



**Office of the State Treasurer**  
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State Treasurer

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**State of Georgia Secure Deposit Program Policy**

**Pursuant to O.C.G.A §§ 50-17-50 through 50-17-60; 45-8-1 through 45-8-13.1 “and the other powers of the State Depository Board, the State Depository Board may establish policies and procedures related to the operation of a multibank pool, including, but not limited to, defining eligible collateral, establishing collateral limits, adopting the schedule of fees charged to covered depositories, establishing a formula to calculate different collateralization tiers, and reporting requirements”.**

Herein the Georgia multibank pledging pool program shall hereafter be referred to as the Secure Deposit Program, (the “Program”).

**I. Purpose**

This Policy is intended to clearly communicate guidelines and requirements for all parties participating in the Program and to outline the responsibilities of the State Treasurer, Commissioner of Banking and Finance, the Administrator, Covered Depositories, Public Depositors, and Custodians as it relates to the activities of the Program. The exhibits to this Policy are incorporated by reference and the terms of such exhibits are made a part of the Policy. In the event of any conflict between this document and the exhibits, this document will control.

**II. Definitions**

For the purpose of this policy, in addition to the other terms as defined in Chapter 8 of Title 45 of the Official Code of Georgia, and related, the following terms are defined and shall have such meanings given thereto below whether or not such terms appear as capitalized in these general instructions:

- (1) “Administrator” shall mean the State Treasurer or any bank, savings association, trust company, or other qualified firm, corporation, or association to which the State Treasurer delegates any of the Treasurer’s rights or responsibilities with respect to administration of the Program.
- (2) “Board” shall mean the State Depository Board.
- (3) “Collateral Pledging Level” means the aggregate of the market value of the eligible securities pledged to secure a pool of public funds under the multibank pooled method, which shall be not less than the percent established by the State Depository Board for the Program.
- (4) “Commissioner” means the Commissioner of Banking and Finance.
- (5) “Covered Depository” means a depository approved by the State Depository Board that is either a:
  - a) Required Participant (O.C.G.A. §§ 45-8-1.4(A)(i)) – a financial institution that accepts Public Deposits in Georgia and that has total assets of more than \$50 billion, and has agreed to operate under the policies and procedures for the Program. After implementation of the Program, if a financial institution that accepts Public Deposits increases its assets so that it has total assets of \$50 billion or more, and is not a Voluntary Participant, then the financial institution shall notify the Treasurer and execute all

documents necessary for a Required Participant within thirty (30) days of its total assets exceeding \$50 billion. Further, after implementation of the Program, if a Covered Depository no longer has assets that total \$50 billion, then such financial institution shall notify the Treasurer and will automatically be deemed to be a Voluntary Participant whether or not the financial institution would otherwise qualify to be a Voluntary Participant; or

- b) Voluntary Participant (O.C.G.A. §§ 45-8-1.4(A)(ii)) – a financial institution that accepts Public Deposits in Georgia and that has total assets of less than \$50 billion and has agreed to operate under the policies and procedures for the Program.
- (6) “Custodian” means the State Treasurer, any Federal Home Loan Bank approved by the State Treasurer, or any bank, savings and loan association or trust company that has been approved by the State Treasurer, has agreed to operate under the policies and procedures of the Program and has agreed to be subject to the jurisdiction of the courts of Georgia or of the United States located in Georgia for litigation related to the Program. The Custodian shall also include the Federal Reserve Banks operating under the auspices of Operating Circular No. 9. Such circular shall be accepted in lieu of Program policies and procedures and court jurisdiction requirements.
- (7) “Daily Pool Balance” means the total deposits, net of the FDIC insured amount, of each Covered Depository and the collective total of all Covered Depositories’ deposits in the Program accounted for daily.
- (8) “Eligible Collateral” means the types of approved securities or letters of credit approved by the State Depository Board that may be used to collateralize deposits covered by the Program. The approved list of Eligible Collateral is shown in Exhibit A.
- (9) “Event of Default” shall mean any of the following events or conditions: (a) The Covered Depository fails to make any return or repayment of Public Deposits to the Treasurer or any Public Body from accounts held by the Covered Depository as and when due or wrongfully dishonors any draft presented upon such accounts; or (b) the Covered Depository breaches any covenant made in this Security Agreement (Exhibit B); or (c) any bankruptcy case, assignment for the benefit of creditors, receivership, or other state, federal, or foreign insolvency proceeding is commenced by or against the Covered Depository or any of its respective properties; or (d) the Covered Depository becomes insolvent or is generally not paying its debts as they become due; or (e) the Treasurer determines that any material misrepresentation of financial condition has been made by the Covered Depository in any oral or written statement to the Treasurer or the Administrator; or (f) the Covered Depository discontinues its usual business, commences to dissolve, wind-up, or liquidate itself; or (g) the Covered Depository’s financial condition falls below the minimum capital ratios required to be considered “adequately capitalized,” as measured under the risk-based capital regulations of the Office of the Comptroller of the Currency, 12 CFR §3.100, Appendix a, as now or hereafter amended.
- (10) “Fair Market Value” means the value of the Pledged Securities pledged to secure a Covered Depository’s Public Deposits as determined by any independent service that regularly furnishes such information to financial institutions in the United States as of the applicable date of a transaction or report; provided however, should such method of valuation be inapplicable or unacceptable to the State Treasurer in respect to any Eligible Collateral, Fair Market Value shall mean the value placed thereon by the State Treasurer.
- (11) “Letter of Credit” or “LOC” means an irrevocable, unconditional letter of credit issued to the State Treasurer by an approved Federal Home Loan Bank to secure Public Deposits by any Covered Depository, to the extent permitted in accordance with the provisions of this Policy.
- (12) “Loss Payment Fund” means the account set up by the Treasurer into which funds are deposited and from which the State Treasurer shall disperse as necessary monies to pay losses to Public Depositors of a defaulting Covered Depository and for other related purposes including expenses the State Treasurer incurs related to the payment of losses.

- (13) “Pledged Security or Securities” means Eligible Collateral which a Covered Depository has granted a security interest to the State Treasurer and as to which the Custodian has taken physical possession or, in the case of uncertificated securities, which the Custodian has registered to the State Treasurer. The term shall also include Letters of Credit and surety bonds held directly by the State Treasurer or a Custodian under the Program.
- (14) “Public Body” means not only the state, municipalities, counties, school districts, drainage districts, and other districts created or special purposes, but also every other political subdivision of the state and every board, bureau, commission, and department of the state or any subdivision thereof, or such other governmental entity approved by the Board
- (15) “Public Deposit” means monies deposited in a Covered Depository by any public official for a public entity including demand deposits, time deposits, and certificates of deposit except certain deposits made by the State Treasurer, or exempted by the Board, in accordance with the policies of the State Depository Board (“exempt deposits”). A listing of all exempt deposits will be maintained by the State Treasurer and available to Covered Depositories holding such funds.
- (16) “Public Depositor” means any state or local entity with deposits of public funds, as identified by an FEIN.
- (17) “Required Collateral” means the amount of Eligible Collateral required to be pledged by a Covered Depository or, in the case of a Letter of Credit, such LOC issued to the State Treasurer as beneficiary, to satisfy a respective Covered Depository’s minimum collateral pledging tier requirement as determined by the State Treasurer.
- (18) “Treasurer” means the State Treasurer of the State of Georgia.

### **III. Designation as a Covered Depository**

If Public Deposits are held in a Covered Depository, then such Covered Depository must comply with all the following requirements:

- (1) Be organized and existing under the laws of the state of Georgia, any other state of the United States, or the United States.
- (2) Be authorized pursuant to the laws of this state or the United States to conduct, and is conducting, the business of taking Public Deposits in this state.
- (3) Have deposit insurance under the provision of the Federal Deposit Insurance Act, as amended, 12 U.S.C. §§ 1811 et seq.
- (4) Be either a Required Participant, or be a Voluntary Participant that meets the qualification criteria stated in Section XI, Voluntary Participant Program Participation (Application and Approval Process).
- (5) Execute agreements as prescribed by the Treasurer including:
  - a) Security Agreement (Exhibit B)
  - b) Custodial Agreement as approved by Treasurer (except for Covered Depositories utilizing a Federal Reserve Bank as custodian in accordance with Section VII)
  - c) Voluntary Participant Application and Agreement, if applicable (Exhibit D)
- (6) Received written certification as a Covered Depository from the Treasurer.
- (7) Comply with all Program audit requirements on a timely basis.

#### **IV. Collateral Pledging Levels**

The Commissioner shall propose to the Board multiple tiers of collateralization specifying different percentages of Eligible Securities to secure Public Deposits. The required collateral tiers shall be established based upon financial condition scoring methodology proposed by the Commissioner and approved by the Board. The Commissioner, in conjunction with the Treasurer, will periodically review the methodology and make revised proposals to the Board in the event the Commissioner believes that the methodology should be revised.

The financial condition of all Covered Depositories shall be reviewed by the Treasurer each calendar quarter and, at the Treasurer's discretion more frequently for any or all Covered Depositories. The Treasurer will determine the specific collateral pledging tier for each Covered Depository utilizing the methodology approved by the Board. The Treasurer will notify each Covered Depository of its specific collateralization requirement each quarter or more frequently if a Covered Depository's collateral requirement changes within any quarter.

The Treasurer's review and determination of Collateral Pledging Levels shall include:

- (1) Review of financial condition evaluations from one or more nationally recognized rating services acceptable to the Treasurer and published quarterly. The Treasurer may utilize proprietary information from rating services that is not to be released as public information.
- (2) The Treasurer will determine the collateralization required by each respective Covered Depository and provide the preliminary results to the Commissioner for review and confirmation.
- (3) Upon the Commissioner's confirmation, the Treasurer will send notification to each Covered Depository.
- (4) Each Covered Depository will be required to adjust its Pledged Collateral to the required collateral level within three (3) business days of receipt of the Treasurer's notification.

#### **V. Methodology of Determining Required Collateral**

The Treasurer will consider the financial condition evaluations as required above to determine a financial condition score for each Covered Depository. The financial condition evaluation results from any rating service shall be on a scale of 0-99 or, if a rating service uses a different scale, that scale shall be converted by the Treasurer to a scale of 0-99.

Other pertinent information related to the overall financial condition of the Covered Depository may be taken into consideration at the discretion of the Treasurer.

The Board shall determine the rating evaluation services utilized and relative weightings assigned in determining the financial condition evaluation for each Covered Depository, and such shall be calculated by the Treasurer each quarter or more frequently if deemed necessary by the Treasurer.

The Treasurer shall notify each Covered Depository of the required collateral tier setting forth its required Collateral Pledging Level below. Each Covered Depository shall pledge to the Treasurer Eligible Collateral with a Fair Market Value equal to or more than its required collateral tier. Each Covered Depository shall be assigned by the Treasurer to one of the following collateral pledging tiers based upon its respective financial condition score.

