

NEW HAMPSHIRE PUBLIC DEPOSIT INVESTMENT POOL

COOPERATION AND MANAGEMENT AGREEMENT

Dated as of March 28, 2011

by and among

The State of New Hampshire Bank Commissioner

and

The Participants Hereunder

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**This Cooperation and Management Agreement** dated as of March 28, 2011 (the "Agreement"), by and among the State of New Hampshire Bank Commissioner pursuant to Sections 383:22-24 of the New Hampshire Revised Statutes Annotated, and those entities that become Participants (as defined below) in accordance with the terms hereof.

WHEREAS, the Commissioner, in consultation with the advisory committee established under RSA 383:24 (the "Advisory Committee") is required pursuant to RSA 383:22 to establish and operate a public deposit investment pool (the "Pool") for the purpose of investing funds of the State of New Hampshire, funds under custody of governmental units, pooled risk management programs established pursuant to RSA 5-B, agencies, authorities, commissions, boards, political subdivisions and all other public units within or instrumentalities of the State of New Hampshire (collectively, upon joining the Pool, the "Participants");

WHEREAS, each Participant will receive a substantial benefit by investing such funds in concert with the other Participants because of economies of scale;

WHEREAS, it will increase the efficiency of the Pool if the funds to be invested in concert are held by one entity, the Custodian which will hold such funds and investments in custody for the benefit of the Participants; and

WHEREAS, RSA 383:22 requires that the Pool be operated under contract with a private investment advisor and it will increase the efficiency of the Pool if such investment advisory service and the record-keeping and other administrative functions are performed by one entity, the Program Administrator and if the contribution and withdrawal instructions of the Participants are transmitted through one entity, the Program Administrator, to the Custodian.

NOW, THEREFORE, in consideration of the premises and the representations, warranties, covenants and agreements contained herein, each party hereto acts and agrees as follows:

## ARTICLE I DEFINITIONS

### 1.1 Definitions.

"Account" shall have the meaning set forth in Section 3(a) of the Custody Agreement.

"Advisory Committee" means the Advisory Committee established pursuant to RSA 383:24.

"Affiliate" means, with respect to any Person, another Person directly or indirectly in control of, controlled by or under common control with such Person, or any officer, director, partner or employee of such Persons.

"Agreement" means this Cooperation and Management Agreement dated as of March 28, 2011, by and among Cutwater Investor Services Corp., the Commissioner and the entities that become Participants, as amended.

"Balance" for each Participant means an amount which reflects cash contributions by such Participant, cash payments to such Participant, investment gain or loss, and payment of expenses and fees incurred pursuant to this Agreement.

"Business Day" means Monday through Friday, excluding national and State of New Hampshire holidays, as well as any day that the offices of the Program Administrator are closed. The Program Administrator shall provide a schedule of such days to the Commissioner and the Advisory Committee by January 15<sup>th</sup> of each year.

"Commissioner" means the State of New Hampshire Bank Commissioner.

"Conflicting Provisions" shall have the meaning set forth in Section 10.5 hereof.

"Contribution Procedures" means the procedures for making contributions to the Investment Property set forth in Exhibit A attached hereto, as the same may be amended from time to time.

"Custodian" means any Person or Persons appointed, employed or contracted with pursuant to Article V hereof.

"Investment Funds" means funds delivered by each Participant to the Custodian for investment pursuant to this Agreement but only if such funds may be invested by such Participant pursuant to the laws of the State of New Hampshire.

"Investment Property" means any and all property, real, personal or otherwise, tangible or intangible, which is transferred, conveyed or paid to the Pool as described in Section 2.1 hereof and all proceeds, income, profits and gains therefrom that have not been distributed to a Participant as described in Section 2.2 hereof, less any Investment Property Liabilities (as specifically set forth in this Agreement) or offset by losses, if any.

"Investment Property Liability" means any liability (whether known, unknown, actual, contingent or otherwise) incurred in connection with the Investment Property pursuant to this Agreement.

"Investment Property Value" means the value of the Investment Property net of the amount of the Investment Property Liabilities as determined pursuant to Section 4.7 hereof and the Valuation Procedures.

"Judicially Determined" means fully adjudicated in a court of law, having exhausted all appeals, or having been decided in an alternative dispute resolution proceeding.

"Participants" means any of the following entities that have executed a Participation Certificate: the State of New Hampshire, governmental units, pooled risk management programs established pursuant to RSA 5-B, agencies, authorities,

commissions, boards, political subdivisions and all other public units within or instrumentalities of the State of New Hampshire.

"Participation Certificate" means a Certificate entered into pursuant to Section 2.3 hereof.

"Payment Procedures" means the procedures for requesting payments out of the Investment Property set forth in Exhibit B attached hereto, as the same may be amended from time to time.

"Person" means any municipal corporation, district, city, county, town, school district, special district, political or public corporation, corporation, natural person, firm, joint venture, partnership, trust, unincorporated organization, group, government, or any political subdivision, department or agency of any government of New Hampshire.

"Pool" means the New Hampshire Public Deposit Investment Pool established pursuant to RSA 383:22.

"Program Administrator" means Cutwater Investor Services Corp.

"Program Administrator Liability" shall have the meaning ascribed to it in Section 4.10(a) hereof.

"Representatives" means those persons who have been designated as Representatives by the Participants pursuant to Section 2.4 hereof.

"Valuation Procedures" means the procedures for determining the value of the Investment Property set forth in Exhibit C.

## ARTICLE II POOL OPERATIONS

2.1 Contributions. The parties hereby agree, and the Participants by executing Participation Certificates agree, to the following policies with respect to contributions by Participants into the Pool:

(a) Each Participant shall have the right from time to time to deliver Investment Funds to the Custodian via check, wire transfer, or ACH for credit to such Participant's Balance. A Participant that wishes to make such a delivery shall follow the Contribution Procedures set forth in Exhibit A.

(b) Each Participant's Balance shall be increased upon the delivery of Investment Funds by an amount equal to the amount of such Investment Funds.

(c) The Custodian shall deliver a confirmation to the Program Administrator no later than the end of any Business Day during which the Custodian has received Investment Funds of a Participant. The Program Administrator shall note the

increase in such Participant's Balance, retain a copy of the confirmation in its records, and deliver the written confirmation of the delivery to the Participant.

