

AGENCY DEPOSITORY CONTRACT

THIS AGENCY DEPOSITORY CONTRACT (the “Contract”) by and between the undersigned bank (the “Bank” or “Contractor”), and the **MARYLAND STATE TREASURER’S OFFICE**, 80 Calvert Street, Annapolis, Maryland 21401 (the “Office”), an office of the **STATE OF MARYLAND** (the “State”), on behalf of itself and the various agencies and public entities of the State (each, a “State Agency”), is effective as of the date indicated below.

WHEREAS the Maryland State Treasurer (“Treasurer”) desires to designate Contractor as a depository of State funds under State Finance and Procurement Article, §6-205, Annotated Code of Maryland.

NOW, THEREFORE, in consideration of the premises and the covenants herein contained, the parties agree as follows:

**ARTICLE I.
MINIMUM QUALIFICATIONS**

- A. Minimum Qualifications. Contractor shall meet each of the minimum qualifications listed below in Paragraph B of this Article I.
- B. Indication of Compliance. By initialing in the box to the right of each requirement, Contractor represents that it meets each such requirement.

		Initial Here
1.	Contractor is a financial institution as defined in State Finance and Procurement Article, §6-201(e), Annotated Code of Maryland.	
2.	Contractor has a credit rating, or a similar financial strength rating from a nationally recognized statistical rating organization such as Kroll Bond Rating Agency of Frederick, Maryland, of at least a “B”.	
3.	Contractor’s deposits are insured by the Federal Deposit Insurance Corporation (“FDIC”) up to the maximum amount required by law.	
4.	Contractor will provide collateral for accounts in accordance with the requirements set forth in State Finance and Procurement Article, §§6-202, 6-209 and 6-222, Annotated Code of Maryland.	
5.	Contractor has financial statements audited annually by an independent certified public accounting firm and receives an unqualified opinion of the auditor in connection with the audit.	
6.	Contractor has a plan for business continuity, and recovery as a result of disaster and pandemic.	
7.	Contractor is not in arrears in the payment of any obligation due and owing the State or any department or unit thereof, including but not limited to the payment of taxes and employee benefits.	

- C. Failure to Meet Minimum Qualifications. In the event Contractor fails to initial or otherwise meet all of the minimum qualifications without modification, this Contract shall

not become effective. If, after the execution of the Contract, the Contractor no longer meets one or more of the minimum qualifications, Contractor shall notify the Office immediately. The Office, in its sole discretion, reserves the right to suspend the Contract and/or require the Contractor to post additional collateral in the event Contractor no longer meets one or more of the minimum qualifications.

ARTICLE II. SCOPE OF SERVICES

- A. Depository Services. Contractor shall provide traditional depository account (i.e., demand deposit account (DDA) or interest-bearing or non-interest-bearing deposit account) services for each State Agency account established pursuant to this Contract, including without limitation: processing payments, accepting deposits, providing stop payments, returned item notification, overdraft protection, and monthly statements, and make available, upon request, copies of cancelled checks to the applicable State Agency. Contractor shall provide statements, check payments, deposit reconciliation and similar services in accordance with standards established by the Comptroller of the Currency, Federal Reserve System, and when appropriate, the Maryland State Treasurer. Completion and issuance of the X-1 form by the Comptroller and Treasurer's Office shall be recognized and accepted by the contractor as evidence of the Treasurer's approval of the Bank as a Designated Depository of the State of Maryland under State Finance and Procurement Article, §6-205, Annotated Code of Maryland, and will be the method by which the Treasurer's authorized designee is identified.
- B. Service Requirements. Contractor agrees to the following in connection with the performance of the depository services under this Contract:
1. Contractor shall not open or maintain any bank accounts (a) for any State Agency of the State of Maryland or (b) using FID number 52-6002033, without permission of the Treasurer or the Treasurer's authorized designee. The designated Relationship Manager will be responsible for initiating any new accounts. Neither the State nor any State Agency shall be obligated to honor the terms of any agreement relating to an account opened without obtaining authorization from the Treasurer or the Treasurer's authorized designee. An authorized designee may be a representative of the agency who will serve as the contract monitor, and administrator of all active depository accounts held by the depository and shall be assigned full control over the activity of such accounts.
 2. Contractor shall collect proper documentation of approval from the State Treasurer's Office for every authorized designee before allowing them to institute any changes or add additional services to active depository accounts.
 3. Contractor shall cash for an individual, without fee, any State of Maryland check whether or not the presenter of the check maintains an account with the Contractor. Contractor may, however, require a presenter to provide reasonable identification.