##### **Tier I**

Required collateral not less than 25% of the net aggregate daily ledger balance of the institution's Public Deposits if the Covered Depository maintains a financial condition evaluation score of 65 or higher;

##### **Tier II**

Required collateral not less than 50% of the net aggregate daily ledger balance of the institution's Public Deposits if the Covered Depository maintains a financial condition evaluation score of 50 but less than 65;

**Tier III**

Required collateral not less than 75% of the net aggregate daily ledger balance of the institution's Public Deposits if the Covered Depository maintains a financial condition evaluation score of 35 but less than 50;

**Tier IV**

Required collateral not less than 110% of the net aggregate daily ledger balance of the institution's Public Deposits if the Covered Depository maintains a financial condition evaluation score less than 35;

Notwithstanding the required collateral tiers described above, the aggregate Fair Market Value of required collateral pledged by any Covered Depository shall not be less than 100% of a respective Covered Depository's Public Deposits that exceed 20% of the aggregate Public Deposits for all Covered Depositories in the Program.

Notwithstanding the required collateral tiers described above, the aggregate Fair Market Value of required collateral pledged by any Covered Depository shall not be less than 100% of a Covered Depository's Public Deposits that exceed 200% of a Covered Depository's common equity tier 1 capital as defined by applicable federal law and calculated from the Covered Depository's most recently filed Consolidated Report of Condition and Income.

Notwithstanding the required collateral tiers described above, the Board may increase the required collateralization level for any Covered Depository to an amount not to exceed 125% should economic or financial concerns warrant. Should the Treasurer, in consultation with the Commissioner, determine that an increase in the required collateral tier for a specific Covered Depository will be recommended to the Board and that an increase is required prior to the next scheduled Board meeting, the Treasurer may take such action on behalf of the Board. Any determination by the Treasurer to increase the required collateral tier for a Covered Depository over 110% shall be reported to the Board.

**VI. Valuation and Eligibility of Collateral.**

A Covered Depository shall value its collateral, other than Letters of Credit and surety bonds, at the Fair Market Value of the Pledged Securities as determined by an independent service that regularly furnishes such information to the financial institutions in the United States as of the applicable date of transaction or report: provided however, should such method of valuation be unverifiable or unacceptable to the Treasurer in respect to any Pledged Security or Securities, Fair Market Value shall mean the value placed thereon by the Treasurer.

A Letter of Credit shall be treated as having a market value equal to its face amount for purposes of the Program. U.S. Dollar-denominated cash collateral representing proceeds from any draw on a LOC shall be valued at the face value thereof. Letters of Credit and surety bonds shall be held directly by the Treasurer or a custodian with the Treasurer's consent.

Collateral that does not receive a current market value by the pricing service utilized by a Covered Depository or its approved Custodian is deemed ineligible collateral and must be substituted immediately unless a Fair Market Value is approved in writing by the Treasurer.

**VII. Custodians**

Each Custodian designated by a Covered Depository shall be a Federal Reserve Bank that monitors pledged collateral under the appropriate Federal Reserve Bank's Operating Circular, or a Federal Home Loan Bank, a bank, savings association or trust company that:

- (1) Is organized and existing under the laws of the State of Georgia, any other state of the United States, or the United States; and
- (2) Has executed a Custodial Agreement in a form approved by the Treasurer; and
- (3) Agrees to be subject to the jurisdiction of the courts of this state, or of courts of the United States which are located within this state, for the purpose of any litigation arising; and

- (4) Has been approved by the Treasurer to act as a Custodian; and
- (5) Agrees to provide reports and confirmation of securities pledged to the Treasurer by each Covered Depository in the format prescribed by the Treasurer; and
- (6) Provides timely notification to the Treasurer when any Pledged Security matures, is redeemed, or otherwise is paid off; and
- (7) With respect to Pledged Securities, Custodian agrees to, without notice to or consent by the pledgor, comply with and perform any and all requests and orders directly from the Treasurer. These include, but are not limited to, liquidating all collateral and submitting proceeds directly to the Treasurer in the name of the Treasurer only or transferring all collateral into an account designated solely by the Treasurer. Custodian also agrees to cooperate fully with the Board and Treasurer in connection with any audit.

### **VIII. Obligations of Covered Depositories**

In addition to other requirements outlined in this policy, each Covered Depository shall:

- (1) Each Covered Depository shall designate a Custodian from the Treasurer's approved list of Custodians and shall pay any fees and expenses incurred that are related to the Program.
- (2) Each Covered Depository shall notify Treasurer of all public enforcement actions immediately.
- (3) Each Covered Depository's Custodian must receive approval from the Treasurer before accepting, substituting or withdrawing any Pledged Securities.

With respect to Pledged Securities, all Covered Depositories, as pledgors, shall agree that the Treasurer may without notice or consent by the pledgor, require Custodian to comply with and perform any and all requests and orders directly from the Treasurer. These include, but are not limited to, liquidating all collateral and submitting proceeds directly to the Treasurer in the name of the Treasurer or transferring all collateral into an account designated solely by the Treasurer.

### **IX. Reports**

Covered Depositories and Custodians participating in the Program will be required to submit reports in prescribed formats monthly to the Treasurer and the Administrator unless more frequent reporting is determined necessary by the Treasurer, as specified in Exhibit G. Required monthly reports include (but are not limited to) the following information on accounts secured by the Program:

Each Covered Depository shall provide a monthly report in a format acceptable to the Treasurer, as specified in Exhibit G.

Each Covered Depository's Custodian shall provide monthly reports to the Treasurer in a form and format prescribed of all Pledged Securities to the Treasurer as collateral for Public Deposits held in the Program, as specified in Exhibit G.

The Treasurer shall provide publicly available monthly reports that shall include:

- a) List of all Public Depositors and Custodians in the Program
- b) Total amount of Public Deposits, net of FDIC insurance, in the Program. FDIC insurance not to exceed \$250,000 per Public Depositor for any Covered Depository without advance written approval by the Treasurer.
- c) List of Covered Depositories, by name and FEIN

- d) Each Covered Depository's total deposits in the Program (gross and net of FDIC insurance coverage)
- e) The amount of each Covered Depository's required collateralization
- f) The amount each Covered Depository is over or under the total collateralization amount
- g) Notice that each Covered Depository is in compliance with Program collateralization requirements
- h) Pro rata share of each Covered Depository's balance as a percent of the total amount of deposits in the Program

**X. Non-Compliance**

The failure of either a Covered Depository or a Custodian to comply with these policies and procedures will result in a noncompliance fee being assessed by the Treasurer and payable by the noncomplying Covered Depository or Custodian, as specified in Exhibit G. Notwithstanding the imposition of a non-compliance fee, the Board will have the ability to determine that the Covered Depository no longer satisfies the requirements to be a Covered Depository.

**XI. Voluntary Participant Program Participation (Application and Approval Process)**

- (1) Financial institutions may apply to the Treasurer requesting to be a Voluntary Participant in the Program by submitting a Voluntary Participant Application and Agreement (Exhibit D) approved by the Treasurer.
- (2) The Treasurer, in consultation with the Commissioner, shall determine if an applicant meets the criteria to be eligible as a Voluntary Participant, including the following:
  - a) Tier 1 leverage ratio of 6 percent or greater; and
  - b) Return on average assets over the trailing twelve-month period of 0.0 percent or greater; and
  - c) Financial condition evaluation score of 35 or higher as determined in Section V., Methodology of Determining Required Collateral; and
  - d) Other factors considered relevant by the State Depository Board.
- (3) The Treasurer shall notify applicants if they meet the criteria for consideration as a Voluntary Participant.
- (4) If an applicant meets the criteria for consideration as a Voluntary Participant, the applicant shall send signed copies of the following agreements to the Treasurer:
  - a) Security Agreement (Exhibit B)
  - b) Custodial Agreement as approved by Treasurer (except for Covered Depositories utilizing a Federal Reserve Bank as custodian in accordance with Section VII)
- (5) Upon receipt of the signed agreements listed above, the Treasurer shall request the Board to consider the application.
- (6) The Treasurer shall notify the applicant of the Board's decision and if approved, the Treasurer shall send the applicant a written certification designating the applicant as a Covered Depository. The certification shall be valid for one (1) year. Thereafter, the certificate shall automatically renew for consecutive one (1) year periods unless the Board decides not to renew the certificate. In such case the Treasurer shall send the depository written notification that the certificate will not be renewed.

## **XII. Voluntary Participant Withdrawal from Program**

- (1) A Voluntary Participant may request not to have its certificate automatically renewed by requesting to withdraw in writing to the Treasurer no later than sixty (60) days from the scheduled expiration of its certificate.
- (2) If such withdrawal is accepted by the Board, the Treasurer will notify the requesting depository and set a date for withdrawal not earlier than thirty (30) days from such notice.
  - a) Written notice shall be by resolution of the withdrawing depository's Board of Directors. A list of current Public Depositors including their account number(s), address and month-end account balance will be provided to the Treasurer.
  - b) The contingent liability of the withdrawing Covered Depository shall continue for twelve (12) months after the certification described in paragraph (d) below has been received and approved unless the withdrawal is made within ninety (90) days of an institution acquiring a failed institution.
  - c) The withdrawing Covered Depository is responsible for notifying all of its Public Depositors that it is withdrawing from the Program.
  - d) The withdrawing Covered Depository shall provide to the Treasurer, when all Public Deposit accounts have been closed in the case of a Required Participant or withdrawal forms signed by each Public Depositor if a Voluntary Participant, a written certification by the Chairman of the Board, Chief Executive Officer or President that the institution no longer holds any Public Deposits subject to the Program and will not receive or retain any Public Deposits subject to the Program until it again becomes a Covered Depository.
  - e) The Treasurer shall, upon request, release Pledged Securities, as specified in Exhibit G, after the effective date of withdrawal and the certification described in paragraph (d) above has been received and confirmation that the Covered Depository has paid all Program fees outstanding.
  - f) The withdrawing Covered Depository will be removed from the list made publicly available of depositories participating in the Program.

## **XIII. Effect of Merger or Acquisition**

- (1) Designation
  - a) When a depository not participating in the Program acquires, merges, consolidates, or undertakes other similar transactions with a Covered Depository, the resulting institution automatically becomes a Covered Depository for ninety (90) calendar days and assumes the Security Agreement (Exhibit B), Custodial Agreement, and reporting requirements of the acquired Covered Depository.
  - b) The acquiring institution shall comply with all policies, procedures and reporting requirements applicable to the Program.
  - c) Should the resulting institution desire to become a Covered Depository, the eligibility requirements of the Program must be met within ninety (90) calendar days.
  - d) The Treasurer may grant an application from the resulting institution for an extension of time for an additional sixty (60) calendar days to comply with the eligibility requirements should extenuating circumstances warrant.
  - e) Should the resulting institution choose not to become a Covered Depository, the policy and procedures for Voluntary Withdrawal from the Program shall be followed.