(d) Any funds that the Program Administrator determines are not permitted to be invested by the Participant pursuant to the laws of the State of New Hampshire shall be returned to the Participant delivering such funds after instruction to that effect is given to the Custodian by the Program Administrator. Such Participant shall bear all of the actual costs and liabilities associated with the delivery of such funds. The Program Administrator shall not assess any additional fee or penalty beyond such actual costs and liabilities on any Participant delivering such funds.

(e) There is no minimum amount that must be deposited pursuant to this Agreement. Also, there is no minimum Balance, minimum or maximum number of accounts or minimum withdrawals.

2.2 Withdrawals. The parties hereby agree, and the Participants by executing Participation Certificates agree, to the following policies with respect to withdrawals of funds from the Pool by the Participants:

(a) Each Participant shall have the right from time to time to request, in accordance with the Payment Procedures set forth in Exhibit B hereto, that the Program Administrator cause the Custodian to pay to the Participant, or on its behalf, any amount (rounded to the nearest whole cent) that is less than or equal to its Balance at the time that payment is made pursuant to such request via check, wire transfer, or ACH.

(b) Upon the receipt of any withdrawal request from any duly authorized representatives of a Participant, the Program Administrator shall notify the Custodian, in writing or verbally to be followed by written, facsimile or email confirmation, of the payment request from the Participant, and the requested amount (rounded to the nearest whole cent) shall be paid by the Custodian to, or on behalf of, such Participant as provided in Exhibit B.

(c) Whenever any payment is made to, or on behalf of, any Participant pursuant to Section 2.2(b) hereof, such Participant's Balance shall be reduced by the Program Administrator by the amount of such payment.

(d) Each Participant's right to withdrawals may be temporarily suspended or postponed, without prior notice, for the whole or any part of any period (i) a general banking moratorium shall have been declared by federal or New Hampshire state authorities or (ii) there shall have occurred any outbreak, or material escalation, of hostilities, or other calamity or crisis, the effect of which on the financial markets of the United States is such as to make it impracticable (a) to dispose of the Investment Property because of the substantial losses which might be incurred, or (b) to determine the Investment Property Value in accordance with the Valuation Procedures set forth in Exhibit C. The Custodian, the Commissioner, the Advisory Committee and each Participant shall be immediately notified by the Program Administrator by telephone, email, telecopy, facsimile transmission, telegraph or other electronic means in the event

that such a suspension or postponement is commenced. Such a suspension or postponement shall not itself directly alter or affect a Participant's Balance. Such a suspension or postponement shall take effect at such time as is determined by the Program Administrator, and thereafter there shall be no right to request or receive payment until the first to occur of: (a) in the case of (i) above, the time at which the Program Administrator declares the suspension or postponement at an end, which declaration shall occur on the first day on which the period specified in clause (i) above shall have expired; and (b) in the case of (ii) above, the end of the first day on which the period specified in clause (ii) above is no longer continuing as determined by the Program Administrator. Any Participant that requested a payment prior to any suspension or postponement of payment may withdraw its request at any time prior to the termination of the suspension or postponement. Notwithstanding anything contained in this Section 2.2(d) to the contrary, if during a suspension or postponement period, a Participant demands in writing the right to make a withdrawal and it is not impossible to accommodate such demand, the Program Administrator shall make all commercially reasonable efforts to effectuate such withdrawal demand.

2.3 Initiating Participation. The parties hereto agree that any governmental entity that is authorized by the Revised Statutes Annotated of the State of New Hampshire to contribute funds into the Pool may become a Participant by executing a Participation Certificate attached hereto as Exhibit D and delivering the original executed Participation Certificate to the Program Administrator. The Program Administrator shall provide monthly written notification to the Custodian of the admission of a new Participant. Any entity that becomes a Participant pursuant to this Section 2.3 shall thereupon be a party to this Agreement with the same rights and obligations hereunder as the other Participants.

2.4 Designation of Representatives by Participants. Each Participant shall be required to designate in its Participation Certificate one Representative who will administer the participation of the Participant in the Pool. The Participant will be permitted to change such Representative upon written notice to the Program Administrator.

2.5 Termination of Participation. The parties hereby agree, and the Participants by executing Participation Certificates agree, that the following policies shall apply to the termination of participation by the Participants:

(a) Any Participant may terminate its participation in the Pool at any time upon written notice to the Program Administrator, who shall promptly notify the Custodian upon receipt of such notice of termination. Upon its termination, a Participant shall cease to have any rights or obligations under this Agreement except for any obligation set forth in Sections 4.10 and 5.3 arising on or before the date of termination. A notice of termination shall be deemed to constitute a request under the Payment Procedures that an amount equal to the requesting Participant's Balance as of the date of such notice be paid to such Participant. No termination shall become effective until such Participant's Balance is equal to zero, and until such time, such Participant shall continue to possess all the rights, and to be subject to all the obligations, arising from this Agreement.

(b) Any Participant that breaches any covenant (except for the covenant to select a Representative) contained in its Participation Certificate or for which any of the representations contained in its Participation Certificate ceases to be true shall be deemed to have given a notice of termination pursuant to Section 2.4(a) hereof immediately upon such breach or cessation, but shall not be deemed to have requested the payment of its Balance unless and until it either makes an actual payment request or the Program Administrator determines that such a breach or cessation has occurred.

2.6 Receipt of Statements and Reports; Requests. The parties agree to the following with respect to the rights of the Participants to receive statements and reports and the obligation of the Program Administrator to respond to certain Participant requests:

(a) The Program Administrator shall provide to each Participant a copy of the statements prepared pursuant to Section 4.4 hereof and of the reports prepared pursuant to Section 4.5 hereof applicable to such Participant.

(b) In addition, each Participant may request that the Program Administrator provide a statement of the value of the Participant's Balance as of the date of the request. The Program Administrator shall provide such statement.

(c) Upon the request of any Participant, the Program Administrator shall maintain the records relating to such Participant in a manner that subdivides the Participant's Balance into subaccounts or other special accounts to accommodate the desire of such Participant to segregate a portion of its Investment Funds.

(d) No Participant shall be entitled to any reports or statements applicable solely to another Participant.

### ARTICLE III MEETINGS

3.1 The Commissioner and the Advisory Committee. The Commissioner and the Advisory Committee shall have overall supervisory authority over the Pool and the affairs of the Pool and may act as the liaison between the Participants and the Program Administrator.