4. Contractor shall educate and encourage all State agencies to enroll in and maintain any fraud protection features/services available for use. Contractor also agrees to supply the Treasurer's Office at least semi-annually with a statement or report which contains the following information: the authorized designee of the account as well as all features and services included on the account and the fees associated with such services, held by the depository.
5. Contractor shall submit to the Office, by the tenth of the subsequent month, reports listing the highest daily balance for each State Agency account, and an itemized listing of collateral (electronic and paper) in a format approved by the Office. Contractor shall immediately notify the Office of any overdraft that is not funded within one business day.
6. Contractor shall maintain the ability to send and receive FedWires and Automated Clearing House (ACH) transactions.
7. Contractor agrees that all accounts established under this Contract will, at the discretion of the applicable State Agency, either bear interest or utilize compensating balances (earnings credits). Contractor understands that the use of compensating balance (earnings credits) may be eliminated at any time at the discretion of the Treasurer. Contractor shall transfer by ACH transaction monthly interest earnings on all State Agency accounts maintained under this Contract to the Treasurer's main depository account.

C. Other Services Requirements

1. Linked Deposit Services

Except as otherwise permitted under State Finance and Procurement Article, §§6-211 and 6-212, Annotated Code of Maryland, in connection with Contractor's participation in the Linked Deposit Programs established under those laws, Contractor shall maintain collateral for State funds on deposit in accordance with State Finance and Procurement Article, §§ 6-202 and 6-209, Annotated Code of Maryland. Contractor shall be responsible for all costs associated with the placement of collateral.

Contractor agrees that, except as otherwise permitted under State Finance and Procurement Article, §§6-211 and 6-212, Annotated Code of Maryland, in connection with Contractor's participation in the Linked Deposit Programs established under those laws, all collateral other than FHLB letters of credit will be held in the name of the State of Maryland either, (a) with the Federal Reserve of Richmond, (b) with the Federal Reserve of Boston, or (c) at the sole discretion of the Treasurer, on deposit with an independent financial institution acceptable to the Treasurer. Contractor further agrees that FHLB letters of credit used as collateral will be subject to the terms specified in the FHLB Letter of Credit Depository Agreement, a copy of which is posted on the Office's website.

2. Escrow Services

Contractor agrees that it is capable of, and **may participate in** the process to provide, escrow services for occasional State projects, which will be competed on price quotes for specific projects.

- D. Account-Related Documents. This Contract shall incorporate by reference the terms of all account opening documentation (collectively, “Account Opening Documents”) required by the Contractor to open an account under this Contract, as specifically identified below, and approved by the Office. (List all Account Opening Documents):

In all cases where there are any inconsistencies between the Contract and the Account Opening Documents, the Contract shall control. To that end, the Contractor specifically acknowledges that any provisions in the Account Opening Documents that conflict with any terms in the Contract, as determined in the Office’s sole discretion, shall have no force and effect. Further, any Account Opening Documents not specifically incorporated by reference into Article II, Section D of this Contract, shall have no force and effect.

- E. Other Banking or Financial Services. Contractor shall not provide banking or financial services to any State Agency not expressly permitted under this Contract without the express written consent of the Treasurer or authorized designee. Notwithstanding the foregoing, this Contract shall not preclude Contractor from performing any other banking or financial services pursuant to separate contract award by the Office.
- F. Administration. Contractor shall perform the services under this Contract under the direction of the Director of Treasury Management, as Contract Officer. Contractor shall refer all matters relating to the administration or interpretation of this Contract directly to the Contract Officer for determination. Contractor understands and agrees that only the Treasurer or the Treasurer’s designee are authorized to make decisions affecting the administration or interpretation of this Contract. Notwithstanding the foregoing, Contractor shall refer directly to the applicable State Agency matters relating to day-to-day operations of an account.
- G. No Change in Services. The services described in Paragraph A of Article II constitute the entire limited scope of the services to be performed under this Contract. Modifications to this Contract to change the scope of such services are prohibited.