#### **XIV. Payment of Losses**

The Program exists to protect Public Depositors from losses resulting from an Event of Default by a Covered Depository. Should an Event of Default occur, the following procedures shall be followed to reimburse Public Depositors for their losses:

- (1) The Treasurer will post a notice related to the default on the OST website providing instructions and the process for Public Depositors to file claims.
- (2) The Treasurer will direct the Custodian for the Covered Depository that defaulted to liquidate Pledged Securities and deliver proceeds to the Treasurer or to deliver the Pledged Securities to a Custodian designated by the Treasurer. The Treasurer will liquidate such Pledged Securities in a timely and orderly manner. If the Treasurer is unable to liquidate Pledged Securities or if the Custodian fails to liquidate Pledged Securities within seven (7) business days, the Treasurer may assess each of the remaining Covered Depositories an amount equal to its pro rata share of the shortfall as provided in paragraph (7) below.
- (3) Public Depositors must file a loss claim with the FDIC.
- (4) Each Public Depositor must provide the Treasurer a copy of its FDIC claim showing the total amount of its uninsured deposits together with a form specified by the Treasurer, as specified in Exhibit E.
- (5) The Treasurer will aggregate claims to determine the amount of funds needed to satisfy all claims.
- (6) After all claims are paid and the Treasurer's expenses are reimbursed, any remaining securities pledged or cash from the sale of securities formerly held by the defaulting Covered Depository will be released to the FDIC.
- (7) Should the amount of the funds raised by the sale of the Pledged Securities as specified in "(2)" above be insufficient to cover all claims for uninsured deposits, together with the Treasurer's expenses, the Treasurer will assess each of the remaining Covered Depositories in the Program an amount equal to its pro rata share of the shortfall. Such assessment shall be determined by multiplying the total amount of the loss to all Public Depositors by a percentage which represents the average share of Public Deposits (less the amount of Public Deposits insured by FDIC deposit insurance) held by the Covered Depository during the previous twelve (12) months divided by the average total Public Deposits (less the amount of public deposits insured by FDIC deposit insurance) held by all Covered Depositories in the Program during the same twelve (12) month period, excluding the Public Deposits of the defaulting institution. Should a Covered Depository no longer have Public Deposits in the Program, that Covered Depository will nevertheless maintain liability for any losses caused by an event of default for the subsequent twelve (12) months. That institution will be assessed pursuant to the formula set forth above.
- (8) Assessments will be due to the Treasurer within five (5) business days and deposited into the Treasurer Loss Payment Fund to be held in trust on behalf of the Program. If a Covered Depository fails to pay its assessment when due, the Treasurer is authorized to satisfy the assessment by liquidating collateral pledged by the Covered Depository.
- (9) The Treasurer will pay from the Loss Payment Fund all the claims outstanding to Public Depositors as well as expenses incurred by the Treasurer.
- (10) Public Depositors receiving payments for their claims will sign an Assignment Agreement (Exhibit F) with the Treasurer for their claim pending with the FDIC.
- (11) If any Public Depositor receives a claim payment directly from the FDIC exceeding the amount stated in Exhibit E, such funds shall be sent to the Treasurer for deposit into the Loss Payment Fund.

(12) When FDIC declares that all claims have been paid from the defaulted Covered Depository, any money remaining in the Loss Payment Fund, less the Treasurer's expenses, will be distributed to the Covered Depositories then participating in the Program in a ratio comparable to their percentage of each Covered Depository's pro rata share of the total deposits in the Program at such time.

**XV. Audit**

The Program will be subject to an annual audit by the State Auditor or a third-party independent auditor approved by the State Auditor. The scope of the audit will be determined by the State Auditor.

**XVI. Administration**

The Board approves the Treasurer contracting with GBA Services, Inc. to serve as the Administrator with such responsibilities, duties and fees included in the Program Administrator Contract.

**XVII. Fees**

The cost to administer the Program will be paid by the Covered Depositories. The State Depository Board shall set all Program fees, as specified in Exhibit G.

**XVIII. Exhibit Listing**

Exhibit A – Schedule of Eligible Collateral

Exhibit B – Security Agreement

Exhibit C – Account Exemption Certification Request

Exhibit D – Voluntary Participant Application and Agreement

Exhibit E – Loss Claim Form

Exhibit F – Assignment Agreement

Exhibit G – Program Participation, Requirements, Reports, and Fees



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**Exhibit A**  
**SCHEDULE OF ELIGIBLE COLLATERAL**

BANK: \_\_\_\_\_  
 BANK CONTACT: \_\_\_\_\_

<u>PERMITTED SECURITIES</u>	Permitted Y/N	Minimum Ratings	Limit Per Bank	Margin
<b>CASH</b>	Y			
<b><u>U.S. TREASURIES</u></b>				
BILLS	Y			
BONDS	Y			
NOTES	Y			
STRIPS	Y			
TIPS	Y			
<b><u>AGENCY DEBENTURES &amp; STRUCTURED NOTES</u></b>				
FFCB (Farm Credit System Banks)	Y			
FmHA (Farmers Home Admin.)	Y			
FHLB (Federal Home Loan Banks)	Y			
FHLMC (Federal Home Loan Mtge)	Y			
FICO (Financing Corporation)	Y			
FLBB (Federal Land Bank Bonds)	Y			
FNMA (Federal Nat'l Mtge Corp)	Y			
SLMA (Student Loan Mtge Corp)	Y			
TVA (Tennessee Valley Authority)	Y			
<b><u>SBA (Small Business Administration)</u></b>				
PASS-THROUGHS	Y			
<b><u>FHLB Letters of Credit (LOC)</u></b>	Y			
<b><u>GNMA</u></b>				
GNMA I/II-SINGLE FAMILY	Y			
GNMA I/II-OTHERS-FIXED RATE	Y			
GNMA I/II OTHERS-ADJUST. RATE	Y			
<b><u>AGENCY MORTGAGE BACKS</u></b>				
PASS THROUGH-FIXED RATE	Y			
PASS THROUGH-ADJUST. RATE	Y			
<b><u>FNMA &amp; FHLMC</u></b>				
<b><u>REMIC TYPES:</u></b>				
SEQUENTIAL AND OTHER FLOATERS	Y			
PAC & OTHER SCHEDULED FLOATERS	Y			
SEQUENTIAL BONDS	Y			
TAC BONDS	Y			
PAC & OTHER SCHEDULED BONDS	Y			
<b><u>MUNICIPAL BOND</u></b>				
MUNICIPAL BONDS: GEORGIA ISSUERS;				
G.O. BONDS: GEORGIA ISSUERS	Y	BBB		
REVENUE BONDS: GEORGIA ISSUERS	Y	BBB		
STATE ISSUED PRIVATE PLACEMENTS	Y**			
MUNICIPAL BONDS: NON-GEORGIA ISSUERS;				
STATE ISSUED MUNICIPAL BONDS	Y	A	25%	

\*CORPORATE COLLATERAL RESTRICTED TO ISSUERS NOT RELATED TO PLEDGING BANK.

\*\*CONDITIONED UPON TREASURER APPROVAL

Approved by the State Depository Board on April 18, 2017



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**EXHIBIT B - SECURITY AGREEMENT**  
State of Georgia Secure Deposit Program

This Security Agreement, dated as of \_\_\_\_\_ by and among \_\_\_\_\_ hereafter (the "Depository"), a duly-organized banking or other type of financial institution in the State of Georgia, the Office of the State Treasurer (hereafter the Treasurer), and any administrator to whom said Treasurer has delegated duties pursuant to O.C.G.A. § 45-8-13.1(d), as now or hereafter amended, on his own behalf and/or the behalf of other Public Bodies (as hereinafter defined) whose funds are required to be collateralized in accordance with Chapter 8 of Title 45 of the Official Code of Georgia Annotated, as now or hereafter amended,

**WHEREAS**, the Depository desires to be and/or remain an official depository of Public Funds deposited by the Treasurer and/or other Public Bodies; and

**WHEREAS FURTHER**, the Depository is required by the laws of the State of Georgia to collateralize the uninsured public deposits of the Treasurer and/or other Public Bodies and has elected to do so through the multibank pooling method, otherwise referred to as the State of Georgia Secure Deposit Program, as specified in Chapter 8 of Title 45 (as hereinafter defined); and

**WHEREAS FURTHER**, the Depository desires to grant to the Treasurer a security interest in all securities and other investment property at any time constituting, held in, or arising out of that certain Securities Account (as hereinafter defined) currently designated as account number \_\_\_\_\_, maintained by a Custodian (as hereinafter defined), for the purpose of securing the Depository's financial obligations with respect to Public Funds (as hereinafter defined) on deposit with the Depository,

**NOW, THEREFORE**, it is mutually agreed between the parties as follows:

1. **Definitions.** Unless otherwise provided in this Agreement, the following terms and phrases shall have the following respective meanings for the purposes of this Agreement:

**"Administrator"** shall mean the GBA Services, Inc. and its officers, directors, employees, agents, successors, and assigns.

**"Aggregate Deposits"** shall mean the aggregate amount of deposits of Public Funds that the Treasurer and/or other Public Bodies have elected to collateralize through the pooling method as specified in Title 45.

**"Custodian"** shall mean the Treasurer, any Federal Home Loan Bank approved by the Treasurer, or any bank, savings and loan association or trust company that has been approved by the Treasurer, and that meets all of the requirements of O.C.G.A. section 45-8-1.5.

**"Depositor or Depositors"** shall mean any state or local entity with deposits of public funds.

**“Depository or Covered Depository”** shall mean \_\_\_\_\_ and its agents, successors, and assigns; approved by the State Depository Board and meets all the requirements of O.C.G.A. § 45-8-1.4(a).

**“Eligible Collateral”** shall mean those approved securities or letters of credit identified in that list of securities contained in Exhibit A of this Agreement as now or hereafter amended.

**“Eligible Collateral List”** shall mean that written list of securities approved by the State Depository Board and contained in Exhibit A of this Agreement; the Board hereby reserves the right to modify, with 30 days’ notice, the Eligible Collateral List by written notification to the Administrator and subsequently provided by written notification by the Administrator to the Depositories and Custodians.

**“Event of Default”** shall mean any of the following events or conditions: (a) The Depository fails to make any return or repayment of Public Funds to the Treasurer or any Public Body from accounts held by the Depository as and when due or wrongfully dishonors any draft presented upon such accounts; or (b) the Depository breaches any covenant made in this Security Agreement; or (c) any bankruptcy case, assignment for the benefit of creditors, receivership, or other state, federal, or foreign insolvency proceeding is commenced by or against the Depository or any of its respective properties; or (d) the Depository becomes insolvent or is generally not paying its debts as they become due; or (e) the Treasurer determines that any material misrepresentation of financial condition has been made by the Depository in any oral or written statement to the Treasurer or the Administrator; or (f) the Depository discontinues its usual business, commences to dissolve, wind-up, or liquidate itself; or (g) the Depository’s financial condition falls below the minimum capital ratios required to be considered “adequately capitalized,” as measured under the risk-based capital regulations of the Office of the Comptroller of the Currency, 12 CFR §3.100, Appendix a, as now or hereafter amended.

**“Georgia UCC”** shall mean the Uniform Commercial Code as enacted in the State of Georgia, O.C.G.A. §11-1-101, *et seq.*, as now or hereafter amended.

**“Fair Market Value”** shall mean the value of the Pledged Securities as determined by any independent service that regularly furnishes such information to financial institutions in the United States as of the applicable date of transaction or report; provided however, should such method of valuation be inapplicable or unacceptable to the Treasurer in respect to any Pledged Security, Fair Market Value shall mean the value placed thereon by the Treasurer.

**“FDIC”** shall mean the Federal Deposit Insurance Corporation, a federally chartered public corporation of the United States of America.

**“Pledged Securities”** shall mean the Eligible Collateral as to which the Depository has granted a security interest to the Treasurer and as to which the Custodian has taken physical possession or, in the case of uncertificated securities, which the Custodian has registered to the Treasurer. This term shall also include Letters of Credit and surety bonds held directly by the Treasurer or a Custodian.

