

SECURITY AGREEMENT

This Security Agreement (the "Agreement"), dated as of _____ by and among _____ (the "Depository"), a bank, capital stock financial institution, or qualifying mutual financial institution in the state of Nebraska, and the Nebraska Bankers Insurance and Services Company ("Administrator" or at times referred to as "NBISCO"). NBISCO is the Administrator whom the Director of the Nebraska Department of Banking and Finance (the "Department" or at times referred to as the "Director" on behalf of the Department), has designated pursuant to *Neb. Rev. Stat. § 77-2398 (2)(b)(ii)*, as now or hereafter amended, on behalf of Governmental Units whose funds are required to be collateralized in accordance with *Neb. Rev. Stat. § 77-2386 et.seq.*, as now or hereafter amended,

WHEREAS, the Depository desires to be and/or remain an official depository of Public Funds deposited by an agency of the state of Nebraska or any political subdivision; and

WHEREAS, the Depository is required by the laws of the state of Nebraska to collateralize the uninsured public deposits of an agency of the state of Nebraska or any political subdivision and has elected to do so through the pooling method as specified in *Neb. Rev. Stat. § 77-2398*; and

WHEREAS, the Director has assigned the Administrator the Director's authority under *Neb. Rev. Stat. § 77-23,100(3)*, when acting for the benefit of governmental units having public money or public funds on deposit with a Depository, to take any and all actions necessary to take title to or to effect a first perfected security interest in the securities deposited, pledged, or in which a security interest is granted; and

WHEREAS, the Administrator has accepted the assignment of the Director's authority under *Neb. Rev. Stat. § 77-23,100(3)* to take any and all actions necessary to take title to or to effect a first perfected security interest in the securities deposited, pledged, or in which a security interest is granted by the Depository for the benefit of governmental units having public money or public funds on deposit with the Depository; and

WHEREAS, the Depository desires to grant to the Administrator 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) maintained by a Qualified Trustee, (as hereinafter defined), for the purpose of securing 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:

a. Administrator means the Nebraska Bankers Insurance and Services Company ("NBISCO") and its officers, directors, employees, agents, successors, and assigns.

b. Aggregate Deposits means the aggregate amount of deposits of Public Funds that an agency of the state of Nebraska or any political subdivision have elected to collateralize through the pooling method as specified in *Neb. Rev. Stat. § 77-2398*.

c. Approved Securities means those securities identified in *Neb. Rev. Stat. § 77-2387(14)*.

d. Custodial Official means an officer or an employee of the state of Nebraska or any political subdivision who, by law, is made custodian of or has control over public money or public funds subject to the Public Funds Deposit Security Act (the “Act”) or the security for the deposit of public money or public funds subject to the Act.

e. Department means the Nebraska Department of Banking and Finance.

f. Depository is the bank, capital stock financial institution, or qualifying mutual financial institution named in the introductory paragraph of this Agreement.

g. Event of Default means any of the following events or conditions which, with respect to sections (1) and (2), are not cured within three (3) business days of written notice to Depository:

- (1) The Depository fails to make any return or repayment of Public Funds to an agency of the state of Nebraska or any political subdivision from accounts held by the Depository as and when due or wrongfully dishonors any draft presented upon such accounts;
- (2) The Depository breaches any covenant made in this Agreement;
- (3) 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;
- (4) The Depository becomes insolvent or is generally not paying its debts as they become due;
- (5) The issuance of an order by a supervisory authority or a receiver which restrains a bank, capital stock financial institution, or qualifying mutual financial institution from paying its deposit liabilities; or
- (6) The Depository discontinues its usual business, commences to dissolve, wind-up, or liquidate itself.

h. Fair Market Value means 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.

i. FDIC means the Federal Deposit Insurance Corporation, a federally chartered public corporation of the United States of America.

j. Governing Authority means the official, or the governing board, council, or other body or group of officials, authorized to designate a bank, capital stock financial institution, or qualifying mutual financial institution as a depository of public money or public funds subject to the Act.

k. Governmental Unit means the state of Nebraska or any political subdivision thereof.

l. Nebraska UCC means the Uniform Commercial Code as enacted in the state of Nebraska, *Neb. Rev. Stat.* UCC § 1-101, *et seq.*, as now or hereafter amended.

m. Pledge Amount means the difference between the amount of aggregate deposits of public funds placed with the Depository and any FDIC insurance applicable to such funds, multiplied by 102% (by illustration: Pledge Amount = Aggregate Deposits – applicable FDIC insurance x 102%) as described in *Neb.Rev.Stat.* Section 77-2398.

n. Pledged Securities means those Approved Securities as to which the Depository has granted a security interest to the Administrator and which have been credited to the Securities Account held with the Qualified Trustee.

o. Political Subdivision means any county, city, village, township, district, authority, or other political corporation or entity, whether organized and existing under the direct provisions of the Constitution of Nebraska or laws of the state of Nebraska or by virtue of a charter, corporate articles, or other legal instruments executed under authority of the constitution or laws, including any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act.

p. Public Funds means monies of a Governmental Unit deposited in the Depository.

q. Qualified Trustee means a Federal Reserve Bank or a branch of a Federal Reserve Bank, a Federal Home Loan Bank, or another responsible bank, capital stock financial institution, qualifying mutual financial institution or trust company, other than the depository granting the security interest, as designated by the Depository.

r. Securities Account means the account established with and held by the Qualified Trustee for the benefit of the Administrator containing Pledged Securities, and any successor account thereto.

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 Administrator, to secure payment and delivery of Public Funds deposited by Governmental Units with the Depository in excess of FDIC insurance coverage limits. The Pledged Securities shall be held by the Qualified Trustee.

3. Representations. The Depository warrants and represents that: a. all of the Pledged Securities are Approved Securities; 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; and e. the address set forth below in Section 15 is one of the Depository's 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; Release. The Depository agrees that, as long as any Governmental Unit has Public Funds on deposit with the Depository, 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, the Administrator may authorize by prior written approval the release of certain of the Pledged Securities, provided that at all times the Fair Market Value of the Pledged Securities is equal to at least the Pledge Amount. Prior to any such release, the Depository shall provide to the Administrator a notification for release, showing the Fair Market Values of the Pledged Securities to be released and of the replacement Approved Securities to be pledged, if any.

5. Covenant as to Pledge Amount. 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 Approved Securities in the Securities Account or within five (5) business 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 Approved Securities along with the Fair Market Value of the other Approved Securities in the Securities Account equals or exceeds the Pledge Amount. In order for a Depository to be granted five (5) business 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 its intent to use a Letter of Credit. The Depository agrees that, as long as any Governmental Unit 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 Pledge Amount. The Depository shall monitor the Pledge Amount on a daily basis. Any noncompliance, (as defined as a day where the Fair Market Value of the Approved Securities does not equal or exceed the Pledge Amount), shall be reported, in an electronic format, to the Administrator within three (3) business days. The Depository shall also deposit additional Approved Securities in the Securities Account maintained by the Qualified Trustee 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 Pledge Amount. In order for a Depository to be granted five (5) business days to remedy the deficiency, the Depository must send a copy of the Federal Home Loan Bank application to the Administrator within three (3) business days of the deficiency to document its intent to use a Letter of Credit.

6. Perfection of Administrator's Security Interest in Pledged Funds.

a. Upon the Administrator'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 Administrator may reasonably deem desirable in obtaining the full benefits of this Agreement, all in form and substance satisfactory to the Administrator. 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 Qualified Trustee in the Securities Account, such note, instrument, or certificate shall be immediately pledged and delivered to the Administrator hereunder, duly endorsed in a manner satisfactory to the Administrator. The Depository shall promptly notify the Administrator of any change in the Depository's name or address and shall 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 Administrator), must be provided by the Depository upon execution of this Agreement:

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

c. If the Federal Reserve Bank serves as the Qualified Trustee, the parties shall comply with and enter into such documents as may be required by the Federal Reserve Bank.

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, to be delivered to the Depository by the Qualified Trustee. 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 Administrator. The Administrator's remedies upon an Event of Default shall include the right to notify the Qualified Trustee to cease immediately delivering such interest and dividends to the Depository and to deliver all or any portion thereof to the Department. Any portions of the Pledged Securities received by the Depository in violation of this Agreement shall remain subject to the Administrator's security interest and lien hereunder, shall be immediately delivered to the Administrator, in the same form as received except for any

necessary endorsements, and pending such delivery, shall be held in trust for the Administrator 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 Department.

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

10. Remedies.

a. Upon an Event of Default and request by the Director, the Administrator shall assign the security interest granted under this Security Agreement and all rights attendant thereto to the Director. The Director and the Department shall have and may exercise any or all of the rights and remedies of a secured party under the Nebraska 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 Qualified Trustee to make payments from or on the Pledged Securities directly to the Department, to transfer the Pledged Securities to the Department or to an account of the Department, and/or to sell the Pledged Securities, all without the consent of the Depository. The Administrator shall provide written notice to the Depository which specifically details the Event of Default. The Department 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 Department and toward the repayment of Public Funds that the Depository has failed to deliver as and when due in such order or manner as the Department may elect. The Depository agrees to pay the Department all expenses and charges (including reasonable attorneys' fees and other legal fees and expenses) that the Department may incur in enforcing or protecting the Department'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 Department 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 any Governmental Unit, with the manner and distribution of the application to be in the sole discretion of the Department; (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 Department, 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 Department or its designee.

c. The Depository acknowledges that no notice of sale shall 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 at least five (5) business days before the time of the proposed sale or disposition.

d. The Depository acknowledges that in the Event of Default, the Administrator shall, upon the request by Director, assign to the Director the security interest granted under this Securities Agreement and all rights attendant thereto. The Depository further acknowledges that in the Event of Default, the Administrator shall assist with any liquidation activities, as directed by the Director, but shall not be responsible for directly liquidating or selling collateral.

e. Nothing contained herein shall be deemed to limit, delay, or impair the Administrator's or the Department'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 Administrator and the Qualified Trustee or between the Department and the Qualified Trustee, the Administrator's or the Department's right to control the Securities Account and the Pledged Securities.

11. Administrator's Limited Duties. The Administrator 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 Administrator'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 Administrator's actual possession, and the Administrator, 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.

12. 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 A.

13. 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 Administrator.

14. 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 Administrator and its successors and assigns.

15. Communications.

a. 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 Administrator:
Nebraska Bankers Insurance and Services Co.
Attention: Misty Stoner
PO Box 80008
Lincoln, NE 68501
Phone: 402-904-7060 (Direct line) or 402-474-1555
Email: nepooledcollateral@nebankers.org

To the Depository:
Name: _____
Attention: _____
Address: _____
Phone: _____ Email: _____

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

b. Unless otherwise provided herein, all communications sent to the respective parties to this Agreement shall be copied and electronically sent to the Department at the email address below:

Shannon Van Houten, NDBF, Pooled Collateral Review Examiner
Email: Shannon.Vanhouten@nebraska.gov
Phone: 402-471-4275

The Department will notify the Administrator of any change in its contact person or email address assigned to such person.

c. Unless specifically requested by the Department, the respective parties to this Agreement shall not provide the Department with communications described in Items 6.a. or 6.b. of this Agreement.

16. Nebraska and Federal Law to Govern: Choice of Forum. This Agreement shall be deemed to have been made in the state of Nebraska and shall be construed, and the rights and liabilities of the parties determined, in accordance with the laws of the State of Nebraska. 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 Nebraska Department of Banking and Finance. Any action brought to assert any right or remedy pertaining to this Agreement shall be brought exclusively in the District Court of Lancaster County, Nebraska.

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 either party hereto.

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

19. 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.

20. 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.

21. 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.

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

23. Counterparts. This Agreement may be executed in 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.

24. 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.

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

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

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

DEPOSITORY:

BY: _____
Printed Name: _____ DATE _____
Title: _____

ADMINISTRATOR:

BY: _____
DATE _____

Misty Stoner
NBISCO Financial Program Administrator

CERTIFICATE

I, the undersigned, hereby certify to the Administrator, who is the pledgee of collateral securities to secure funds of Governmental Units under the pooling method in accordance with, Public Funds Deposit Security Act, that I am the _____ of the _____, a bank, capital stock financial institution, or qualifying mutual financial institution in Nebraska; that the following is a true copy of the resolution duly adopted by the [Board of Directors / 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 _____.

Director
(SEAL)

EXHIBIT A

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 _____ (*Name of Depository*) *Board of Directors /Loan Committee*

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Chairman, President, or any Vice-President of _____ (*Name of Depository*) be and hereby is authorized and directed to execute and deliver to the Nebraska Bankers Insurance and Services Company (the "Administrator") the "Security Agreement" contained herewith; and
2. The Chairman, President, 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 Administrator, and that receipt of such notice shall not affect any action taken by the Administrator 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 Administrator 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 and Title