**ARTICLE III.
FEES AND PAYMENT**

- A. Fees. The fees payable under this Contract shall be no higher, but may be lower, than Contractor's standard commercial account fee schedule then in effect and published on the Office's website, as described in this Paragraph A, of this Article III.
1. Prior to the commencement of this Contract, Contractor shall provide to the Office its then-current standard commercial account fee schedule, which shall be incorporated by reference into this Contract and published on the Office's website.
 2. If this Contract is a July Contract (defined below in Paragraph A of Article IV), on the next succeeding July 1 two years after its effective date, and every other July 1 thereafter until the expiration of the Contract (each, an "Option Date"), Contractor shall have the right, but not the obligation to update the fees charged under this Contract by delivering to the Contract Officer on or before July 31 of the applicable Option Date year a new standard commercial account fee schedule to be incorporated by reference into this Contract, and published on the Office's website. In any Option Date year, any such fee schedule properly and timely delivered to the Contract Officer shall become effective as of July 31 of that year. If no new fee schedule is properly and timely delivered in any Option Date year, the previously provided fee schedule will remain applicable for the next two years, or until July 31 in the next Option Date year in which a new fee schedule is properly, and timely delivered in accordance with this Paragraph.
 3. If this Contract is a January Contract (defined below in Paragraph A of Article IV), on the next succeeding January 1, two years after its effective date, and every other January 1 thereafter until the expiration of the Contract (each, an "Option Date"), Contractor shall have the right, but not the obligation, to update the fees charged under this Contract by delivering to the Contract Officer on or before January 31 of the applicable Option Date year a new standard commercial account fee schedule to be incorporated by reference into this Contract, and published on the Office's website. In any Option Date year, any such fee schedule properly and timely delivered to the Contract Officer shall become effective as of January 31 of that year. If no new fee schedule is properly and timely delivered in any Option Date year, the previously provided fee schedule will remain applicable for the next two years, or until January 31 in the next Option Date year in which a new fee schedule is properly, and timely delivered in accordance with this Paragraph.
 4. Contractor may not charge any fees not reflected on the currently effective fee schedule provided to the Office and published on the Office's website. Except as provided in Paragraph A.2 of this Article III, Contractor may not increase any of its fees during the term of the Contract.
- B. Invoices. For each State Agency bank account, Contractor shall submit each month to the applicable State Agency, an invoice or statement including each State Agency's account fees under this Contract. Contractor agrees that it may not directly debit any account for

any fees, nor shall any account be subject to any right of set-off. Contractor further agrees that upon reasonable notice, the Office or a duly authorized representative of the Office may review and audit Contractor's State Agency accounts and billing records. Contractor must submit invoices or statements on a monthly basis for services rendered in the preceding month.

- C. Payment. Except as provided in Paragraph D of this Article III, each State Agency shall make payments to the Contractor pursuant to this Contract no later than 30 days after receipt of a proper invoice from the Contractor. On each invoice submitted by Contractor, Contractor must include its federal tax identification number and clearly indicate the specific type of service provided. Charges for late payment of invoices, other than as prescribed by State Finance and Procurement Article, Title 15, Subtitle 1, Annotated Code of Maryland, are prohibited.
- D. Withholding Payment. Each State Agency may withhold payments to the Contractor, without interest or penalty, when in the sole discretion of the State Agency, the Contractor's performance of any of the services under this Contract is unsatisfactory or does not meet generally accepted industry standards. The State Agency shall promptly provide to the Contractor a notice of such withholding of payment, and the reasons therefor, and Contractor shall be afforded an opportunity to cure any performance deficiencies.