**“Public Body”** shall mean the same meaning as that given in O.C.G.A. § 45-8-1.11, as now or hereafter amended, which currently means the State of Georgia and its municipalities, counties, school districts, drainage districts and other districts created for special purposes, every other political subdivision of the State, and every board, bureau, commission, and department of the State or any subdivision thereof, or such other governmental entity approved by the State Depository Board, as the context may require.

**“Public Funds”** shall mean monies of a Public Body deposited in a Covered Depository as defined in O.C.G.A. § 45-8-1.4(a) as now or hereafter amended.

**“Required Collateral”** means the amount of Eligible Collateral required to be pledged by a Covered Depository or, in the case of a Letter of Credit, such LOC or surety bond issued to the State Treasurer as beneficiary, to satisfy a respective Covered Depository’s minimum collateral pledging tier requirement as determined by the State Treasurer.

**“Securities Account”** shall mean the account established with and held by the Custodian for the benefit of the Treasurer containing Pledged Securities, and any successor account thereto.

**“Securities Entitlements”** shall mean rights and property interests as defined in O.C.G.A. §11-8-102(a)(17) as now or hereafter amended.

**"State Depository Board"** shall mean and refer to the board created by O.C.G.A. § 50-17-50.

**“Title 45”** shall mean Chapter 8 of Title 45 of the Official Code of Georgia Annotated, as now or hereafter amended.

**“Treasury”** shall mean The Office of the State Treasurer of the State of Georgia.

2. **Secured Obligation.** The Depository hereby pledges and grants a security interest in the Depository’s present and future right, title, and interest in and to the Pledged Securities and the Securities Account to the Treasurer, to secure payment and delivery of Public Funds deposited by the Treasurer and/or other Public Bodies with the Depository in excess of FDIC insurance coverage limits. The Pledged Securities shall be held by the Custodian Securities Account.

3. **Representations.** The Depository warrants and represents that: (a) all of the Pledged Securities are of the type described in the Schedule of Eligible Collateral attached hereto as Exhibit A and as amended by the Treasurer; (b) the Depository is the sole and exclusive owner of the Pledged Securities; (c) the Pledged Securities are free and shall remain free for so long as the Pledged Securities are held in the Securities Account of any lien, claim, encumbrance, or restriction of any kind; (d) the Depository has the authority and capacity to pledge the Pledged Securities and to execute this Agreement; (e) Depository agrees, by executing this Agreement, that all Public Funds must be secured under the Secure Deposit Program and not under the dedicated method or the single bank method, as described in Chapter 8 of Title 45; (f) Depository agrees to be bound by the State of Georgia Secure Deposit Program Policy, as amended by the State Depository Board; and (g) the address set forth below in section 13 is the Depository’s chief executive offices. The Depository waives any rights of first refusal or other restrictions on the sale or transfer of the Pledged Securities.

4. **No Liens or Sale; Substitution Privileges and Release.** The Depository agrees that, as long as the Treasurer or any Public Body has Public Funds on deposit with the Depository, unless the Depository shall have received the prior written consent of the Administrator , the Depository shall not sell or offer to sell or otherwise transfer, dispose of, or encumber the Pledged Securities, or any interest therein; provided, however, subject to prior written approval by the Administrator, that the Administrator authorizes the Depository to substitute additional Eligible Collateral for any or all of the Pledged Securities and release certain of the Pledged Securities, provided, further, that at all times the Fair Market Value of the Pledged Securities is equal to at least the Required Collateral. Prior to any such substitution or release, the Depository shall provide to the Administrator a written request for substitution and/or release, showing the Fair Market Values of the Pledged Securities to be released and of the replacement Eligible Collateral to be pledged (if any).

5. **Covenant as to Required Collateral.** The Depository shall not retain any deposit of Public Funds that unless, within three (3) business days after receipt of such deposit, the Depository has deposited Eligible Collateral in the Securities Account or within five (5) days the Depository has deposited a Federal Home Loan Bank Letter of Credit, whose Fair Market Value as of the date of the deposit of such Eligible Collateral along with the Fair Market Value of the other Eligible Collateral in the Securities Account equals or exceeds the Required Collateral. In order for a Depository to be granted five (5) days to remedy the deficiency, the Depository must send a copy of the Federal Home Loan Bank application to the Administrator within (3) business days of the deficiency to document their

intent to use a Letter of Credit. The Depository agrees that, as long as the Treasurer or any Public Body has Public Funds on deposit with the Depository, the Depository shall maintain at all times Pledged Securities with an aggregate Fair Market Value equal to at least the Required Collateral. The Depository shall monitor the Required Collateral on a daily basis. Any noncompliance (as defined as a day where the Fair Market Value of the Eligible Collateral does not equal or exceed the Required Collateral) will be reported, in an electronic format, to the Administrator and Treasury within three (3) business days. The Depository shall also deposit additional Eligible Collateral in the Securities Account maintained by the Custodian within three (3) business days (or five (5) business days in the case where the Depository intends to use a Federal Home Loan Bank Letter of Credit) of the date of noncompliance if necessary to reach and maintain the Required Collateral. In order for a Depository to be granted five (5) days to remedy the deficiency, the Depository must send a copy of the Federal Home Loan Bank application to the Administrator within (3) business days of the deficiency to document their intent to use a Letter of Credit.

6. **Perfection of Treasurer's Security Interest in Pledged Funds.** Upon the Treasurer's request, and at the Depository's sole expense, the Depository shall promptly execute, deliver, and record any documents, instruments, agreements, and amendments, and take all such further action, as the Treasurer may reasonably deem desirable in obtaining the full benefits of this Agreement, including financing statements or amendments under the Georgia UCC, all in form and substance satisfactory to the Treasurer. The Depository authorizes the Treasurer to file any such financing statement without the signature of the Depository, or with a copy, PDF file or fax of the Depository signature, to the extent permitted by applicable law, or to execute any financing statement or amendment thereof on behalf of the Depository as the Depository's attorney-in-fact. If any amount payable under or in connection with the Pledged Securities shall be or become evidenced by any promissory note or other instrument or any certificated security that is not held by the Custodian in the Securities Account, such note, instrument, or certificate shall be immediately pledged and delivered to the Treasurer hereunder, duly endorsed in a manner satisfactory to the Treasurer. The Depository will promptly notify the Treasurer of any change in the Depository's name or address and will cooperate in ensuring that any action necessary or advisable to continue the perfection of the security interests granted hereunder has been duly taken. Without limiting the foregoing, the following items (all in form and substance satisfactory to the Treasurer) must be provided by the Depository upon execution of this Agreement:

(a) A Custodial Agreement signed by the Treasurer, the Depository, and the Custodian, in the Treasurer's form, containing (among other things) the Custodian's agreement to act upon instructions and entitlement orders from the Treasurer, without notice to or consent of the Depository, to deliver copies of all reports with respect to the Pledged Securities to the Treasurer, and not to permit any other liens (including its own) on the Securities Account or the Pledged Securities.

(b) UCC-1 financing statements describing the Pledged Securities, executed by the Depository and in form appropriate to be filed in all applicable UCC filing offices.

7. **Receipt of Pledged Securities; Interest and Dividends.** As long as no Event of Default has occurred, the Depository shall be entitled to receive all interest and cash dividends arising from the Securities Account (but not any underlying securities or other Pledged Securities other than as a result of a substitution approved by the Administrator), to be delivered to the Depository by the Custodian. Upon the occurrence of an Event of Default, the Depository's right to receive such interest and dividends shall immediately and automatically terminate, with no further notice to the Depository, unless and until reinstated in writing by the Treasurer. The Treasurer's remedies upon an Event of Default shall include the right to notify the Custodian to cease immediately delivering such interest and dividends to the Depository and to deliver all or any portion thereof to the Treasurer.

Any portions of the Pledged Securities received by the Depository in violation of this Agreement shall remain subject to the Treasurer's security interest and lien hereunder, shall be immediately delivered to the Treasurer, in the same form as received except for any necessary endorsements, and pending such delivery, shall be held in trust for the Treasurer by the Depository and kept separate from the Depository's other assets.

8. **Reporting.** The Depository agrees to submit information as required by the Administrator for reports to be submitted to the Treasurer.

9. **Public Posting of Depositors.** The Administrator shall maintain a list of current depositors on its website. This list will be updated by the Administrator on a monthly basis. The Depository shall verify that Depositors are correctly listed on the Administrator's website.

10. **Remedies.** (a) Upon an Event of Default, the Treasurer shall have and may exercise any or all of the rights and remedies of a secured party under the Georgia UCC, and as otherwise agreed herein or under any other applicable law or any other agreement, including without limitation: (1) the right to immediately withdraw or liquidate any and all contents of the Securities Account and to endorse and cash any instruments included in the Pledged Securities, without regard to maturity thereof or penalties for early withdrawal and without notice of default first being given to the Depository; (2) the right to notify the Custodian to make payments from or on the Pledged Securities directly to the Treasurer, to transfer the Pledged Securities to the Treasurer or the Treasurer's account, and/or to sell the Pledged Securities, all without notice of default first being given to the Depository and without the consent of the Depository. The Treasurer may apply the proceeds of the Pledged Securities toward payment of any costs and expenses and reasonable attorneys' fees and legal expenses thereby incurred by the Treasurer and toward the repayment of Public Funds of the Treasurer or any Public Body that the Depository has failed to deliver as and when due in such order or manner as the Treasurer may elect. The Depository agrees to pay the Treasurer all expenses and charges (including reasonable attorneys' fees and other legal fees and expenses) that the Treasurer may incur in enforcing or protecting the Treasurer's rights hereunder or with respect to the Public Funds on deposit with the Depository.

(b) Without limiting the generality of the foregoing provisions of subsection (a) above, it is expressly agreed that, upon the occurrence of an Event of Default, the Treasurer may take any or all of the following actions: (1) cause the Pledged Securities to be transferred to its name or to the name of its nominee or nominees and thereafter to exercise with respect to the Pledged Securities all the rights, powers, and remedies of any owner; (2) collect by legal proceedings or otherwise all dividends, interest, principal payments, and other sums now or hereafter payable on account of the Pledged Securities and to hold the same as collateral, or apply the same to any balance owed by the Depository to the Treasurer or to any Public Body, with the manner and distribution of the application to be in the sole discretion of the Treasurer; (3) enter into any extension, subordination, reorganization, deposit, merger, or consolidation agreement, or any other agreement relating to or affecting the Pledged Securities, and, in connection therewith, deposit or surrender control of such Pledged Securities, and/or accept other property in exchange therefore and hold and apply such property or money so received in accordance with the provisions of this Agreement. This Agreement constitutes a bond transfer power, which is hereby granted in favor of the Treasurer, and the Depository authorizes any and all registrars, transfer agents, and issuer's officials to transfer any securities and investment property included in the Pledged Securities to the name of the Treasurer or his designee.

The Depository acknowledges that no notice of sale will be required, as the Pledged Securities are of a type customarily sold in recognized markets. The Depository agrees that, if any notice of sale or other disposition of the Pledged Securities is required by law, such notice shall be deemed reasonable notice of sale and shall fully satisfy any requirement of giving notice if it is mailed, postage prepaid, or sent by email or fax, to the Depository before the time of the proposed sale or disposition.