3.2 Meetings. Meetings of the Program Administrator, the Commissioner and the Advisory Committee shall take place as determined by a written policy approved by the same and in accordance with this Agreement and with New Hampshire law.

3.3 Meeting Costs. The costs of any attendee associated with any meeting described in this Article III or the policy described in Section 3.2 above shall be borne by such attendee. All other costs of any meeting described in this Article III or the policy described in Section 3.2 above shall be paid by the Program Administrator out of its fee received pursuant to Section 6.1 hereof.

ARTICLE IV  
PROGRAM ADMINISTRATOR

4.1 Appointment; General Provisions.

(a) The Commissioner and the Advisory Committee may appoint one or more persons as Program Administrator for the Pool, for the period and on the terms set forth in this Agreement.

(b) The Program Administrator shall enter into a custody agreement with a custodial bank pursuant to the provisions of Section 5.1 hereof.

(c) The Program Administrator shall at no time have custody of, or physical control over, any of the Investment Property. The Program Administrator shall not be liable for any act or omission of the Custodian, but shall be liable for the Program Administrator's acts and omissions as provided herein.

4.2 Duties of the Program Administrator.

(a) The duties of the Program Administrator shall be those set forth in a program administrator agreement to be entered into between the Commissioner and the Program Administrator (the "Program Administrator Agreement"). This Article IV outlines some but not all of such duties. Such duties may be modified by the Commissioner from time to time but only with the written consent of the Program Administrator. The Advisory Committee and the Commissioner authorize the Program Administrator to effect purchases, sales or exchanges of Investment Property on behalf of the Participants. Any and all of such purchases, sales, and exchanges shall be deemed to be authorized by the Commissioner and the Advisory Committee. Any such program administrator agreement may authorize the Program Administrator to employ other persons to assist in the performance of the duties set forth in the agreement.

(b) If a Participant in error delivers Investment Funds for investment to the Program Administrator instead of to the Custodian, the Program Administrator shall immediately transfer such Investment Funds to the Custodian. The Program Administrator shall not be liable for any act or omission of the Custodian, but shall be liable for the Program Administrator's acts and omissions as provided herein.

(c) The Program Administrator shall only invest the Investment Funds pursuant to the investment parameters contained in Exhibit E hereof as informed by Section 4.3 hereof.

4.3 Investment Activities and Powers. In addition to its obligations under the Program Administrator Agreement, the Program Administrator shall perform the following services:

(a) advise the Commissioner and the Advisory Committee on any material changes in investment strategies based upon current market conditions;

(b) enter into securities transactions with respect to the Investment Property (to the extent permitted by the investment criteria established by the Commissioner and the Advisory Committee as set forth in Exhibit E and all applicable law) by entering into agreements and executing other documents relating to such transactions containing provisions common for such agreements and documents in the securities industry;

(c) from time to time, review the permitted investments and the investment criteria set forth in Exhibit E and, if circumstances and applicable law permit, recommend changes in such permitted investments and such investment criteria;

(d) provide such advice and information to the Participants, the Commissioner and the Advisory Committee on matters related to investments as the Participants, the Commissioner or the Advisory Committee may reasonably request, including, without limitation, research and statistical data concerning the Investment Property and other matters within the scope of the investment criteria set forth in Exhibit E;

(e) advise whether and in what manner all rights conferred by the Investment Property may be exercised;

(f) prepare such information and material as may be required in the implementation of the Valuation Procedures or the computation of the Balances and the preparation of any and all records and reports required by this Agreement or applicable laws;

(g) issue instructions to the Custodian as provided in this Agreement and the Custody Agreement; and

(h) employ, consult with, obtain advice from, and exercise any of the Program Administrator's rights or powers under this Agreement through the use of suitable agents, including auditors, legal counsel (who may be counsel to the Program Administrator and/or the Advisory Committee), investment advisers, brokers, dealers or other advisers. Notwithstanding anything herein to the contrary, the Program Administrator may transmit information concerning the Investment Property and the Participants to such agents.

#### 4.4 Monthly Statements.

(a) Within 15 days subsequent to the end of each month, the Program Administrator shall prepare and submit to each Participant which was a Participant during such month a statement disclosing any activity and a closing Balance in each of its accounts for such month.

(b) The Program Administrator, upon the request of a Participant, shall furnish to the Participant a statement of such Participant's Balance as of the date of such request, subject only to account activity on such date.

4.5 Audits and Reports. The Program Administrator shall prepare or cause to be prepared at least annually (i) report of operations containing a statement of the Investment Property and the Investment Property Liabilities and statements of operations and of net changes in net assets prepared in conformity with generally accepted accounting principles consistently applied and acceptable to the Commissioner and Advisory Committee and (ii) an opinion of an independent certified public accountant on such financial statements based on an examination of the books and records of the Participants' accounts, maintained by the Program Administrator with respect to the Investment Property, performed in accordance with generally accepted auditing standards. A copy of such signed report of operations and accountant's opinion shall be simultaneously filed with the Commissioner, the Advisory Committee and the Participants within ninety (90) days after the close of the period covered thereby. The Program Administrator shall prepare or cause to be prepared additional reports of operations acceptable to the Commissioner and the Advisory Committee.

4.6 Compliance Reports.

(a) The Program Administrator shall prepare or cause to be prepared

(i) a monthly internal compliance report which contains an analysis of whether the Pool's assets are invested in compliance with the investment guidelines set forth in Exhibit E of this Agreement and any applicable laws and rules, which reports shall be delivered to the Commissioner and the Advisory Board in conjunction with the quarterly meetings of the Advisory Board; and

(ii) at the request of the Commissioner and Advisory Committee, a report of an independent third party that the Pool's assets are invested in compliance with the investment guidelines set forth in Exhibit E of this Agreement and any applicable laws and rules. With the exception of the report to be prepared for the period ending March 31, 2011 (which cost shall be incurred by the Program Administrator), the cost for such third-party report shall be negotiated on a case-by-case basis and paid for by the Pool in addition to the Program Administrator's Fee paid pursuant to the Program Administrator Agreement.

(b) A copy of such signed report of compliance under (a)(i) above and any third-party's report under (a)(ii) above shall be filed with the Commissioner and the Advisory Board within ninety (90) days after the close of the period covered thereby, and available to Participants on request.