ARTICLE IV. TERM, TERMINATION AND SURVIVAL

- A. Term. The base-term of the Contract shall be for the period of five (5) years, with two one-year renewal options beginning on the earliest of next succeeding January 1st, or July 1st as set forth herein. A Contract shall become effective when fully executed by the Contractor and the Treasurer or authorized designee. Any Contract with an effective date between July 1, and December 31, inclusive shall be known as a "January Contract", and the base Contract term (and any renewal options) shall commence on the next succeeding January 1st. Any Contract with an effective date between January 1 and June 30 inclusive shall be known as a "July Contract", and the base Contract term (and any renewal options) shall commence on the next succeeding July 1st.
- B. Transition Services. With respect to each account maintained under this Contract, until such time as such account is transferred to another contractor following the termination or expiration of the Contract, or for any other reason during the Contract term. Contractor shall continue to perform any Contract services that were in process prior to transfer and shall receive the payment specified in the Contract for such services until such time as the transition to the new contractor is complete. Contractor shall also assist the Office during any transition period to a new contractor and provide all necessary information and data to any subsequent contractor.
- C. Termination by State for Default. If the Contractor fails to fulfill its obligation under this Contract properly and on time, or otherwise, violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or

unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractors fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination, and the State can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of Code of Maryland Regulations ("COMAR") 21.07.01.11B.

- D. Termination by State for Convenience. The State may terminate performance of work under this Contract, in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract. However, the State will not reimburse Contractor for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A(2).
- E. Termination by Contractor. Subject to the provisions of Paragraph B of this Article IV, Contractor shall have the right to terminate this Contract prior to its expiration upon 90 days' prior written notice to the Contract Officer.
- F. Survival. The provisions of Paragraph B of Article IV (Transition Services), Paragraphs A, C, E of Article VII (Maryland Law, Disputes, Retention of Records/Audit) and Article VIII (Indemnification; Liability), of this Contract shall survive termination of this Contract for any reason.

ARTICLE V. REPRESENTATIONS AND WARRANTIES

- A. Authority. Each party to this Contract represents and warrants to the other that it has full right, power, and authority to execute this Contract.
- B. Compliance with Laws. Contractor hereby represents and warrants that to the best of its knowledge:
 - 1. It is qualified to do business in the State of Maryland, and that it will take such action as, from time to time, hereafter may be necessary to remain so qualified; and
 - 2. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes, employee benefits, and that it shall not become so in arrears during the term of this Contract; and
 - 3. It shall comply with all federal, State, and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and

4. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals necessary to the performance of its obligations under this Contract; and
 5. It is in good standing under the laws of the State of Maryland, and if applicable, in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the State Department of Assessments and Taxation (“SDAT”).
- C. Tax Payment. Except as validly contested, Contractor represents that it has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.
- D. Disclosures. Contractor represents that it does not have any relationships with persons or entities that may create a conflict of interest, or the appearance of a conflict of interest. Contractor further represents that there are no pending legal proceedings (criminal or civil), regulatory or disciplinary actions by any state or federal regulatory agency, involving the firm or members of the firm, or any convictions, judgments or settlements resulting from such proceedings, or actions within the past five years that involved Contractor’s performance of services similar to those performed under this Contract.
- In the event that the contractor is involved in active legal proceedings, the contractor must disclose such proceedings to the State Treasurer’s Office by separate appendix attached to this contract.
- E. Nondiscrimination in Employment. Contractor agrees:
1. Not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry genetic information or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability; and
 2. To include a provision similar to that contained in Paragraph E.1. of this Article XII, in any subcontract except a subcontract for standard commercial supplies or raw materials; and
 3. To post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.
- F. Drug and Alcohol-Free Workplace Certification: Contractor agrees to make a good faith effort to eliminate illegal drug use and alcohol and drug abuse from its workplace. Specifically, Contractor shall:

1. Prohibit the unlawful manufacture, distributions, dispensation, possession or use of drugs in its workplace; and
2. Prohibit its employees from working under the influence of drugs or alcohol; and
3. Not hire or assign to work under the Contract anyone whom the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol, and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program; and
4. Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred; and
5. Notify its employees that drugs and alcohol abuse are banned in the workplace, impose sanctions on employees who abuse drugs and alcohol in the workplace, and institute steps to maintain a drug-free and alcohol-free workplace.

G. No Investments in Iran. Contractor represents that, in accordance with State Finance and Procurement Article, §17-705, Annotated Code of Maryland:

1. It is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in §17-702 of State Finance and Procurement Article; and
2. It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702.

ARTICLE VI. NOTICES AND DESIGNATED CONTACTS

A. Notices. All notices required to be given by one party to the other hereunder shall be in writing, and shall be addressed as follows:

1. If to the Office:

Maryland State Treasurer's Office
Attn: Director of Treasury Management
Louis L. Goldstein Treasury Building
80 Calvert Street
Annapolis, Maryland 21401
(410) 260-7270 – Fax: (410) 974-2076

2. If to the Contractor:

Contractor's Designated Contact. Contractor designates the following individual as its designated contact:

Name:

Phone:

**ARTICLE VII.
GENERAL CONDITIONS**

- A. Maryland Law. The provisions of this Contract shall be governed by the Laws of the United States of America and the State of Maryland.
- B. Contract Amendments. Any amendment to this Contract must first be approved in writing by the Office, subject to any additional approvals required by State law. No amendment to this Contract shall be binding unless so approved and unless it is in writing and signed by the party to be charged. Notwithstanding the foregoing, the Contractor may change its operating procedures by providing sixty days and written notice to the Office, provided that such changes do not materially affect the rights or the responsibilities of the State or impact State depository accounts or disrupt continuity of State business. Such changes must be approved in writing.
- C. Disputes. This Contract shall be subject to, and the sole method of resolving any disputes under this Contract shall be in accordance with, the provisions of State Finance and Procurement Article, Title 15, Subtitle 2, Annotated Code of Maryland (Dispute Resolution), and COMAR 21.10 (Administrative and Civil Remedies); provided, however, that for purposes of this Contract, references to the Procurement Officer contained in either of these statutes or regulations shall be treated as references to the Contract Officer. Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Contract Officer's decision.
- D. No Guarantee of Accounts. Contractor understands and agrees that this Contract is not a guarantee that the State or any State Agencies will open accounts or make deposits with Contractor.
- E. Retention of Records/Audit. Contractor shall retain legally acceptable copies of all validated deposit tickets and deposit items received for a period of up to seven (7) years after termination of the Contract or any applicable statute of limitations. Contractor shall retain and maintain all other records and documents relating to this Contract for three years after termination of the Contract or any applicable statute of limitations, whichever is longer. All records retained under this Paragraph shall be available for inspection and audit by authorized representatives of the State, including the Contract Officer or authorized designee, at all reasonable times.

- F. Confidentiality. Subject to the Maryland Public Information Act and any other applicable laws, all confidential or proprietary information and documentation relating to the State, any State Agency, or the Contractor (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence. Each of the State, any State Agency, and the Contractor shall, however, be permitted to disclose relevant confidential information to its officers, agents, and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided the data may be collected, used, disclosed, stored, and disseminated only as provided by and consistent with the law. The provisions of this Paragraph shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

ARTICLE VIII. INDEMNIFICATION; LIABILITY

- A. Indemnification. The Contractor hereby agrees to indemnify and hold harmless the State and State Agencies from and against any and all , claims, demands, damages, suits, actions, liabilities, losses, settlements, judgements, costs or expenses, including but not limited to attorneys' fees which arise from, are in connection with or are attributable to the performance or nonperformance of the Contractor under this Contract. Contractor shall not enter into any settlement involving claims that contain any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent.
- B. Liability for Loss of Data. In the event of loss of any data or records necessary for the performance of this Contract where such loss is due to the error or negligence of the Contractor, the Contractor shall be responsible, irrespective of cost to the Contractor, for recreating such lost data or records.
- C. Insurance Coverage. Contractor agrees to maintain adequate insurance coverage in order to fulfill responsibility under this Article.

ARTICLE IX. MISCELLANEOUS

- A. Entire Agreement. This Contract, including the exhibits hereto, constitutes the entire agreement between the parties and all other communications prior to its execution whether written or oral, with reference to the subject matter of this Contract are superseded by this Contract.
- B. Counterparts; Facsimiles. This Contract may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by

facsimile transmission or by e-mail delivery of a “.pdf” format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or “.pdf” signature page were an original.

[Signatures Appear on the Following Page]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date set forth below.

ATTEST

Date

By: _____
(Authorized Representative)

WITNESS:

**MARYLAND STATE TREASURER'S
OFFICE**

By: _____
Dereck E. Davis
State Treasurer

WITNESS:

By: _____
Jonathan Martin
Chief Deputy Treasurer

Approved for form and legal sufficiency
for the Maryland State Treasurer's Office:

David P. Chaisson
Assistant Attorney General