Nothing contained herein shall be deemed to limit, delay, or impair the Treasurer's right to withdraw immediately and close the Securities Account or any other Pledged Securities regardless of maturity of any of the Pledged Securities following the occurrence of an Event of Default, and nothing herein shall impair, as between the Treasurer and the Custodian, the Treasurer's right to control the Securities Account and the Pledged Securities.

11. **Contingent Liability.** The Depository guarantees Public Funds against a loss caused by an Event of Default of other Covered Depositories participating in the State of Georgia Secure Deposit Program (SDP). Upon an Event of Default, Depository agrees to be bound by State of Georgia Secure Deposit Program Policy as promulgated by the State Depository Board.



12. **Treasurer's Limited Duties.** The Treasurer shall be under no duty to pursue collection of any amount due on or under any of the Pledged Securities, to realize on Pledged Securities, to collect principal, interest, or dividends, to keep the same insured, to make any presentments, demands, or notices of protest in connection with any of the Pledged Securities, to monitor or act upon the maturity of any of the Pledged Securities, to avoid or prevent any early withdrawal penalties or other penalties, or to preserve any rights against prior parties to any instruments, contracts, or securities included in the Pledged Securities. Without limiting the generality of the foregoing, the Treasurer's duty with respect to the Pledged Securities shall be solely to use reasonable care in the custody and preservation of any physical Pledged Securities in the Treasurer's actual possession, and the Treasurer shall be in no way liable to or responsible for any diminution in the value of, or reduction in the proceeds realized from, the Pledged Securities from any cause whatsoever.

13. **Voluntary Withdrawal.** A Depository, upon failing to meet the State Depository Board's criteria for a Covered Depository, may be asked to voluntarily withdraw from the Secure Deposit Program. If a Depository is asked to voluntarily withdraw by the Treasurer or the Administrator, the Depository agrees the Depository will withdraw in accordance with the State of Georgia Secure Deposit Program Policy adopted by the State Depository Board.

14. **Approval of Board or Loan Committee of Depository.** The Depository represents and warrants that it is duly authorized, by resolution of the board of directors or of the loan committee of the Depository, and has full right, power, and authority to execute this Agreement and to pledge and grant a security interest with respect to the Pledged Securities. The Depository has furnished a certified copy of the authorizing resolution, attached hereto as Exhibit B.

15. **Continuously Maintain Agreement as Official Record.** The Depository agrees that it will immediately, upon execution, keep and continuously maintain, as part of its official records, an executed copy of this Agreement and such other customary writings and records sufficient to identify those securities that have been pledged to the Treasurer.

16. **Successors and Assigns.** This Agreement is continuing and binding upon the Depository, its agents, successors, and assigns and shall inure to the benefit of the Treasurer and his successors and assigns.

17. **Communications.** Unless otherwise provided herein, all written communications sent to the respective parties to this Agreement shall be sent to the respective addresses given below via first class United States Mail, postage prepaid:

To the Treasurer:

Office of the State Treasurer  
Attention: Steve McCoy  
200 Piedmont Avenue, SE  
Suite 1204 West Tower  
Atlanta, GA 30334  
Phone: 404-657-4203  
Email: [smccoy@treasury.ga.gov](mailto:smccoy@treasury.ga.gov)

Copy to:

Georgia Bankers Association  
Attention: David Oliver  
50 Hurt Plaza, Suite 1050  
Atlanta, Georgia 30303  
Phone: 404-420-2035  
Email: [doliver@gabankers.com](mailto:doliver@gabankers.com)

To the Depository:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

A party hereto may from time to time designate a new address to which all written communications are to be sent by notifying the other party of such designation in writing as provided above.

18. **Georgia and Federal Law to Govern; Choice of Forum.** This Agreement shall be deemed to have been made in the State of Georgia and shall be construed, and the rights and liabilities of the parties determined, in accordance with the laws of the State of Georgia except as to choice of law provisions. With respect to regulatory matters, all transactions under this Agreement shall be subject to all applicable laws and rules and regulations of all federal, state, and self-regulatory agencies, including but not limited to the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the United States Treasury, and the Georgia Department of Banking and Finance. Any action brought to assert any right or remedy pertaining to this Agreement shall be brought exclusively in the Superior Court of Fulton County, Georgia.

19. **Conduct of the Parties.** Conduct of the parties shall not in any matter constitute a waiver of any right, duty, or obligation imposed by this Agreement upon either party hereto.

20. **Time of the Essence.** Time is of the essence of this Agreement.

21. **Headings.** The headings of the sections hereof are for descriptive purposes only and do not modify or qualify any of the rights or obligations set forth in this Agreement.

22. **Construction.** Should any provision of this Agreement require judicial interpretation, it is agreed and stipulated by and between the parties hereto that the court interpreting or construing the same shall not apply a presumption that the terms, conditions, and provisions hereof shall be more strictly construed against one party by reason of the rule of construction that an instrument is to be construed more strictly against the party who prepared the same.

23. **Severability.** Notwithstanding any provisions hereof, if any provision herein is or should become inconsistent with any present or future law, rule, or regulation of any sovereign government or regulatory body having jurisdiction over the subject matter of this Agreement, such provision shall be deemed to be rescinded or modified in accordance with any such law, rule, or regulation; in all other respects, this Agreement shall continue to remain in full force and effect.

24. **Amendment.** Except as otherwise provided herein, this Agreement may be modified only by the prior written agreement of the parties.

25. **Counterparts.** This Agreement is executed in two counterparts each of which is deemed an original of equal dignity with the other and which is deemed one and the same instrument as the other.

26. **References.** All references to any number or gender shall include all others, and all references to documents and agreements shall also refer to amendments thereof.

27. **Whole Agreement.** This Agreement contains the entire agreement between the Treasurer and the Depository and supersedes all prior agreements and understandings relating to the subject matter hereof.

28. **Termination.** This agreement may be terminated by the Treasurer or the Depository with thirty (30) days' written notice to the other party and to the Administrator.

**IN WITNESS WHEREOF**, the Treasurer, Administrator and the Depository have caused this Agreement to be executed as of the date first written above.

**TREASURER:**

OFFICE OF THE STATE TREASURER  
STATE OF GEORGIA

**DEPOSITORY:**

\_\_\_\_\_  
Name of Depository

By: \_\_\_\_\_  
Steve McCoy  
Treasurer

By: \_\_\_\_\_  
Name:  
Title:

**ADMINISTRATOR:**

GBA SERVICES INC.

By: \_\_\_\_\_  
Joe Brannen  
President & CEO

**CERTIFICATE**

I, the undersigned, hereby certify to the Treasurer of the Office of the State Treasurer of the State of Georgia, who is the pledgee of collateral securities to secure funds of public bodies under the pooling method in accordance with Chapter 8 of Title 45 of the Official Code of Georgia Annotated, that I am the Secretary (Assistant Secretary) of \_\_\_\_\_ (the "Depository"), a banking or other type of financial institution in Georgia; that the following is a true copy of the resolution duly adopted by the [Board of Directors / duly-established Loan Committee] of the Depository, at a meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at which a quorum was present; and that such resolutions have not been rescinded or modified.

**SO CERTIFIED**, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Secretary or (Assistant Secretary)

(SEAL)

**RESOLUTION OF THE** \_\_\_\_\_  
*Board of Directors / Loan Committee*  
**OF**

\_\_\_\_\_  
*Name of Depository*

**WHEREAS**, the Federal Deposit Insurance Corporation’s Statement of Policy Regarding Treatment of Security Interests After Appointment of the FDIC as Conservator or Receiver dated March 31, 1993, (the “FDIC Policy Statement”) specifies that all security agreements pertaining to public deposits be approved by the financial institution’s \_\_\_\_\_,  
*Board of Directors / Loan Committee*

**NOW, THEREFORE, BE IT RESOLVED THAT:**

1. the Chairman, President, Treasurer, or any Vice-President of \_\_\_\_\_ be  
*Name of Depository*  
and hereby is authorized and directed to execute and deliver to the Treasurer of the Office of the State Treasurer of the State of Georgia (the “Georgia Treasurer”) the “Security Agreement” contained herewith;  
and
2. the Chairman, President, Treasurer, or any Vice President be and hereby is authorized to act as agent to \_\_\_\_\_  
*Name of Depository*  
under said Agreement, said acts including but not limited to the execution of any required securities account control agreement or escrow agreement; and
3. this resolution shall remain in full force and effect until written notice of its amendment or rescission shall have been given to the Georgia State Treasurer, and that receipt of such notice shall not affect any action taken by the Georgia State Treasurer or affect the security of any deposits that may be or may have been on deposit with \_\_\_\_\_;  
*Name of Depository*; and
4. the Secretary or Assistant Secretary is authorized and directed to certify to the Georgia State Treasurer that this resolution has been duly adopted and that the provisions thereof are in conformity with the Charter, Articles of Incorporation, and By-Laws of \_\_\_\_\_,  
*Name of Depository*  
and that there is no provision in those documents or in any other authorizing document that limits the power of the \_\_\_\_\_  
*Board of Directors / established Loan Committee* to pass the foregoing resolution.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Board of Directors / Designee*

\_\_\_\_\_  
*Name of Depository*

**By:** \_\_\_\_\_  
Name:  
Title:



***Office of the State Treasurer***

200 Piedmont Avenue, Suite 1204, West Tower  
Atlanta, Georgia 30334-5527  
ost.georgia.gov

**Steve McCoy**  
State Treasurer

**(404) 657-4203**  
**FAX (404) 656-9048**

**EXHIBIT C – ACCOUNT EXEMPTION CERTIFICATION REQUEST**

State of Georgia Secure Deposit Program (“SDP”)

Pursuant to Section XII. of the SDP Policy, the Covered Depository named below hereby submits this certification that the accounts listed below are Public Deposits that are exempt from inclusion in the SDP for reasons enumerated below.