4.7 Daily Calculation of Program Value and Rate of Return.

(a) The Program Administrator shall calculate the Investment Property Value for each Account once on each Business Day at the time and in the manner provided in the Valuation Procedures.

(b) Upon performing the valuation specified in Section 4.7(a) hereof, the Program Administrator shall calculate (rounding off to the nearest whole cent) the Balance of each Participant. Each Balance of each of the Participants shall be adjusted

proportionately so that the total Balances of all the Participants equal the aggregate Investment Property Value for each Account.

(c) For purposes of calculating the Investment Property Value, the amount of any uncertain or contingent Investment Property Liability shall be deemed to be equal to the amount of the reserve, if any, against such Investment Property Liability that has been determined from time to time by the Program Administrator.

(d) The Program Administrator shall calculate daily the rate of return earned on the Investment Property.

4.8 Administration of the Pool. The Program Administrator shall perform the following administrative functions on behalf of the Advisory Committee in connection with the implementation of this Agreement:

(a) collect and maintain for such period as may be required under any applicable Federal or New Hampshire law written records of all transactions affecting the Investment Property or the Balances, including, but not limited to, (i) investments by and payments to or on behalf of each Participant; (ii) acquisitions and dispositions of Investment Property; (iii) pledges and releases of collateral securing the Investment Property; (iv) determinations of the Investment Property Value; (v) adjustments to the Participants' Balances; and (vi) the current Balance and the Balances at the end of each month for each Participant. There shall be a rebuttable presumption that any such records are complete and accurate. The Program Administrator shall maintain the records relating to each Participant in a manner that subdivides the Participant's Balance into sub-accounts or other special accounts to accommodate such Participant's desire to segregate any portion or portions of its Investment Funds;

(b) assist in the organization of meetings of the Advisory Committee, including preparation and distribution of the notices and agendas therefor;

(c) respond to all inquiries and other communications of Participants, if any, which are directed to the Program Administrator, or, if any such inquiry or communication is more properly addressed by an officer of the Custodian, referring such inquiry or communication to such officer and coordinating such officer's response thereto;

(d) pay all Investment Property Liabilities in accordance with this Agreement from any income, profits and gains from the Investment Property (but not from the principal amount thereof); and

(e) engage in marketing activities to encourage eligible New Hampshire entities to become Participants.

#### 4.9 Resignation and Removal.

(a) The Program Administrator may resign as Program Administrator upon the giving of at least one hundred eighty (180) days' prior written notice of such resignation to the Commissioner, the Advisory Committee, and the Custodian.

(b) The Commissioner, in consultation with the Advisory Committee, may remove the Program Administrator upon the giving of at least ninety (90) days' prior written notice to the Program Administrator, the Custodian and the Participants.

(c) The Commissioner, in consultation with the Advisory Committee, may remove the Program Administrator immediately for a material breach of its covenants.

(d) In the event that the Program Administrator shall give notice of its resignation or if the Commissioner and Advisory Committee shall give notice of the removal of the Program Administrator, the Commissioner, in consultation with the Advisory Committee, shall appoint a successor.

#### 4.10 Liability and Indemnification.

(a) Except for claims, liabilities, damages or expenses that are finally Judicially Determined to have resulted from any action or omission by the Program Administrator (other than an action or omission at a Participant's request or with the Participant's express permission) that constitutes a breach of fiduciary duty, willful malfeasance, bad faith or negligence on the part of the Program Administrator (collectively, "Program Administrator Liability"), the Participants agree that the Program Administrator shall not be liable for any claims, liabilities, damages or expenses which the Participants or anyone claiming by or through any of the foregoing may sustain by reason of any act or omission by the Program Administrator (including, but not limited to, investment advice or the failure to give investment advice at any time) in the course of, connected with or arising out of any services to be rendered hereunder or under the Program Administrator Agreement. Notwithstanding the foregoing, in no event shall the Program Administrator be liable to any person for any special, incidental or consequential damages, including, but not limited to, loss of profits or revenue or damages suffered by the Participants in connection with claims for such damages asserted against the Participants by any person.

(b) Except for claims, liabilities, damages or expenses that are finally Judicially Determined to have resulted from any action or omission by the Participants (other than an action or omission at the Program Administrator's request or with the Program Administrator's express permission) that constitutes a breach of fiduciary duty, willful malfeasance, bad faith or negligence on the part of the Participants, the Program Administrator, through the terms of the Program Administrator Agreement, agrees that the Participants shall be liable for any claims, liabilities, damages or expenses which the Program Administrator or anyone claiming by or through the Program Administrator may sustain by reason of any act or omission by the Participants. Notwithstanding the foregoing, in no event shall the Participants be liable to the Program Administrator for any special, incidental or consequential damages suffered by the Program Administrator, including, but not limited to, loss of profits or revenue or damages suffered by the Program Administrator in connection with claims for such damages asserted against the Program Administrator by any person.

(c) To the extent permitted by law, and subject to the availability of appropriations by the legislature, the Participants agree to defend, indemnify and hold harmless the Program Administrator, any permitted subcontractors, their respective affiliates (including any controlling person) and the respective directors, officers, agents and employees of any of the foregoing, from and against any and all claims, liabilities, damages or expenses, whether they proceed to judgment or are settled or otherwise brought to a conclusion, arising out of or related to (i) any breach of a representation, warranty or covenant hereunder or contained in Exhibit D hereto by the Participants or (ii) any services performed, or to be performed, hereunder or under the Program Administrator Agreement by the Program Administrator (including, but not limited to, investment advice or the failure to give investment advice at any time); except for any Program Administrator Liability.

(d) Subject to Sections 4.10(a) and 4.10(b) above, the indemnification rights set forth in Section 4.10(c) above shall be in addition to any other rights that any indemnified party may have at common law or otherwise, including, but not limited to, any right to contribution.

4.11 Power to Receive Investment Advice. The Program Administrator may retain a third party, at the cost of the Program Administrator, to assist in the performance of its duties in providing investment advice, including execution of portfolio transactions for the Pool. The Program Administrator shall have the right, at its own cost, to receive investment advice concerning the Pool from any other third party. Notwithstanding any provisions herein to the contrary hereof, the Program Administrator is expressly authorized to transmit information concerning the Investment Property and the Participants to such other third parties in order to obtain such investment advice. The Program Administrator shall notify the Commissioner and the Advisory Committee if any third parties are retained pursuant to this Section 4.11 within 10 days of such retention.

4.12 Advice to Other Clients. It is understood by the Participants that the Program Administrator performs services as program administrator or investment advisor for clients other than the Pool. The Participants agree that the Program Administrator may give advice and take action with respect to any of its other clients (which may include, among others, Participants in their individual capacities, former Participants or other New Hampshire governmental entities which are not Participants) which may differ from the advice given to, or the timing or nature of action taken with respect to, the Pool; provided that the policy and practice of the Program Administrator is not to favor or disfavor consistently or consciously any client or class of clients in the allocation of investment opportunities and that, to the extent practical, such opportunities are allocated among clients over a period of time on a fair and equitable basis. Nothing contained herein shall be construed so as to prevent the Program Administrator or any of its directors, officers, employees, shareholders or affiliates in any way from purchasing or selling any securities for its or their own accounts prior to, simultaneously with or subsequent to any recommendation or actions taken with respect to the Pool or impose upon the Program Administrator any obligation to purchase or sell or to recommend for purchase or sale for the Pool any security which the Program Administrator or any of its shareholders, directors, officers, employees or affiliates may purchase or sell for its or

their own accounts or for the account of any other client, advisory or otherwise; provided always, however, that the Program Administrator shall use its best efforts to maximize the gains for the Pool in a manner consistent with the investment criteria set forth in Exhibit E hereof.

4.13 Special Sub-Accounts. Notwithstanding anything in this Agreement to the contrary, the Program Administrator from time to time may propose to the Participants that the Participants establish specially designated sub-accounts with investment criteria, investment and payment procedures, fees or other characteristics different from those set forth in this Agreement, but all in compliance with all applicable law. Such characteristics may include, without limitation, certain restrictions on amounts to be invested, holding periods prior to payments or certain other conditions to be met for payments, such as possible payment penalties, special investment criteria, investment management tailored to a particular Participant or additional fees for administering such specially designated sub-accounts. A Participant in its sole discretion may create such a special sub-account using the same procedures for establishing other sub-accounts set forth in this Agreement. The establishment of such special sub-accounts shall not be deemed an amendment of this Agreement. Any special sub-account that is created pursuant to this Section 4.13 shall be subject to the terms set forth in the proposal of the Program Administrator until the terms governing such special sub-account are amended pursuant to Section 9.1 of this Agreement, provided, however, that for such an amendment to become effective it shall require only the affirmative vote of a majority of those Participants (acting through their Designees) with such special sub-accounts and not the affirmative vote of a majority of all Participants (acting through their Designees). The Program Administrator may calculate the return realized by such special sub-accounts separate and apart from the returns realized by other sub-accounts maintained for each Participant.

4.14 Successors. In the event that, at any time, the position of Program Administrator shall become vacant for any reason, the Commissioner, in consultation with the Advisory Committee, may appoint, employ or contract with a successor.

## ARTICLE V THE CUSTODIAN

### 5.1 Appointment and Acceptance; Sub-Custodians.

(a) The Program Administrator shall enter into a custody agreement with the custodial bank of its choice after the advice and consent of the Commissioner and the Advisory Committee. By entering into the Custody Agreement, the Custodian shall accept such appointment and agree to render the services and to assume the obligations set forth herein and in a custody agreement (the "Custody Agreement").

### 5.2 Resignation and Removal; Successors.

(a) The Custodian may resign upon the giving of at least one hundred eighty (180) days' prior written notice to the Commissioner, the Advisory Committee, the

Participants and the Program Administrator. The Commissioner, after consultation with the Advisory Committee, may direct the Program Administrator to remove the Custodian and terminate the Custody Agreement upon at least sixty (60) days' prior written notice to the Custodian, the Participants and the Advisory Committee. Notwithstanding the foregoing, the removal of the Custodian shall not be deemed effective unless a successor shall have been chosen pursuant to Section 5.2(b) hereof.

(b) In the event that the Custodian shall give notice of its resignation or if the Commissioner shall give notice of the removal of the Custodian and direct the Program Administrator to terminate the Custody Agreement, the Program Administrator shall enter a custody agreement with a successor Custodian with the advice and consent of the Commissioner and the Advisory Committee.

5.3 Indemnification. To the extent permitted by law, and subject to the availability of appropriations by the legislature, the Participants by executing Participation Certificates agree to indemnify the Custodian and hold it harmless against any loss or liability or expense incurred by it in connection with the performance of its duties hereunder and under the Custody Agreement, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of its duties hereunder and under the Custody Agreement.

## ARTICLE VI PROGRAM COSTS AND EXPENSES

6.1 Program Administrator's Fee. In consideration of the performance of its obligations hereunder, the Program Administrator shall receive a fee as set forth in the Program Administrator Agreement, out of which the Program Administrator will pay the Custodian fees. The Program Administrator's fee shall be an Investment Property Liability. The costs and non-extraordinary expenses for administering the investment of the Investment Property shall be borne by the Program Administrator out of its fee, provided, however, such costs shall not include the costs and expenses of other attendees at any meeting set forth in Article III.

6.2 Performance. The Program Administrator shall cause to be prepared performance statistics on investment earnings which compare the Pool's returns net of fees to the 90 Day Treasury Bill Auction Average or any other benchmark as approved by the Commissioner and the Advisory Committee.

## ARTICLE VII REPRESENTATIONS AND WARRANTIES

7.1 Representations and Warranties of the Commissioner. The Commissioner hereby represents and warrants that:

(a) the execution, delivery and performance of this Agreement by the Commissioner does not violate the laws, rules or regulations of the State of New Hampshire; and

(b) the execution, delivery and performance of this Agreement has been duly authorized and this Agreement is the legal, valid and binding obligation of the Commissioner enforceable against the Commissioner in accordance with its terms.

## ARTICLE VIII COVENANTS

8.1 Truth of Representations and Warranties. Each party to this Agreement hereby covenants that it shall withdraw from this Agreement should any of the representations and warranties made by it in Article VII hereof or in Exhibit D hereto ceases to be true.

## ARTICLE IX AMENDMENT, TERMINATION AND LIQUIDATION

9.1 Amendment. Unless explicitly set forth otherwise herein, this Agreement may be amended only in writing signed by the Commissioner, in consultation with the Advisory Committee, and acknowledged by the Program Administrator with respect to provisions which do not impact the rights and duties of the Custodian hereunder.

Any amendments to this Agreement which explicitly or implicitly amend the custodial services or the rights and duties of the Custodian as outlined in Article V or elsewhere herein shall be signed by the Commissioner, and acknowledged by the Program Administrator. Any amendments to this Agreement which materially alter the Custodian's duties hereunder shall be signed by the Commissioner, and acknowledged by the Program Administrator and the Custodian.

Any amendment pursuant to this Section 9.1 shall become effective 30 days after notice thereof has been sent to the Participants.

9.2 Term. This Agreement may be terminated at any time pursuant to a duly adopted amendment hereto.

### 9.3 Liquidation Upon Termination.

(a) Upon termination of this Agreement, the parties hereto shall carry on no business in connection with the Investment Property except for the purpose of satisfying any Investment Property Liabilities and winding up its affairs in connection with the Investment Property. The powers of all the parties under this Agreement shall continue until the affairs of the parties shall be wound up.

(b) After paying or adequately providing for the payment of all Investment Property Liabilities, and upon receipt of said releases, indemnities and refinancing agreements as the Custodian, the Program Administrator, the Commissioner and the Advisory Committee or the Participants deem necessary, the Program Administrator shall direct the Custodian to distribute the remaining Investment Property to the Participants according to their respective proportionate Balances.

(c) After the distribution set forth in Section 9.3(b), the affairs of the parties shall be deemed wound up and the parties hereto shall be discharged from all and further liabilities and duties hereunder, provided that Section 4.10 and 5.3 shall survive any termination of this Agreement.

## ARTICLE X MISCELLANEOUS

10.1 Governing Law. This Agreement shall be subject to and construed according to the laws of the State of New Hampshire.

10.2 Venue. All actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State courts located within the State of New Hampshire.

10.3 Third-Party Beneficiaries. The Program Administrator and Custodian shall be third-party beneficiaries of this Agreement.

10.4 Counterparts. This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

10.5 Severability. The provisions of this Agreement are severable, and if any one or more of such provisions (the "Conflicting Provisions") are in conflict with any applicable laws, the Conflicting Provisions shall be deemed never to have constituted a part of this Agreement and this Agreement may be amended pursuant to Section 9.1 hereof to remove the Conflicting Provisions; provided, however, that such conflict or amendment shall not affect or impair any of the remaining provisions of this Agreement or render invalid or improper any action taken or omitted prior to the discovery or removal of the Conflicting Provisions.

### 10.6 Gender; Section Headings and Table of Contents.

(a) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa.

(b) Any headings preceding the texts of the several Articles and Sections of this Agreement and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall neither constitute a part of this Agreement nor affect its meaning, construction or effect.

10.7 No Assignment. No party hereto may sell, assign, pledge or otherwise transfer any of its rights or benefits under this Agreement to any other Person, and any purported sale, assignment, pledge or other transfer shall be null and void.

10.8 No Partnership. Notwithstanding any provision hereof to the contrary, this Agreement does not constitute an association of two or more Persons to carry on as co-owners a business for profit, and none of the parties intends this Agreement to constitute a partnership or any other joint venture or association. Furthermore, none of the parties has any authority hereunder to personally bind or act as agent for another party in any manner whatsoever, except to the extent, if any, expressly provided elsewhere herein.

10.9 Notice. Unless otherwise specified in this Agreement, all notices required to be sent under this Agreement:

(a) shall be in writing;

(b) shall be deemed to be sufficient if given by depositing the same in the United States mail, postage prepaid, addressed to the person entitled thereto at his address as it appears on the records maintained by the Program Administrator; and

(c) shall be deemed to have been given on the day of such mailing.

10.10 Entire Agreement. This Agreement shall constitute the entire agreement of the parties with respect to the subject matter and shall supersede all prior oral or written agreements in regard thereto other than the Program Administrator Agreement and the Custody Agreement.

10.11 Confidentiality.

(a) All information and recommendations furnished by the Program Administrator to the Commissioner, the Participants, or the Advisory Committee that is marked confidential or as a trade secret and all information and directions furnished by the Program Administrator to the Custodian shall be regarded as confidential by each such Person to the extent permitted by law, including but not limited to New Hampshire RSA 91-A. The Program Administrator and the Custodian shall regard as confidential all information concerning the Investment Property and the affairs of the Participants. Nothing in this paragraph shall prevent any party from divulging information to civil, criminal, bank or securities regulatory authorities where such party may be exposed to civil or criminal proceedings or penalties for failure to comply.

(b) In the event that on-line terminals or similar electronic devices are used for communication from the Program Administrator to the Custodian, the Program Administrator agrees to safeguard and maintain the confidentiality of all passwords or numbers and to disclose them only to such of its employees and agents as reasonably require access to the information concerning the Investment Property. The Custodian agrees to safeguard and maintain the confidentiality of all passwords or numbers and to limit access to this information for the purpose of acting pursuant to this Agreement. The Custodian may electronically record any instructions given by telephone, and any other telephone discussions with respect to the Account or transactions pursuant to this Agreement.

(c) The Custodian may rely on the accuracy of all data received by it through electronic means and initiated by any person authorized by the Program Administrator. Every person who uses the correct passwords to obtain information by electronic means or to make permissible transactions shall be presumed to have the Program Administrator's authority unless the Program Administrator can prove that:

(i) a person using a correct password was not authorized to have access to this information;

(ii) the person using the password obtained it through or as a result of the Custodian's negligent disclosure; and

(iii) the disclosure by the Custodian was not authorized by the Program Administrator prior to its unauthorized use.

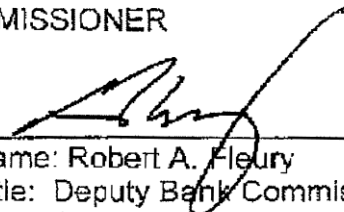
10.12 Disputes. In the event of any dispute between the parties, the parties agree to attempt to resolve the dispute through negotiation or a method of non-binding alternative dispute resolution. No litigation shall be commenced without a certification by an authorized officer, employee, or agent of any party that the dispute cannot be resolved by negotiation or non-binding alternative dispute resolution provided in writing at least 10 days before commencing legal action.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in its name and on its behalf as of the date first written above.

Each Participant is bound hereto by the execution of the Participation Certificate, a form of which is attached hereto as Exhibit D.

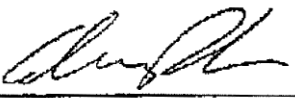
STATE OF NEW HAMPSHIRE BANK  
COMMISSIONER

By

  
Name: Robert A. Fleury  
Title: Deputy Bank Commissioner  
Signed pursuant to N.H. RSA 383:1

Approved by the Attorney General as to Form,  
Substance and Execution.

By

  
Glenn Renslow  
Sr. Asst. Atty. Gen.

Date:

3/28/11

## EXHIBIT A

### CONTRIBUTION PROCEDURES

1. A Participant shall call, complete the appropriate contribution form and fax to the Program Administrator, or complete transactions via Client Connection (a secured internet-based transaction system) indicating the amount to be invested (there is no minimum investment). If funds are to be sent via wire transfer, the Participant shall instruct its bank depository to wire Investment Funds to the Account at the Custodian.

2. Receipt by the Program Administrator prior to 11:45 a.m. EST of notification of Investment Funds being deposited will cause the value of the Investment Funds to be credited and earn interest on the same Business Day.

3. Receipt by the Program Administrator after 12:00 p.m. EST of notification of Investment Funds being deposited will cause the value of the Investment Funds to be credited and earn Interest on the next Business Day.

4. If Investment Funds for which notification of deposit has been given, are not received (except if the Participant can show the contribution procedures have been followed) by the end of the Business Day on which such notification is given, the Program Administrator shall deduct the value of such Investment Funds from the Participant's Balance if previously credited. If the Participant can show the contribution procedures have been followed, and, notwithstanding, the Investment Funds are not received, then the Program Administrator shall seek to obtain such Investment Funds from the party responsible for failure of delivery.

5. Participants are prohibited from withdrawing Investment Funds credited to their Balance pursuant to (2) or (3) above, until such Investment Funds are received by the Custodian.

## EXHIBIT B

### PAYMENT OR WITHDRAWAL PROCEDURES

1. The Participant shall call, complete the appropriate withdrawal form and fax to the Program Administrator, or complete transactions via Client Connection (a secured internet-based transaction system) indicating the amount to be withdrawn.
2. The Participant shall make all withdrawal requests in writing on a withdrawal form. No email requests will be processed.
3. Requests for withdrawals must be received by the Program Administrator by 11:45 a.m. EST and given by the Program Administrator to the Custodian by 12:00 p.m. EST for payments to be made that Business Day. With respect to requests for withdrawals that have been received by the Program Administrator by 12:00 p.m. EST on any Business Day, the Program Administrator will use its best efforts to give such request to the Custodian by 12:00 p.m. EST on such Business Day.
4. Requests for withdrawals received by the Program Administrator after 12:00 p.m. EST or by the Custodian after 12:00 p.m. EST will be processed the following Business Day.
5. Participants may only request withdrawals of that portion of their Balances that represent Investment Funds, and their proportional share of the Investment Property which in all cases have actually been received by the Custodian.

## EXHIBIT C

### VALUATION PROCEDURES

#### 1. Portfolio Valuation

As part of the daily fund accounting, Portfolio Valuation shall be performed or caused to be performed by the Program Administrator. All instruments in the portfolio will be held at amortized cost.

The methods used to value instruments are as follows:

##### A) Amortized Cost Valuation

On a daily basis, normally at 3:00 p.m. EST, the Investment Property Value shall be determined using the amortized cost valuation method. The amortized cost valuation method involves initially valuing a security at its cost and thereafter amortizing to maturity any discount or premium, regardless of the impact of fluctuating interest rates on the market value of the instrument.

##### B) Mark to Market

At least monthly or more frequently if requested by the Commissioner, the Investment Property Value shall be determined on a mark to market basis.

The market value of obligations issued, guaranteed or insured by the United States will be determined from the bid and ask prices for such obligations as quoted in The Wall Street Journal (Eastern Edition) for the Business Day preceding the Business Day on which the determination of such market value is made (plus accrued interest to such preceding Business Day); if the securities are not so quoted on such preceding Business Day, their market value will be determined as of the next preceding Business Day on which they were so quoted. Securities not quoted in The Wall Street Journal or valued by an independent pricing service will be valued by taking the average of the bid quotes from three primary dealers.

EXHIBIT D

PARTICIPATION CERTIFICATE

The undersigned \_\_\_\_\_ does hereby request that it be admitted as a Participant to the New Hampshire Public Deposit Investment Pool (the "Pool") pursuant to Section 2.3 of the Cooperation and Management Agreement, as amended (the "Agreement") dated as \_\_\_\_\_, by and between the State of New Hampshire Bank Commissioner and the Participants. By executing and delivering this Participation Certificate, the undersigned agrees that it will become a party to the Agreement, subject to and bound by the obligations and liabilities set forth in the Agreement, including, without limitation, those set forth in Sections 4.10 and 5.3 thereof, and shall have the rights set forth in the Agreement.

The undersigned hereby certifies that \_\_\_\_\_ is the duly designated Representative of the undersigned, as required by the Agreement.

The undersigned hereby certifies that it has taken all necessary action and has received all necessary consents to participate in the Pool, to subject the funds placed by it into the Pool to the terms of the Agreement and to bind itself to the terms of the Agreement.

\_\_\_\_\_

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

Name:

Title:

PARTICIPANT EXECUTION DATE

\_\_\_\_\_

EXHIBIT E

INVESTMENT CRITERIA

**NEW HAMPSHIRE PUBLIC DEPOSIT INVESTMENT POOL**

List of Permitted Investments

<u>Type</u>	<u>Portfolio % Limit</u>	<u>Maximum Maturity</u>	<u>Investment Selection Criteria</u>	<u>Additional Qualifications and Comments</u>
A. U.S. Treasuries-Bills, Notes, and Bonds	None	397 days		
B. U.S. Government Agencies (Fixed Rate)	None	397 days	Restricted to: FNMA, FHLB, SLMA, FHLMC, FFCB, TVA	
C. U.S. Government Agencies (Floating Rate – quarterly or shorter resets)	50%	2 years	Restricted to: FNMA, FHLB, SLMA, FHLMC, FFCB, TVA.  Restricted to single-index “par-centric” floaters pegged off money-market indices.	The following floaters are prohibited: Range, inverse or leveraged floaters; capped floaters; COFI or CMT floaters.
D. Asset-backed Securities	10% 5% per issuer	397 days	2a-7 eligible only. AAA/Aaa rated by S&P and Moody’s or equivalent short term rating (A1+/P1).  Credit card and auto loan receivable backed deals only.	“Final maturity date” means unconditional payment of principal and interest prior to that date.
E. State of New Hampshire and New Hampshire municipality obligations	20%	1 year	A-/A3 or better rated by S&P and Moody’s.	

<u>Type</u>	<u>Portfolio % Limit</u>	<u>Maximum Maturity</u>	<u>Investment Selection Criteria</u>	<u>Additional Qualifications and Comments</u>
F. Money Market Mutual Funds	20% 30%*		Limited to those money market funds whose investments conform to the New Hampshire PDIP List of Permitted Investments.	*The Portfolio % Limit has been increased to 30% for as long as the Money Market Investor Funding Facility Program is in effect. Upon termination of the MMIFF program by the Federal Reserve, the Portfolio % Limit will revert back to 20%.
G. Short Term Corporate Obligations  <u>Commercial Paper (CP)</u>  Domestic CP  <u>Certificates of Deposit (CDs)</u> <u>Bankers Acceptances (BAs)</u>  Domestic CDs, BAs	75%  75%  75% 10% per issuer  25%  25% 10% per issuer	180 days           120 days	Overall limit includes domestic and yankee issues.  A1/P1 or better (except where noted below)  Overall limit includes domestic and yankee issues.  A1/P1 or better (except where noted below). Bank assets must be in excess of \$500 MM.  Equity capital to asset ratio must equal or exceed 6%.	CP issuer min. net worth of \$100 MM. Portfolio must not own more than 10% of outstanding (CP) of an issuer.  Negotiable CDs permitted.  Japanese BAs, CDs permitted up to 5% of holdings, 30 days to maturity. A1/P1 or better only. Program Administrator approved names only.  Program Administrator approved names only.

<u>Type</u>	<u>Portfolio % Limit</u>	<u>Maximum Maturity</u>	<u>Investment Selection Criteria</u>	<u>Additional Qualifications and Comments</u>
<p>In addition, the following limits apply for corporate debt obligations:</p> <ul style="list-style-type: none"> <li>Yankee CP, CD, BAs</li> <li>A2/P2 or split-rated (e.g. A2/P1 or A1/P2) CP, CDs or BAs</li> </ul>	<p>20% 5% per issuer</p> <p>5% 1% per issuer</p>	<p>90 days</p> <p>30 days</p>	<p>Non-performing assets to equity ratio may <u>not</u> exceed 35%.</p> <p>A1/P1 or better only.</p> <p>Domestic issuers only.</p>	
<p>H. Repurchase Agreements</p>	<p>None 25%</p>	<p>&lt;7 days &gt;7 days in no case greater than 30 days</p>	<p>102% collateralized by U.S. Treasury or Government Agency obligations.</p> <p>ARMs, CMOs, and structured notes not permitted.</p> <p>Deliverable (DVP) or Tri-Party permitted.</p> <p>Term repo must be marked to market daily. The Program Administrator must have record.</p>	<p>May be executed with primary dealers rated A1/P1 or better.</p> <p>Limited to 15% per counterparty for repos greater than overnight.</p> <p>PSA Master Repurchase Agreements and Tri-Party documentation must be on file with the Program Administrator prior to execution of any transaction.</p> <p>Quarterly evaluations of counterparties must be on file with the Program Administrator as well as annual review of custodian.</p>

<u>Type</u>	<u>Portfolio % Limit</u>	<u>Maximum Maturity</u>	<u>Investment Selection Criteria</u>	<u>Additional Qualifications and Comments</u>
I. Reverse Repurchase Agreements	25%	“Overnight” or “Open”	Cash collateral must equal 98% of securities reversed at all time, marked to market daily.	<p>May be executed only with primary dealers rated A1/P1 or better.</p> <p>Limited to 15% per counterparty.</p> <p>Reverses will be used for economic value or for liquidity purposes. Cash will only be invested overnight.</p>
J. Collateralized Deposits	20%		FHLB LOC as collateral.  Tri-Party.	<p>Agreement Letter and Tri-Party Documentation must be on file with the Program Administrator prior to execution of the transaction.</p> <p>Quarterly evaluations of counterparties must be on file with the Program Administrator as well as annual review of custodian.</p>
K. Temporary Liquidity Guarantee Program (TLGP)	50%	Final Maturities of 2 years or less	Direct investment or Repurchase Agreement with TLGP as collateral.	<p>This is a temporary investment option for so long as the investments are guaranteed under the Federal Deposit Insurance Corporation’s Temporary Liquidity Guarantee Program and backed by the full faith and credit of the United States.</p> <p>The FDIC guarantee is expected to expire with the final maturity date of 6/30/2012, unless extended.</p> <p>No more than 5% invested with any one issuer.</p>

### Additional Guidelines Pertaining to All Securities Positions

No security with a maturity greater than 397 days may be purchased except for floating rate securities as described below.

The weighted average maturity (effective duration) of the entire portfolio may not exceed 60 days.

15% of the portfolio must be invested in “overnight” or other “immediately liquid” instruments.

The reset frequency of variable rate U.S. Government Agency obligations, rather than their nominal maturities, shall be used when calculating the weighted average maturity of the portfolio. Only those floaters which reset no less than quarterly and have final maturities of two years or less may be purchased henceforth.

Floater which were purchased prior to 11/29/94 and do not conform to this List of Permitted Investments may continue to be held in the NHPDIP portfolio but should be sold if and when market conditions permit. If such a sale would cause the portfolio to realize a loss, the Program Administrator must be consulted, and its approval must be obtained before effecting the transaction.

Except for U.S. Treasury and U.S. Government Agency obligations and repo collateralized by U.S. Treasury or U.S. Government Agency obligations, no more than 10% of the portfolio may be invested in the obligations of any one issuer. (Letters of Credit and other guarantees shall be considered obligations of an issuer for purposes of this requirement.)