibited, unless otherwise permitted in writing by Treasurer.

#### **10.15 Record Keeping**

During the performance of this Agreement and for a period of three (3) years after its completion, Custodian shall maintain auditable records pertaining to this Custody Agreement and shall make such records available to Treasurer as Treasurer may reasonably require.

#### **10.16 Security Holding Disclosure**

With respect to SEC Rule 14b-2 under The U.S. Shareholder Communications Act, regarding disclosure of beneficial owners to issuers of Securities, Custodian is instructed not to disclose the name, address or Security positions of Treasurer or Beneficial Owner in response to shareholder communications requests regarding the Account.

#### **10.17 Termination**

This Custody Agreement may be terminated without cause and without penalty by Treasurer by giving written notice to Custodian. Such termination shall not affect any outstanding transactions or any obligation under this Custody Agreement which is then outstanding and the provisions of this Custody Agreement shall continue to apply to each transaction and each obligation until all the obligations of each party to the other under this Custody Agreement have been fully performed.

#### **10.18 Transfer Costs**

Custodian agrees that it shall bear all costs associated with the transfer and assumption of obligations by Custodian under the Custody Agreement.

#### **10.19 Transition of Assets**

Custodian will be expected to work with the prior custodial bank to ensure that there is an orderly transition of assets from the prior custodian. Up to one-hundred twenty (120) days following July 2, 2012 may be required to complete an orderly transition. This time period may be extended by Treasurer.

#### **10.20 USA PATRIOT Act Disclosure**

Section 326 of the USA PATRIOT Act requires Custodian to implement reasonable procedures to verify the identity of any person that opens a new Account with it. Accordingly, Treasurer acknowledges that section 326 of the USA PATRIOT Act and Custodian's identity verification procedures requires Custodian to obtain certain identifying information from Treasurer or on some occasions from third parties regarding Treasurer. Treasurer agrees to provide Custodian with and consents to Custodian obtaining from third parties any identifying information required as a condition of opening an account with or using any service provided by Custodian.

TREASURER

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

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

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

FINANCIAL INSTITUTION

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

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

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

**EXHIBIT 1**  
**SERVICE PROVIDER LISTING OF BENEFICIAL OWNER(S)**

**EXHIBIT 2**

**AGREEMENT FOR DEPOSIT OF PUBLIC FUNDS**

**EXHIBIT 3**

**FEE AGREEMENT**

**For**

\_\_\_\_\_ **(DOMESTIC CUSTODY)**

**EXHIBIT 4**  
**CUSTODY OPERATING PROCEDURES**  
**FOR**

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**EXHIBIT 5**

**AUTHORIZED REPRESENTATIVES FOR CUSTODIAN AND TREASURER**

**EXHIBIT 6**  
**CONTACT INFORMATION**