**SECTION A – Covered Depository Information**

Covered Depository: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
FEIN: \_\_\_\_\_  
Primary Contact: \_\_\_\_\_  
Phone: \_\_\_\_\_  
  Office  Mobile  
Email: \_\_\_\_\_

**SECTION B – Public Deposits in State of Georgia to be exempted from the SDP**

**Public Depositor Account Information**

1. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
2. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
3. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
4. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
5. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_

6. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
7. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
8. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
9. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
10. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
11. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
12. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
13. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
14. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
15. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
16. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
17. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
18. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
19. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_
20. Public Depositor Name: \_\_\_\_\_  
City/State: \_\_\_\_\_  
Reason Account Excluded from SDP: \_\_\_\_\_

21. Public Depositor Name: \_\_\_\_\_  
 City/State: \_\_\_\_\_  
 Reason Account Excluded from SDP: \_\_\_\_\_
22. Public Depositor Name: \_\_\_\_\_  
 City/State: \_\_\_\_\_  
 Reason Account Excluded from SDP: \_\_\_\_\_
23. Public Depositor Name: \_\_\_\_\_  
 City/State: \_\_\_\_\_  
 Reason Account Excluded from SDP: \_\_\_\_\_
24. Public Depositor Name: \_\_\_\_\_  
 City/State: \_\_\_\_\_  
 Reason Account Excluded from SDP: \_\_\_\_\_
25. Public Depositor Name: \_\_\_\_\_  
 City/State: \_\_\_\_\_  
 Reason Account Excluded from SDP: \_\_\_\_\_

**SECTION C**

*The accounts listed above have been approved by the respective Public Depositors to be excluded from the Secure Deposit Program due to statutory or regulatory requirements stipulating that pooled collateral is not required or acceptable.*

BY: \_\_\_\_\_  
 Authorized Signature of Covered Depository

Name: \_\_\_\_\_

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

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

**SECTION D** [This section to be completed only by the Office of the State Treasurer.]

*For a Covered Depository having investment deposits with the Office of the State Treasurer that meet criteria determined by the policy of the State Depository Board exempting such deposits in the SDP, the State Treasurer will notify the Covered Depository that such account(s) is exempt.*

**Covered Depository**

Account Name: \_\_\_\_\_

Account Name: \_\_\_\_\_

Account Name: \_\_\_\_\_

*Accounts listed above in Section B and D (if applicable) have been approved as exempt from SDP.*

**Acknowledged and Approved:**

BY: \_\_\_\_\_  
 Office of the State Treasurer

DATE: \_\_\_\_\_





# Office of the State Treasurer

200 Piedmont Avenue, Suite 1204, West Tower

Atlanta, Georgia 30334-5527

ost.georgia.gov

Steve McCoy  
State Treasurer

(404) 657-4203  
FAX (404) 656-9048

## EXHIBIT D – VOLUNTARY PARTICIPANT APPLICATION AND AGREEMENT

State of Georgia Secure Deposit Program

**Applicant Name** \_\_\_\_\_

**FEIN** \_\_\_\_\_

**Address** \_\_\_\_\_

**Contact Name** \_\_\_\_\_

**Telephone** \_\_\_\_\_

**Total Public Deposits in GA** \_\_\_\_\_

**Number of Public Depositors in GA** \_\_\_\_\_

**Proposed Custodian** \_\_\_\_\_

**E-Mail Address** \_\_\_\_\_

**Date** \_\_\_\_\_

On behalf of \_\_\_\_\_, the Applicant wishes to become a Covered Depository and apply to the State Treasurer as a Voluntary Participant in the State of Georgia Secure Deposit Program (SDP). Applicant hereby represents that, to the best of its knowledge, it meets the requirements set forth in the Secure Deposit Program Policy, Section III (1)-(3) and Section XI (2) (a)-(b), and, if approved by the State Depository Board, will operate under the policies and procedures of the SDP program.

Pursuant to O.C.G.A. § 45-8-1(4)(A)(ii), \_\_\_\_\_, (the “Applicant”) is a financial institution that has elected to participate in the State of Georgia Secure Deposit Program (the “Program”). Applicant agrees to provide the State Treasurer with all agreements and data as promulgated by the SDP Policy, or as may be required by the State Treasurer. Applicant also agrees to be bound by the SDP policy, as amended by the State Depository Board. Upon meeting the qualifications pursuant to Chapter 8 of Title 45 and receiving approval by the State Depository Board, the State Treasurer shall issue a Certificate of Qualification (the “Certificate”) to the Applicant declaring the Applicant as a Voluntary Participant under the Program. The Applicant acknowledges that the Certificate shall be valid for one (1) year. Thereafter, the Certificate shall automatically renew for consecutive one (1) year periods unless: (i) the Applicant is notified by the Treasurer in writing that the Certificate has not been renewed; or (ii) the Applicant opts not to renew and presents a written request no later than sixty (60) days from the scheduled expiration of its certificate to the Treasurer for consideration and in accordance with Program policy.

IN WITNESS WHEREOF, the Applicant has caused this Agreement to be executed as of the date first written above.

### APPLICANT:

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

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

**Acknowledged By:** \_\_\_\_\_

**For Georgia Bankers Association**

**STATE DEPOSITORY BOARD APPROVAL DECISION:**

On \_\_\_\_\_ (date), the State Depository Board considered this application and

**APPROVED** subject to execution of all required agreements.

**DENIED** this application.

**CERTIFICATION:**

On behalf of the State Depository Board, as State Treasurer, I hereby certify that the Applicant is approved as a Voluntary Participant as of \_\_\_\_\_ (date) and will expire on \_\_\_\_\_ (date) unless renewed.

Any renewal of this certification will be delivered by the State Treasurer in writing to the Voluntary Participant prior to the expiration date.

**OFFICE OF THE STATE TREASURER**

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

Steve McCoy  
State Treasurer



# Office of the State Treasurer

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Atlanta, Georgia 30334-5527

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**Steve McCoy**  
State Treasurer

**(404) 657-4203**  
**FAX (404) 656-9048**

## EXHIBIT E - LOSS CLAIM FORM State of Georgia Secure Deposit Program

**THIS CLAIM** is presented for payment this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ to the Treasurer of the State of Georgia by:

\_\_\_\_\_  
Public Depositor's Full Legal Name and Mailing Address to Include City, State and Zip Code

-----  
**Public Depositor Account Information**

Account Number: \_\_\_\_\_ Type of Account (CD/other): \_\_\_\_\_

Account Name: \_\_\_\_\_  
Full Name as it Appears on the Records of the Covered Depository

Accountholder's Federal Employer Identification Number (FEIN): \_\_\_\_\_

**Covered Depository Information**

Full Legal Name: \_\_\_\_\_  
Depository MUST Be a Covered Depository

Address: \_\_\_\_\_  
City and State

FEIN: \_\_\_\_\_

Date Covered Depository Defaulted or Became Insolvent: \_\_\_\_\_

-----  
**Amount Claimed**

Principal Amount in Account: \$ \_\_\_\_\_

Interest Earned or Accrued but not  
Paid As of the Date of Default or  
Insolvency: \_\_\_\_\_

Total Principal & Interest: \$ \_\_\_\_\_

Less FDIC Deposit Insurance Claim/Payment: \_\_\_\_\_

Less Adjustment for Offsets: \_\_\_\_\_

NET CLAIM: \$ \_\_\_\_\_



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### **EXHIBIT F – ASSIGNMENT AGREEMENT** State of Georgia Secure Deposit Program

#### **Agreement for Settlement of Claim**

The public depositor, by submission of a claim, agrees to the following terms:

- (1) Proof of authorization to execute the Public Deposit Claim Form and Agreement on behalf of the public depositor shall accompany the claim.
- (2) An assertion that the claim is for public deposits, as set forth in O.C.G.A. § 45-8-1 *et seq.*, and is not exempt under the laws of Georgia or the policies of the State Depository Board, shall be made by the public depositor.
- (3) The public depositor must submit documentation supporting the outstanding amounts set forth in the claim (i.e. bank statements, account agreements, FDIC claim form, etc.)
- (4) Responsibility for research or defense required to support the assertion that the claim covers public deposits and is not exempt as well as the amount of the claim shall be accepted by the public depositor.
- (5) Evidence of deposit insurance afforded this public deposit and offsets allowed shall accompany the claim. The net claim shall be an uncompensated loss which is not subject to any claim or indemnification other than that provided by O.C.G.A. § 45-8-13.1(e).
- (6) Provide any additional documentation or information required by the Treasurer of the State of Georgia to process this claim.
- (7) Assignment to the Treasurer of the State of Georgia of any interest in funds that become available to the defaulted covered depository, with respect to the amount of the claim, shall be made by the public depositor.
- (8) Indemnification of the State of Georgia, including the Treasurer of the State of Georgia, for any claims of other parties, including costs of litigation and attorneys' fees, with respect to the claim, shall be made by the public depositor.
- (9) Return any funds to the Treasurer of the State of Georgia if it is determined by the Treasurer of the State of Georgia that the public depositor's paid claim was overstated.

***“Under the penalties of perjury, I declare that I have read the foregoing Public Deposit Claim Form and Agreement, that the facts stated in it are true, and that I am authorized to bind the public depositor to the terms of the Public Deposit Claim Form and Agreement.”***

STATE OF GEORGIA  
COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_

day of \_\_\_\_\_

by \_\_\_\_\_  
Name of Person Making Statement

\_\_\_\_\_  
Signature of Notary Public – State of Georgia

\_\_\_\_\_  
Commissioned Name of Notary Public

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

\_\_\_\_\_  
Type of Identification Produced

By: \_\_\_\_\_  
Authorized Signature for Public Depositor

Name: \_\_\_\_\_  
Printed or Typed

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

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

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_



**Office of the State Treasurer**  
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**EXHIBIT G – PROGRAM PARTICIPATION, REQUIREMENTS, REPORTS, AND FEES**

**State of Georgia Secure Deposit Program**

**Reporting:**

Covered depositories and custodians will submit the following information, either in the form of an electronic CSV report in a template provided by the Treasurer; or, directly into an SDP electronic reporting system (to be developed).

The Treasurer will communicate to each Covered Depository, its respective collateral tier in accordance with section “V. Methodology of Determining Required Collateral” of the Program policy; except that the Treasurer, on behalf of the Board, may notify a Covered Depository at any time that the required collateral level has been raised to up to 125% for financial or economic reasons. Covered Depositories shall use the assigned collateral tier level in their posting of required collateral and in their reporting of collateral.

The Treasurer will communicate to Covered Depositories the amount of aggregate public deposits for all Covered Depositories in the Program, to be used by each Covered Depository in establishing required collateral amounts. Specifically, this relates to the requirement to post collateral at a value of at least 100% for any Covered Depository’s total public Program deposits that exceed 20% of Program aggregate public deposits.

**Month-end total deposits and collateral level information (within 10 business days of month-end) including, but not limited to:**

- Total pooled deposits
- FDIC insurance
- Total pooled deposits of bank (net of FDIC insurance coverage)
- % collateral required (per most recent quarterly calculation)
- Tier 1 Equity Capital (per most recent quarterly calculation)
- Current Market Value of Collateral

**Month-end Bank report of deposits - daily record information (within 10 business days of month-end) including, but not limited to:**

- a) Depository
- b) FDIC Cert#
- c) FEIN #
- d) Street/PO Box
- e) City, State, Zip
- f) Submitted by
- g) Phone
- h) Email
- i) Report Date (e.g. October 31, 2016)
- j) Reporting period

- k) Custodian
- l) Collateral Pricing Service
- m) Total public deposits
- n) Amount of FDIC insurance covering deposit balances in “m” above
- o) Amount of bank’s total net deposits in pool (Total, less FDIC insurance coverage)
- p) Required pledge level percentage
- q) Any additional collateral required by notification from the Treasurer; or as a result of a Covered Depository having public deposits exceeding 20% of the aggregate Public Deposits for all Covered Depositories in the Program; or as a result of a Covered Depository having public deposits exceeding 200% of its common equity Tier 1 capital
- r) Total required collateral
- s) Original Face or Par Value of Securities pledged
- t) Current Market Value of Securities pledged
- u) FHLB LOC and surety bonds issued to the State Treasurer
- v) Excess/deficit of pledged collateral over/under required collateral
- w) Confirmation of compliance with Program requirements including eligibility of all pledged collateral

**Month-end Bank report of collateral information (within 10 business days of month-end) including but not limited to:**

- a) Depository
- b) FDIC Cert#
- c) FEIN #
- d) Street/PO Box
- e) City, State, Zip
- f) Submitted by
- g) Phone
- h) Email
- i) Report Date (e.g. October 31, 2016)
- j) Reporting period
- k) Custodian
- l) Collateral pricing source
- m) CUSIP number or FHLB Letter of Credit Number
- n) If FHLB, Beneficiary
- o) Issuing FHLB if LOC is collateral; issuing surety provider if surety bond is collateral
- p) Security Description
- q) Security Type of collateral that is consistent with Schedule of Eligible Securities
- r) Maturity Date
- s) Original Face or Par Value
- t) Current Market Value
- u) Rating (if applicable)
- v) Pool (if applicable)
- w) Price

**Month-end Bank report of depositors’ information (within 10 business days of month-end) including but not limited to:**

- a) Full Depositor name
- b) Depositor address
- c) Depositor FEIN #

**Month-end Custodian report information (within 10 business days of month-end) including, but not limited to:**

- a) Custodian
- b) FEIN #
- c) Street / PO Box
- d) City, State, Zip

- e) Submitted by
- f) Phone contact number
- g) Email
- h) Report Date
- i) Reporting Period
- j) Collateral Pricing Service
- k) Depository
- l) Depository Account #
- m) Pledgee
- n) CUSIP number
- o) Security Description
- p) Security Type of collateral that is consistent with Schedule of Eligible Securities
- q) Maturity Date
- r) Original Face or Par Value
- s) Current Market Value
- t) Rating (if applicable)
- u) Pool (if applicable)
- v) Price

Covered depositories utilizing any Federal Reserve Bank as their Custodian will be required to verify the month-end Custodian report information.

## **TRANSACTIONS**

A Covered Depository will provide the following information when making a pledge to the pool, withdrawing a security or substituting one security of equal or greater current market value of another.

### **Transaction request -pledge, withdrawal, substitution**

- Date
- Bank
- FDIC Cert
- FEIN #
- Total pooled deposits on day of request
- Pledged to
- Transaction type: Deposit, Withdrawal, Substitution Deposit, Substitution Withdrawal
- CUSIP
- Security Description
- Security Type of collateral that is consistent with Schedule of Eligible Securities, or FHLB LOC
- Maturity date
- Original Face or Par Value
- Current Market Value
- Rating (if applicable)
- Custodian
- Collateral Pricing Service if different from Custodian
- Bank's authorizing party: Contact name, email, fax, and phone if necessary
- Specific custodian contact name, email, fax, and phone if necessary

### **Program Fees**

- (1) The Board has adopted a schedule of fees to be charged to Covered Depositories to be used to cover reasonable Program expenses, including, the Administrator fee, internal expenses associated with Program, and any other fees including Custodial fees, liquidation fees, etc. The Board may adopt other fees as necessary to assure that all expenses necessary to administer the Program are adequately funded.



- (2) The Treasurer may adjust fees within limits established by the Board in order to ensure adequate resources are available to administer the SDB. Excess of fees collected may be credited to participating Covered Depositories at the end of each fiscal year.
- (3) The Treasurer will calculate an estimate of fees for each Covered Depository at the beginning of each fiscal year. Each Covered Depository may elect to pay the estimated fee at the beginning of the fiscal year or in upfront quarterly installments. The estimated fees for each Covered Depository will be reviewed quarterly and adjusted if necessary. Covered Depositories may be required to maintain a minimum balance as determined by the Treasurer to ensure payment of all Program expenses on a timely basis.
- (4) At the inception of the Program, initial fees will be estimated and charged for the partial period, prior to July 1, 2017.
- (5) Fees shall not exceed the following schedule of fees:

Multibank Pledging Pool

<u>Fee:</u>	<u>SDP Cap:</u>
a. Public Depositor Fee	\$12.00 / depositor / month
b. Total Deposit Fee	.0025% of Program deposits / year
c. Program Fee Tier I	\$125 / month
d. Program Fee Tier II	\$105 / month
e. Program Fee Tier III	\$85 / month
f. Program Fee Tier IV (and 125% level)	\$85 / month
g. Covered Depository Application Fee	\$500 one-time fee
h. Depository Non-Compliance Fees	\$250 / occurrence
i. Custodian Non-Compliance Fees	\$250 / occurrence

Single Bank Pledging Pool

<u>Fee:</u>	<u>SDP Cap:</u>
a. Public Depositor Fee	\$12.00 / depositor / month

- (6) Fees collected in excess of Program expenses may be credited to participating Covered Depositories at the end of each fiscal year to offset fees due in the subsequent fiscal year.
- (7) The Board may adopt other fees as necessary to assure that all Program expenses are adequately funded.

## **Non-Compliance and Remedies**

The following procedures shall be followed to correct any violations of policy.

(1) Reporting Requirements for Covered Depositories:

- a) The Treasurer shall notify the Covered Depository immediately should the Covered Depository's monthly report not be received by the 10th business day of the month.
- b) If after the Treasurer's notice, a report is not received within 7 business days, the Treasurer may take the following actions:
  - I. Report the non-compliance to the Board.
  - II. Require the Covered Depository to send a representative to meet with the Treasurer and Commissioner to discuss its non-compliance.
  - III. Determine whether continued non-compliance presents a risk warranting increasing the required collateral level for the non-complying Covered Depository.
  - IV. Determining whether the Covered Depository will be declared in default, and
  - V. Requiring the Covered Depository to disgorge public deposits secured by the Program.
  - VI. Require the Covered Depository to pay a non-compliance fee in accordance with the schedule of fees.
  - VII. Covered Depository will also be responsible for non-compliance fees owed by a Covered Depository's Custodian.

(2) If a Covered Depository or Custodian fails to comply with any provision of the policies and procedures other than the reporting requirements or, alternatively, defaults on its obligations, the Board may impose limitations or other restrictions on the ability of the Covered Depository to accept public deposits, which, includes, but is not limited to: a) increasing the Covered Depository's collateral requirement to 125% of deposits secured by the Program; b) disgorging public deposits secured by the Program; c) prohibiting a Covered Depository from accepting additional public deposits; d) imposing a limit on the amount of public deposits a Covered Depository can accept; or e) requiring a Covered Depository to no longer accept public deposits. The Board may require a Covered Depository to provide notice of its public depositors of any such limitation.

(3) Custodian:

- a) The Treasurer shall notify a Custodian of any Program violation, with concurrent notification to all Covered Depositories utilizing such Custodian, if the Custodian:
  - I. Substitutes or allows the withdrawal of pledged collateral without the consent of the Treasurer.
  - II. Fails to provide complete confirmations of pledged collateral within 3 business days of notification.
  - III. Fails to honor a request for reports, or an examination of funds or securities.
  - IV. Fails to comply with any requirements of the Custodian Agreement.
- b) Within 30 calendar days of acknowledged receipt of such notice, the Custodian shall prepare a written response to the notice of Program violation that provides a corrective action plan; or provides a statement with substantiating documentation that the infraction has not occurred.
- c) If the Custodian fails to provide a corrective action plan acceptable to the Treasurer, the Treasurer shall send all Covered Depositories using such Custodian for the Program notification to select a replacement Custodian from among the list of approved Custodians.



## *Office of the State Treasurer*

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State Treasurer

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### **CUSTODIAL AGREEMENT**

#### State of Georgia Secure Deposit Program

This Custodial Agreement dated as of \_\_\_\_\_, among \_\_\_\_\_ Bank (the "Depository"), the Treasurer of the Office of the State Treasurer of the State of Georgia (the "Treasurer"), and \_\_\_\_\_ (the "Custodian").

Section 1. **Definitions.** Unless otherwise provided in this Agreement, the following terms shall have the following respective meanings for purposes of this Agreement:

**"Administrator"** shall mean the GBA Services, Inc. and its officers, directors, employees, agents, successors, and assigns.

**"Aggregate Deposits"** shall mean the amount of aggregate deposits of Public Funds that the Treasurer and/or other Public Bodies have elected to collateralize through the pooling method as specified in Title 45.

**"Approved Securities"** shall mean those securities identified in that list of securities contained in Exhibit A of this Agreement as now or hereafter amended.

**"Approved Securities List"** shall mean that written list of securities prepared by the Treasury and contained in Exhibit A of this Agreement; the Treasurer hereby reserves the right, with 30 days' notice, to modify the Approved Securities List by written notification to the Administrator and subsequently provided by written notification by the Administrator to the Depositories and Custodians.

**"Depository or Covered Depository"** shall mean any and all financial institutions that have been approved by the State Depository Board and meets all the requirements under O.C.G.A. § 45-8-1(4)(A)

**"Custodian"** shall mean the Treasurer, any Federal Home Loan Bank approved by the Treasurer, or any bank, savings and loan association or trust company that has been approved by the Treasurer, and that meets all of the requirements of O.C.G.A. § 45-8-1(5).

**"Depositor or Depositors"** shall mean any state or local entity with deposits of public funds.

**"Fair Market Value"** shall mean the value of the Pledged Securities as determined by any independent service that regularly furnishes such information to financial institutions in the United States as of the applicable date of transaction or report; provided however,

should such method of valuation be inapplicable or unacceptable to the Treasurer in respect to any Pledged Security, Fair Market Value shall mean the value placed thereon by the Treasurer.

"**FDIC**" shall mean the Federal Deposit Insurance Corporation, a federally chartered public corporation of the United States of America.

"**Fiscal Year**" shall mean any period adopted by the State of Georgia as its fiscal year for financial auditing purposes and shall initially mean the period beginning on July 1 of each calendar year and ending on June 30 of the next calendar year.

"**Pledged Securities**" shall mean those Approved Securities as to which the Depository has granted a security interest to the Treasurer and as to which the Custodian has taken physical possession or, in the case of un-certificated securities, which the Custodian has registered to the Treasurer. This term shall also include Letters of Credit held directly by the Treasurer or a Custodian.

"**Securities Account**" shall mean the account established with and held by the Custodian for the benefit of the Treasurer containing Pledged Securities, and any successor account thereto.

"**State Depository Board**" shall mean and refer to the board created by O.C.G.A. § 50-17-50.

"**Treasurer**" shall mean the Treasurer of the Office of the State Treasurer of the State of Georgia.

Section 2. Establishment of Securities Account. The Custodian hereby confirms that (i) the Custodian has established account number \_\_\_\_\_ in the name of the Treasurer (such account and any successor account the "Securities Account"), (ii) the Custodian, shall, subject to the terms of this Agreement, treat the Treasurer as entitled to exercise the rights that comprise any securities entitlement credited to the Securities Account, (iii) all property delivered to the Custodian pursuant to the Security Agreement will be promptly credited to the Securities Account, and (iv) all securities or other property underlying any financial assets credited to the Securities Account shall be registered in the name of the Custodian, endorsed to the Custodian or in blank or credited to another securities account maintained in the name of the Custodian and in no case will any financial asset credited to the Securities Account be registered in the name of the Depository, payable to the order of the Depository, or specially endorsed to the Depository except to the extent the foregoing have been specially endorsed to the Custodian or in blank.

Section 3 “Entitlement Holder. The Treasurer shall be the entitlement holder as defined in O.C.G.A. § 11-8-102(7).

Section 4. “Securities Entitlement” Election. The Custodian hereby agrees that each item of property (whether investment property, financial asset, security, instrument, or cash) credited to the Securities Account shall be treated as a "securities entitlement" with respect to the Securities Account as defined in O.C.G.A. § 11-8-102(a)(17).

Section 5. Entitlement Orders. If at any time the Custodian shall receive an "entitlement order" as defined in O.C.G.A. §11-8-102(a)(8) issued by the Treasurer or by the Administrator and relating to the Securities Account, the Custodian shall comply with such entitlement order without further consent by the Depository or any other person.

Section 6. Subordination of Lien; Waiver of Set-Off. In the event that the Custodian has or subsequently obtains by agreement, operation of law, or otherwise a security interest in the Securities Account or any security entitlement credited thereto, the Custodian hereby agrees to immediately notify the Administrator of such secondary security interest and further agrees that such security interest shall be subordinated to the Treasurer. The securities entitlements and other items held in the Securities Account will not be subject to deduction, set-off, banker's lien, or any other right in favor of any person other than the Treasurer.

Section 7. Choice of Law. Both this Agreement and the Securities Account shall be governed by the laws of the State of Georgia excluding choice of law provisions. Regardless of any provision in any other agreement, for purposes of the Georgia UCC, Georgia shall be deemed to be the Custodian's location and the Securities Account (as well as the securities entitlements related thereto) shall be governed by the laws of the State of Georgia, including specifically O.C.G.A. § 11-8-110(e); otherwise, the choice of law provisions of the State of Georgia shall not be applicable.

Section 8. Conflict with other Agreements. There are no other agreements entered into between the Custodian and the Depository with respect to the Securities Account, other than the safekeeping or custodial agreement pursuant to which the account was opened. In the event of any conflict between this Agreement (or any portion thereof) and any other agreement now existing or hereafter entered into, the terms of this Agreement shall prevail.

Section 9. Amendments. No amendment or modification of this Agreement or waiver of any right hereunder shall be binding on any party hereto unless it is in writing and is signed by all of the parties hereto.

Section 10. Notice of Adverse Claims. Except for the claims and interest of the Treasurer and of the Depository in the Securities Account, the Custodian does not know of any claim to, or interest in, the Securities Account or in any "financial asset" (as defined in O.C.G.A. § 11-8-102(a)) credited thereto. If any person asserts any lien, encumbrance, or adverse claim (including any writ, garnishment, judgment, warrant of attachment, execution, or similar process) against the Securities Account or in any financial asset carried therein, the Custodian will promptly notify the Treasurer and Depository thereof.

Section 11. Maintenance of Securities Account. In addition to, and not in lieu of, the obligation of the Custodian to honor entitlement orders as agreed in Section 3 hereof, the

custodian agrees to maintain the Securities Account as follows:

(a) Custody of Pledged Securities and Reports. The Custodian shall maintain custody of the Pledged Securities and (i) send written safekeeping receipts or electronic advices and (ii) reports or statements, each required by, and in a form approved by, the Treasurer or the Administrator of all pledged securities as of the end of each calendar month, sent on a monthly basis to the Administrator within ten (10) business days after the end of each month.

(b) Authorization for Release of Pledged Securities. The Custodian shall comply with and perform any and all demands or orders received from the Treasurer relating to the Depository's Pledged Securities, without notice or consent by the Depository. Such demands or orders include, but are not limited to, liquidating the Depository's Pledged Securities and submitting the proceeds pursuant to the direction of the Treasurer.

The Custodian shall require written authorization from the Administrator before effecting release of any of the Pledged Securities to the Depository.

The Custodian will not pay the Depository any principal funds as a result of a maturity or redemption without 1) the receipt of written authorization by the Administrator, and 2) adequate collateral replacement or substitution of Approved Securities to ensure the Fair Market Value of the Securities Account exceeds the Pledge Amount, if needed. In no case shall the Fair Market Value of the Securities Account be less than the Pledge amount after the withdrawal.

(c) Statements and Confirmations. The Custodian will promptly send copies of all statements, confirmations, and other correspondence concerning the Securities Account and/or any financial assets credited thereto simultaneously to the Depository and the Treasurer or designee at the direction of the Treasurer at the address set forth in Section 13 of the Agreement.

(d) Tax Reporting. All items of income, gain, expense, and loss recognized in the Securities Account shall be reported to the Internal Revenue Service and all state and local taxing authorities under the name and taxpayer identification number of the Depository.

(e) Substitution of Pledged Securities. In the event of a maturity or redemption, the Custodian will require the substitution of an appropriate amount of Approved Securities to satisfy the Pledge Amount.

(f) Duty to Resolve Discrepancies. It is the duty of the Custodian to work with the Administrator to resolve any and all differences or discrepancies between their respective records and reports of inventory of Pledged Securities. The Administrator shall immediately report its inability or failure to reach such resolution to the Treasurer. In the event of any dispute not resolved, the Treasurer and the Attorney General shall act for the State.

(g) Interest payments. The Depository may collect and receive all interest payments on the Pledged Securities under certain circumstances, as more fully set forth in this Agreement.

Section 12. Representations, Warranties, and Covenants of the Custodian. The Custodian hereby makes the following representations, warranties, and covenants: (a) The Custodian is a bank, savings association, or trust company that:

(1) is organized and existing under the laws of the State of Georgia, any other state, or the United States;

(2) has executed all forms required for a custodian under Title 45 or any rule adopted under Title 45;

(3) hereby agrees to be subject to the jurisdiction of the courts of the State of Georgia or of courts of the United States that are located within the State of Georgia for the purpose of any litigation arising out of Title 45; and

(4) has been approved by the Treasurer to act as a custodian under Title 45.

(b) The Securities Account will be maintained in the manner set forth herein until termination of this Agreement. The Custodian shall not change the name or account number of the Securities Account without the prior written consent of the Treasurer.

(c) No financial asset is or will be registered in the name of the Depository, payable to its order, or specially endorsed to it, except to the extent such financial asset has been endorsed to the Custodian or in blank.

(d) This Custodial Agreement is a valid and legally binding obligation of the Custodian.

(e) The Custodian has not entered into and until the termination of this Agreement will not enter into any agreement with any other person relating to any property of the Securities Account and/or any securities entitlements credited thereto pursuant to which it has agreed to comply with entitlement orders (as defined in O.C.G.A. § 11-8-102(a)(8)) of such person. The Custodian has not entered into any other agreement with the Depository or Treasurer purporting to limit or condition the obligation of the Custodian to comply with entitlement orders as set forth in Section 3 hereof.

Section 13. Successors. The terms of this Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective corporate successors or heirs and personal representatives.

Section 14. Notices. Any notice, request, or other communication required to be given under this Agreement shall be in writing and deemed to have been properly given when delivered in person, or two days after being sent by certified or registered United States mail, return receipt requested, postage prepaid, addressed to the party at the address set forth below.

Depository: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Treasurer: Office of the State Treasurer  
Attention: Jeff Carman  
200 Piedmont Avenue, SE  
Suite 1204 West Tower  
Atlanta, GA 30334  
mailto:  
jeff.carman@treasury.ga.gov

Copy to: Georgia Bankers Association  
Attention: David Oliver  
50 Hurt Plaza, Suite 1050  
Atlanta, Georgia 30303  
doliver@gabankers.com

Custodian: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Any party may change its address for notice in the manner set forth above.

Section 15. Termination. The rights and powers granted herein to the Treasurer have been granted in order to perfect the security interest in the Securities Account and are powers coupled with an interest and will neither be affected by the bankruptcy of the Depository nor by the lapse of time. The obligations of the Custodian hereunder shall continue in effect until the security interest of the Treasurer in the Securities Account has been terminated pursuant to the terms of the Security Agreement and the Treasurer has notified the Custodian of such termination in writing.

Section 16. Georgia and Federal Law to Govern; Choice of Forum. This Agreement shall be deemed to have been made in the State of Georgia and shall be construed, and the rights and liabilities of the parties determined, in accordance with the laws of the State of Georgia except as to choice of law provisions. With respect to regulatory matters, all transactions under this Agreement shall be subject to all applicable laws and rules and regulations of all federal, state, and self-regulatory agencies, including but not limited to the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the United States Treasury, and the Georgia Department of Banking and Finance. Any action brought to assert any right or remedy pertaining to this Agreement shall be brought exclusively in the Superior Court of Fulton County, Georgia.

Section 17. Conduct of the Parties. Conduct of the parties shall not in any matter constitute a waiver of any right, duty, or obligation imposed by this Agreement upon any party hereto.

Section 18. Time of the Essence. Time is of the essence of this Agreement.

Section 19. Headings. The headings of the sections and subsections hereof are for descriptive purposes only and do not modify or qualify any of the rights or obligations set forth in this Agreement.

Section 20. Limitation on Assignment. The Administrator shall not assign this Agreement or any right or obligation hereunder without the prior written approval of the Treasurer. Further, the Administrator shall not subcontract or otherwise "farm out" or substitute performance under this Agreement without the prior written permission of the Treasurer.



Section 21. Independent Parties. The parties to this Agreement are independent, and herein shall be construed to make either party an agent, employee, partner, or joint venture of the other.

Section 22. Construction. Should any provision of this Agreement require judicial interpretation, it is agreed and stipulated by and between the parties hereto that the court interpreting or construing the same shall not apply a presumption that the terms, conditions, and provisions hereof shall be more strictly construed against one party by reason of the rule of construction that an instrument is to be construed more strictly against the party who prepared the same.

Section 23. Severability. Notwithstanding any provisions hereof, if any provision herein is or should become inconsistent with any present or future law, rule, or regulation of any sovereign government or regulatory body having jurisdiction over the subject matter of this Agreement, such provision shall be deemed to be rescinded or modified in accordance with any such law, rule, or regulation; in all other respects, this Agreement shall continue to remain in full force and effect.

Section 23. Amendment. Except as otherwise provided herein, this Agreement may be modified only by the prior written agreement of the parties. This Agreement represents the entire agreement and understanding between the Treasurer and the Administrator concerning the subject matter hereof, and shall supersede any previous agreement between the Treasurer and the Administrator.

Section 25. Counterparts. This Agreement is executed in three counterparts, each of which is deemed an original of equal dignity with the others and which is deemed one and the same instrument as the others.

Section 26. Hold Harmless. Solely as between the Custodian and the Depository, the Depository hereby agrees to indemnify, defend and hold the Custodian, its affiliates and each of their officers, directors, employees, agents and representatives harmless from and against any suit, judgment, claim, asserted claim, demand, loss, liability, expense or interest (including legal fees and expenses) ("Losses and Expenses") arising out of or in connection with this Agreement, excluding, however, those Losses and Expenses which are finally determined by a court of competent jurisdiction to have resulted directly from the Custodian's gross negligence or willful misconduct in the performance of its obligations as described by this Agreement. This indemnification shall survive resignation of the Custodian or termination of this Agreement.

Section 27. Termination. This agreement may be terminated by the Treasurer or the Custodian with 30 days' written notice the other parties and to the Administrator.

DEPOSITORY

By:  
Name:  
Title:

OFFICE OF THE STATE TREASURER

By:  
Name: Steve McCoy  
Title: State Treasurer

CUSTODIAN

By:  
Name:  
Title:

ADMINISTRATOR

By:  
Name:  
Title: