

Contract No. _____

STATE OF NEW MEXICO EDUCATIONAL RETIREMENT BOARD

SAMPLE CONTRACT FOR CUSTODY BANK SERVICES

NMERB RFP # 2024-09-03 (INV)

APPENDIX F

THIS AGREEMENT is made and entered into effective _____, by and between the State of New Mexico Educational Retirement Board (“Board” or “Agency”) and _____ (“Contractor”), to define the terms and conditions of the designation by the Board of Contractor as Custody Bank for the Board for a four-year period, with the option to renew every two years thereafter at the discretion of the Board.

WHEREAS, Contractor has been selected by the Board as the Custody Bank to act as custodian for the Board in all matters concerning securities custody and the clearance of investment transactions as described herein; and

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES AS FOLLOWS:

GENERAL TERMS AND CONDITIONS

1. Scope of Agreement

This Agreement and its exhibits, schedules and appendices incorporate all agreements, covenants, and understandings between the Board and Contractor concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement; provided, however, that those matters specifically designated herein as procedural can be as agreed to by the Contract Administrators without the necessity of direct embodiment within this written Agreement. In the event that there is any conflict between this Agreement and other documents attached hereto and incorporated herein by reference as Exhibits ____ through ____ including any documents referenced to therein, the provisions of this Agreement shall control.

2. Amendments

This Agreement shall not be altered, changed or amended except by an instrument in writing executed by the Board and Contractor. No amendment to this Agreement shall be effective until approved by the Board and the Contractor. If additions or changes in services are requested by the Board, Contractor shall present a proposal for services and fees for Board review and approval. No payment for such added or changed services shall be made until an amendment has become effective.

3. Definitions

As used in this Agreement:

- A. "Agency" means the New Mexico Educational Retirement Board.
- B. "Agent" means those employees of who are designated in writing by the Board to Contractor to act in the capacity of agents of the Board.
- C. "Business Day" means Monday through Friday excluding Federal Reserve holidays, and bank holidays.
- D. "Entitlement Holder" means the person named on the records of a Securities Intermediary as the person having a securities entitlement against the Securities Intermediary.
- E. "Financial Asset" means a Security and refers, as the context requires, either to the asset itself or to the means by which a person's claim to it is evidenced, including a Security, a security certificate, or a securities entitlement. "Financial Asset" does not include cash.
- F. "Instructions" means an instruction that has been verified in accordance with a Security Procedure or, if no Security Procedure is applicable, which Contractor believes in good faith to have been given by an Agent in the manner specified next to their name in the relevant authorizing document.
- G. "New Mexico Employee" and "employee" means, for the purposes of Section 40, any resident of the State of New Mexico performing the majority of their work within the State of New Mexico, for any employer regardless of the location of the employer's office or offices.
- H. "Securities" means shares, stocks, debentures, bonds, notes or other like obligations, whether issued in certificated or uncertificated form, and any certificates, receipts, warrants or other instruments representing rights to receive, purchase or subscribe for the same that are commonly traded or dealt in on securities exchanges or financial markets or other obligations of an issuer, or shares, participations and interests in an issuer recognized in the country in which it is issued or dealt in as a medium for investment and any other property as may be acceptable to Contractor for the Securities Account.
- I. "Securities Account" means each Securities custody account on Contractor's records to which Financial Assets are or may be credited under this Agreement.
- J. "Securities Depository" means any clearing system, securities depository, dematerialized book entry system or similar system for the central handling of Securities
- K. "Securities Intermediary" means contractor, a Securities Depository, and any other financial institution which in the ordinary course of business maintains Securities custody accounts for others and acts in that capacity.
- L. "Security Procedure" means security procedures to be followed by the Board upon the issuance of an Instruction and/or by Contractor upon the receipt of an Instruction, so as to enable Contractor to verify that such Instruction is authorized, as set forth in service level documentation agreed in writing by the parties. A Security Procedure may, without limitation, involve the use of algorithms, codes, passwords, encryption and telephone call backs. The Board acknowledges that

Security Procedures are designed to verify the authenticity of, and not detect errors in, Instructions. For the avoidance of doubt, the parties agree that a SWIFT message issued in the name of the Board through any third party utility agreed upon by the parties as being a method for providing Instructions and authenticated in accordance with that utility's customary procedures, shall be deemed to be an authorized Instruction.

- M. "Separate Account" means one or more separate accounts under each Account for such Financial Assets received by Contractor from time to time.
- N. "State" or "State of New Mexico" means the departments, agencies, branches, commissions, boards, instrumentalities and institutions of government of the State of New Mexico, including but not limited to the Board.

All terms in the singular will have the same meaning in the plural unless the context otherwise provides and vice versa.

4. Assignment or Transfer

Contractor shall not assign or transfer any interest in this Agreement or assign any claims for compensation due under this Agreement without prior written approval of the Board.

5. Written Authority

Contractor agrees not to bind the Board or the State of New Mexico to any obligation not assumed under this Agreement unless Contractor has the express written authority from the Board to do so, and then only within the strict limits of that authority.

6. Appropriations

The terms of the Contract are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of the Contract. If sufficient appropriations and authorization are not made by the Legislature, the Contract shall terminate immediately upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

7. Term

This Agreement shall not become effective until approved in writing by the Board and the Contractor. Subject to such approval, the term shall begin on _____ and shall terminate four years following that date. At the expiration of the initial four-year term of this Agreement, the Board shall have two-year options to extend the duration of the Agreement upon the same terms and conditions set forth herein.

8. Termination

A. Grounds. The Agency may terminate the Contract for convenience or cause. The Contractor may only terminate the Contract based upon the Agency's uncured, material breach of the Contract.

B. Cancellation by the Board. The Board may terminate without cause any or all services provided for in this Agreement upon giving at least thirty (30) days written notice to Contractor.

C. Cancellation by the Contractor; Notice; Agency Opportunity to Cure. Contractor shall give Agency written notice of termination at least one hundred eighty (180) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of the Contract upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

D. Immediate Termination by the Board. Notwithstanding the foregoing, the Contract may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the Agency; (ii) if, during the term of the Contract, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Paragraph 6, "Appropriations", of the Contract.

E. Liability. Except as otherwise expressly allowed or provided under the Contract, the Agency's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of the Contract. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THE CONTRACT.*

F. Termination Management. Immediately upon receipt by either the Agency or the Contractor of notice of termination of the Contract, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under the Contract without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under the Contract; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and records generated under the Contract. Upon termination or expiration of this Agreement, Contractor shall deliver all cash, securities and other property then in the Board Accounts to the Board or in accordance with its order, without charge, provided, however, that sufficient time shall be given to prepare for the transfer of the assets of the Board Accounts. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the Agency upon termination and shall be submitted to the agency as soon as practicable.

9. Continuing Obligation

For sixty (60) days following expiration or termination of the Contract, Contractor agrees that it will be under a continuing duty, without charge to the Board, an Investing Agency, or the State,

to comply with the terms and conditions of the Contract until all assets and funds of the State have been successfully transferred to the successor custody bank

10. Status of Contractor

Contractor and its directors, officers, employees and agents are independent contractors performing professional services for the State and are not employees of the State or Agency. The directors, officers, employees, and agents of Contractor shall not accrue leave, retirement, insurance, bonding, use of State vehicles or any other benefits afforded to employees of the State as a result of this Agreement. Contractor acknowledges that all sums received by it hereunder as compensation are reportable by it for income tax purposes and self-employment or business income, and are reportable for self-employment tax.

11. Fiduciary Status of Contractor

The Contractor acknowledges that it is a fiduciary (as that term is defined in section 3(21) of the Employees Retirement Income Security Act of 1974, as amended to date (“ERISA”)) with respect to the Agency and in regard to the services which it will provide under the Contract. The Contractor accepts its appointment as such fiduciary, and specifically agrees to perform its duties with respect to the Agency with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims. The Contractor agrees to discharge its duties with respect to the Agency (i) solely in the interest of the beneficiaries and participants of the Agency and (ii) otherwise in accordance with the terms of the Contract.

12. Conflict of Interest

Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. Contractor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18 NMSA 1978, as amended, and the Gift Act, sections 10-16B-4, as may be amended have been and will be followed throughout the term of this Agreement.

13. Contract Administrators

Contractor and the Board shall each designate in writing a contract administrator (“Contract Administrator”) who shall have the authority to ensure that the terms of this Agreement are observed and that services are timely provided.

14. Records and Audits

Except as otherwise provided in Section 16, Contractor shall retain copies of its records and reports produced for the Account for a minimum of seven (7) years, or a longer period if required by applicable law. Subject to Contractor’s obligations of confidentiality to all of its other clients, the appropriate State Officials shall have the right to inspect, copy and audit at any reasonable time during Contractor's normal business hours such records and reports and other such records as may relate to the performance of the services as provided under this Agreement unless otherwise prohibited by law. Payment by the Board of any amount of compensation due under

this Agreement shall not foreclose the right of the Board to audit billings for such amounts nor foreclose the right of the Board to recover excessive or illegal payments.

15. Visitation

Contractor agrees that the Appropriate Board Officials may visit it at any time reasonable to observe and inspect operations of Contractor in providing services under this Agreement unless otherwise prohibited by law.

16. Cooperation with Audits

Contractor agrees to cooperate with and make space available at reasonable times and for reasonable periods for auditors when audits are made of the Board for which services are being provided under this Agreement. The books and records of Contractor relating to charges, fees and other expenses incurred by Contractor and charged to the Investing Agency in the performance of services under this Agreement shall be maintained for a period of at least three (3) years from the date of the final payment under this Agreement unless a shorter period is otherwise authorized in writing by the Board.

17. Confidentiality

Any confidential information provided to or developed by the Contractor in the performance of the Contract shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Agency, except (1) as is required by applicable law, regulation or valid court order, (2) as is required by any regulatory authority to which Contractor is subject, (3) as is authorized by the Board or its Contract Administrator in writing, or (4) as is required of Contractor in the normal course of its providing services under the Contract. Other than names of members and local administrative units by which a member was employed; dates of employment, retirement and reported death; service credit; reported salary; retirement and disability benefits, and amounts of contributions made by members and local administrative units, Contractor shall not allow public inspection or disclosure of any information regarding a member or retired member to anyone except: (1) the member, retired member or the spouse or authorized representative of the member or retired member; (2) other persons specifically identified in a prior release and consent, in the form prescribed by the Educational Retirement Board, executed by the member, retired member, spouse or authorized representative; or (3) the attorney general, appropriate law enforcement agencies, the state auditor or the public education department or higher education department, if the information provided relates to contributions, payments or management of money received by, or the financial controls or procedures of, a local administrative unit. No person receiving information disclosed by a violation of Section 22-11-55 NMSA 1978 shall disclose that information to any other person unless authorized by an applicable confidentiality agreement, Educational Retirement Board rule or state law. Whoever knowingly violates a provision of Section 22-11-55 NMSA 1978 is guilty of a petty misdemeanor and shall be sentenced in accordance with Section 31-19-1 NMSA 1978. Contractor will not disclose any information provided by the Agency, regardless of whether it is confidential, unless it first receives written permission from the Agency's Executive Director, Deputy Director, General Counsel, or Chief Information Officer. Contractor shall promptly notify Procuring Agency if they receive any requests for member or retiree information.

18. Bond Requirement

During the term of this Agreement, the Contractor shall furnish and maintain, at its expense, a banker's blanket bond per occurrence coverage in a minimum amount of fifty million dollars (\$50,000,000) and additional coverage for electronic computer crime losses in the minimum amount of twenty-five million dollars (\$25,000,000) per occurrence containing terms and conditions reasonably acceptable to the Board. A "Certificate of Liability Insurance" indicating the type and amount of insurance coverage, the insurance provider(s), and listing the Board as the "certificate holder" shall be submitted to the Board at the time that this Agreement is executed, and each time coverage is renewed or materially changed.

19. Indemnification

The Contractor shall defend, indemnify and hold harmless the Agency and the State of New Mexico from any and all actions, proceedings, claims, demands, losses, costs, damages, expenses (including, without limitation, legal fees and expenses) and liability (collectively hereinafter "Loss") resulting from errors, omissions, fraud, embezzlement, theft, negligence (collectively hereinafter "Actions or Omissions") or neglect by the Contractor, its employees, officers, agents, subcontractors, and directors in performing their duties under the Contract. The Contractor must also acknowledge and agree that any Loss shall, unless such loss can be demonstrated by the Contractor to have been due to a cause or causes beyond the reasonable control of the Contractor (such as acts of god, acts of the public enemy, insurrections, riots, fires, explosions, orders or acts of civil or military authority and other cataclysmic events, to the extent all reasonable and diligent precautions by the Contractor could not have prevented the damage or loss resulting from any such event) be conclusively presumed to be the result of Actions or Omissions on the part of the Contractor. Limited exceptions to this indemnification requirement may be permitted in any agreement entered by the Agency with the Contractor as to information supplied by the Agency pursuant to any safekeeping or other collateral agreement or such other limited exception as may be required to in order to enable the provision of a particular service by the Contractor. Any such limited exception must be included in the Contract and be acceptable to and specifically approved by the Agency. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under the Contract is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the Agency and the Risk Management Division of the New Mexico General Services Department by certified mail. Notwithstanding any other provision of this Agreement to the contrary, this paragraph shall survive the termination or expiration of this Agreement.

20. Notice of Litigation; Settlement

The Board shall give prompt written notice to Contractor of any litigation or threatened litigation with respect to claims for which Contractor may be responsible under the indemnification provision hereof, whereupon Contractor, at its option, shall be entitled to assume full responsibility for the contesting, defense, or litigation of any matter for which indemnification is claimed.

- A. The Board shall not settle, terminate, compromise, appeal or otherwise dispose of such litigation or threatened litigation without the prior written consent of Contractor, which shall not be unreasonably withheld. If Contractor does not agree to terms proposed by the Board for settlement of any litigation or threatened litigation which (i) would terminate such litigation or threatened litigation, (ii) would discharge Contractor from all liability with respect thereto, and (iii) would not require that Contractor bear any portion of the damages, costs, or expenses associated therewith, then any liabilities and legal

expenses incurred by the Board in connection with such litigation or threatened litigation which exceed the amount of such proposed settlement shall be borne by Contractor.

- B. In the event Contractor assumes such litigation as provided above, Contractor shall not settle, terminate, compromise, appeal or otherwise dispose of such litigation or threatened litigation without the prior written consent of the Board, which shall not be unreasonably withheld. If the Board does not agree to terms proposed by Contractor for settlement of any litigation or threatened litigation which (i) would terminate such litigation or threatened litigation, (ii) would discharge the Board from all liability with respect thereto, and (iii) would not require that the Board bear any portion of the damages, costs, legal expenses incurred by Contractor in connection with such litigation or threatened litigation which exceed the amount of such proposed settlement shall be borne by the Board.

21. Product of Services - Copyright

All materials developed or acquired by the Contractor under the Contract shall become the property of the State of New Mexico and shall be delivered to the Agency no later than the termination date of the Contract. Nothing developed or produced, in whole or in part, by the Contractor under the Contract shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

22. Taxes and Assessments

Contractor shall be solely responsible for the payment of all taxes and assessments of any kind for which Contractor, in its corporate capacity, may become liable by virtue of the performance of the services as specified in this Agreement.

23. Failure to Perform

A. Separate and apart from and in addition to the obligation of Contractor to indemnify the Board pursuant to Section 19 of this Agreement, Contractor's failure to perform any of the services or requirements of this Agreement shall result in a loss of compensation to Contractor. The amount of such loss and the manner and time of the allocation of such loss shall be determined by the Performance Standards as detailed in Appendix F and shall be binding on the parties, but subject to any legal action which the parties may thereafter take.

B. If Contractor is delayed in or prevented from performing any service or requirement of this Agreement by reason of war, strike, terrorism, national emergency, any rule, order or regulation of any government authority, mechanical or electronic malfunctions, "acts of God" (including without limitation, fire, storm, flood or earthquake) or other similar extraordinary causes not within the control of Contractor, to the extent all reasonable precautions could not have prevented the failure to perform, and if prompt notice of the delay and its cause is given to the Board, the time for performance of such service or requirement of this Agreement shall be extended by the period of time during which the cause of delay shall continue, and no loss of compensation to Contractor shall result if Contractor performs with reasonable promptness after the delay.

24. Campaign Contributions

Contractor shall comply with the provisions of the Board's Campaign Contributions Disclosures. The disclosure requirements and form are attached to this Contract as Exhibit A.

25. Placement Agents

Contractor shall comply with the provisions the Board's Amended and Restated Policy Regarding Placement Agent Disclosures. The disclosure requirements and form are attached to this Contract as Exhibit B.

26. Scope of Work

Contractor shall provide the Agency custody services in all matters concerning securities custody and settlement of investment transactions for the Agency. In performing its obligations under this Agreement, Contractor shall ensure compliance with all applicable laws of the State of New Mexico. Contractor represents that it is an expert in providing custody services, safekeeping services, servicing for securities and other instruments, and all other services as outlined in this Section 26. In addition to its fiduciary obligation as a master custodian under applicable federal and State law, the Contractor agrees that it shall at all times exercise at least that degree of care and competence as would a professional expert in the field of providing the services outlined in this Section. Contractor shall provide the following trust/custody services:

A. Safekeeping Services

1. General. Contractor shall provide safekeeping services and servicing for securities and other instruments belonging to or pledged as security to the Agency and delivered to Contractor by or at the direction of the Agency. Contractor shall provide automated holding and control of all eligible securities throughout the safekeeping and settlement process, including equities held at the Depository Trust Company (DTC) and elsewhere, bonds held on the Federal Reserve Book-Entry System and elsewhere, mortgage-backed securities, and other investment instruments. Contractor shall monitor stock splits, stock dividends, class actions, tax re-claims, maturities, call dates, and other corporate actions. Contractor shall provide for statements of the Agency's holdings reconciled by internal personnel acting in accordance with Contractor's reconciliation policies and procedures, which are attached hereto as Exhibit C, as of the end of the preceding month by the date acceptable to the Agency but no later than the twelfth (12th) business day of each month.
2. Separate Identification. All certificated securities deposited for safekeeping shall be kept physically segregated from securities belonging to Contractor and clearly identified on the records of Contractor as belonging to the Agency. Uncertificated securities shall be kept on the books of depositories, segregated on the books of Contractor, and clearly identified as belonging to the Agency.
3. Accounts Set Up
 - (a) Contractor will establish and maintain the following accounts ("Accounts"):

- (i) multiple Securities Accounts in the name of the Agency (or in another name requested by the Agency that is reasonably acceptable to Contractor) for Financial Assets, which may be held by Contractor or a Securities Depository for Contractor on behalf of the Agency, including in the Agency's capacity as an Entitlement Holder;
 - (ii) one or more accounts in the name of the Agency (or in another name requested by the Agency that is reasonably acceptable to Contractor) ("Cash Account") for any and all cash in any currency received by or on behalf of Contractor for the account of the Agency.
 - (b) At the request of the Agency, additional Accounts may be opened or closed in the future, and such additional Accounts shall be subject to the terms of this Agreement;
 - (c) In the event that the Agency requests the opening of any additional Account for the purpose of holding collateral pledged by the Agency, to the extent such pledging is permitted by that Agency's governing law, to a securities exchange, clearing corporation, or other central counterparty (a "Counterparty") to secure trading activity by the Agency, or the pledge to a Counterparty of cash or individual Securities held in an Account, that Account (or the pledged cash or Securities) shall be subject to the collateral arrangements in effect between the Agency and the Counterparty in addition to the terms of this Agreement;
4. Acting on Instructions; Method of Instruction and Unclear Instructions
- (a) Subject to Security Procedure, the Agency authorizes Contractor to accept, rely upon and/or act upon any Instructions received by it without inquiry.
 - (b) Subject to Security Procedure, the Agency will, where reasonably practicable, use automated and electronic methods of sending Instructions.
 - (c) Contractor shall within one (1) Business Day of receipt of an Instruction notify an Agent if Contractor determines that an Instruction does not contain all information reasonably necessary for Contractor to carry out the Instruction and request such Agent to provide what specific information is needed for Contractor to carry out the Instruction. Contractor may decline to act upon an Instruction if it does not receive the requested information. Contractor will not be liable for any loss arising from any reasonable delay in carrying out any such Instruction after request for and pending receipt of that information or in declining to act upon any Instruction for which it does not receive the requested information.
5. Verification and Security Procedures
- (a) Contractor and the Agency shall comply with any applicable Security Procedures with respect to the delivery or authentication of Instructions

and shall ensure that any codes, passwords or similar devices are reasonably safeguarded.

- (b) Subject to compliance with applicable law, either party may record any of their telephone communications.

6. Instructions; Contrary to Law/Market Practice

Contractor shall not act upon Instructions which it reasonably believes to be contrary to law, regulation or market practice, but Contractor shall be under no duty to investigate whether any Instructions comply with applicable law or market practice. In the event Contractor does not act upon such Instructions, Contractor will notify the Agency within one (1) Business Day of receipt of the applicable Instruction.

7. Miscellaneous Administrative Duties

- (a) Until Contractor receives Instructions to the contrary, Contractor will:
 - (i) Present all Financial Assets for which Contractor has received notice of a call for redemption or that have otherwise matured, and all income and interest coupons and other income items that call for payment upon presentation;
 - (iii) Execute in the name of the Agency such certificates as may be required to obtain payment in respect of Financial Assets; and
 - (iii) Exchange interim or temporary documents of title held in the Securities Account for definitive documents of title.
- (b) In the event that, as a result of holding Financial Assets in an omnibus account, the Agency receives fractional interests in Financial Assets arising out of a corporate action or class action litigation, Contractor will credit the Agency with the amount of cash it would have received had the Financial Assets not been held in an omnibus account, and the Agency shall relinquish to Contractor its interest in such fractional interests.

If some, but not all, of an outstanding class of Financial Asset is called for redemption, Contractor shall allot the amount redeemed among the respective beneficial holders of such a class of Financial Assets on a pro rata basis.

B. Security Settlement

- 1. Contractor shall provide automated settlement for eligible investments and electronic access to settlement data by the Agency so that it may monitor trades. All trades affirmed by an Agent concerning securities transactions shall be settled in a timely manner according to industry standards in the prevailing market. Notwithstanding any other provision of this Agreement, all funds to be invested under this Agreement shall not be paid out unless there is a contemporaneous transfer of the securities at the earliest time industry practice permits, but in all

cases, settlement of purchases and sales of marketable US securities shall be on a same day basis either by physical delivery or, in the case of uncertificated securities, by appropriate book entry on the books of the insurer, to the Contractor acting as agent or trustee for the Agency; the Contractor shall furnish timely confirmation to the Agency. Credits for securities transactions shall be made on the actual settlement date and credits for investment income (other than income on securities registered in the name of the Agency) shall be made on payable date in immediately available funds pursuant to the industry standards in the prevailing market. Income on private placements, and any other investments for which there is no payable date, shall be credited in available funds upon receipt of funds. All credits to the Agency accounts of anticipated proceeds of sales and redemptions of securities or other property and of anticipated income from such securities or other property shall be conditional upon receipt by Contractor of final payment and may be reversed to the extent final payment is not received. Paydowns of principal and receipt of interest on all mortgage-backed securities shall be credited to the Agency accounts on payable date. Should a failed trade occur, Contractor shall take reasonable steps to resolve them in a timely manner and in no event shall Contractor transfer payment if a “fail to deliver” occurs. Contractor must provide a copy of its settlement and affirmation procedures to the Agency.

2. To the extent that any U.S. dollar cash balance, other than funds needed to cover any existing overdrafts or to cover fails to receive, exists at the end of a Business Day in any Agency Account, Contractor shall transfer such cash to the Agency Account that same day for credit to the Agency’s Separate Investment Account or Separate Account. For a Separate Account opened for purposes of short-term U.S. dollar cash management which is to be managed by the Agency or an investment manager (other than Contractor or an affiliate of Contractor), the Separate Account will not be a Dedicated STIF Account and Fund Accounting Services may apply.
3. Contractor shall communicate the transfer and delivery of all securities received or delivered by it for the Agency by providing the Agency with prompt electronic access to the on-line records of Contractor for confirmation of settlement on settlement date. Daily statements of securities held shall identify the securities owned by the Agency which Contractor is holding. The books and records of Contractor shall at all relevant times reflect such ownership. Monthly written statements of securities held, reconciled by internal accountants, shall be provided by Contractor to the Agency. Contractor also shall provide a permanent record of securities held for the Agency.
4. Pursuant to the terms of Exhibit D, Contractor shall provide a monthly hard-copy report of securities-settlement activity to the Agency, along with Contractor's account analysis.
5. Settlement, Securities Processing and Custody – The Contractor shall provide:
 - a. On-line security clearing at the DTC, Federal Reserve and other clearing agents;
 - b. On-line trade affirmation capabilities with DTC for Staff;

- c. Settling and safekeeping of domestic and international securities within a single accounting system;
 - d. Settling and safekeeping of physically-held securities;
 - e. Executing foreign exchange transactions, monitoring foreign tax liability, and collecting tax reclaims;
 - f. Providing electronic access to trade data by the Agency, consultants and investment managers, and any other third party approved in advance by the Agency;
 - g. Settlement on a delivery versus payment basis, and free delivery settlement must receive prior written approval by the Agency unless it complies with established policies and procedures for the security and market in question;
 - h. Assistance with the automation of trade affirmation process for international investments, including pair-off of foreign currency (FX) to net cash flows;
 - i. Interface with SEDOL, EuroNext, Clearstream, Euroclear, and other applicable foreign depositories and/or subcustodians to support foreign trading activity;
 - j. Settlement of international equity, fixed income, alternative investments, and derivative instruments. The Contractor shall provide a comprehensive system for selecting subcustodians and evaluating and monitoring their internal control structures, performance, and financial condition. The Contractor shall be liable for any and all financial losses as it relates to the actions or inactions of the subcustodians and their agents;
 - k. Monitoring and resolution of failed trades in a timely manner; and
 - l. Tracking of overdrafts.
- C. Income Settlement and Income Crediting – The Contractor shall:
- 1. On a contractual processing basis, credit or debit the appropriate money account of the Agency in connection with the purchase, sale, maturity, redemption, income, dividends or other disposition of securities and other assets held on behalf of the Agency.
 - 2. Agree to pay sale fail compensation in an amount equal to the daily earnings for the cash sweep vehicle of the account for all securities that are settled under actual settlement procedures, provided
 - a) The security was in the Contractor's possession, and
 - b) The Agency, its investment managers or agents, or any party selected by them, was not responsible for the failure to settle the trade.

3. All such amounts collected shall be credited in immediately available funds on payable date to the appropriate Agency Account.
 4. Contractor shall provide, at its own expense, a collection service including postage and insurance on any investment transaction requiring special handling.
- D. Accounting and Auditing – The Contractor shall provide:
1. Trade date multi-currency accounting for all securities and full accrual accounting for all assets in the performance of services under this Agreement and will report an appropriate payable or receivable for income and for securities purchased or sold but not yet settled.
 2. Accounting services for all investments in the portfolio including, but not limited to, the following:
 - a. All income and security transactions (cash and non-cash); domestic and international equity, fixed-income securities, commingled trusts, private market funds, and foreign tax reclaim receivables;
 - b. Same-day recording of capital changes, including mergers, acquisitions, tenders, stock splits, warrants, spin-offs and purchase of fractional shares;
 - c. Options, futures, swaps, and any other derivative instruments;
 - d. Leveraged buy-outs, venture capital, real estate, and various other private equity and debt investments; and,
 - e. Forward exchange contracts.
 3. Unless otherwise directed by the Agency, booking all investments at cost and reporting them with updated market values. Gains and losses on securities sold shall be recognized on an average cost basis;
 4. A daily comprehensive pricing system ensuring the accuracy of the prices received from various external sources (especially alternative sources like brokers, external investment managers, etc.) by employing procedures to verify the primary price (reserving the Agency the right to mandate the primary source) to a secondary pricing source, by comparing the prior period's prices to the current period's prices and by investigating both changes outside established tolerances, as well as changes from the prior month that appear unreasonable in relation to current market trends;
 5. Fixed income discounts and premiums shown at purchase, but not amortized or accreted after purchase;
 6. Payable date posting for dividends, bond interest and principal, and interest and principal paydown on mortgage pass-through certificates;
 7. Annual accounting on a fiscal year basis, July 1 through June 30;

8. Daily fund accounting and pricing of portfolios for the purpose of computing daily net asset values for various portfolios;
 9. Market valuation and accounting for commingled investments on at least a monthly basis;
 10. Technical expertise and assistance to the Agency's investment accounting and portfolio administration personnel including, but not limited to:
 - a. Assistance in identifying ways in which the Contractor's resources, products, and information can be used to maximize efficiency of investment accounting and trade settlement procedures;
 - b. Providing ongoing updates, information, and training concerning new investment instruments and accounting issues surrounding various investment types;
 - c. Providing technical assistance and ongoing education in implementing recently released accounting pronouncements issued by the Governmental Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB);
 - d. Providing direct access to qualified, designated individuals to assist with technical and accounting questions; and,
 - e. Providing an account administrator(s) available by telephone between the hours of 7:30 a.m. and 5:00 p.m. Mountain Time on normal operating business days;
 11. Daily verification with Staff of net cash flows by fund as requested; and
 12. Monthly and yearly closed periods must be frozen to additional transactions except when mutually agreed upon by the Agency and Contractor.
- E. Reporting Requirements – The Contractor shall:
1. Provide all reports requested by the Agency. In addition, ad hoc query and reporting functions shall be available, and the Contractor shall, by mutual agreement and in a timely manner, provide additional custom reports (complying with industry-standard report formats developed in the future) as requested by the Agency at no additional charge;
 2. Complete monthly reconciled accounting statements by the twentieth (20th) business day of the month (for the prior month's reporting cycle). The Agency and Contractor may mutually agree in writing to a later completion and/or delivery schedule for transaction reports subject to availability of third party information or substantive changes in the Agency's portfolio composition or structure;
 3. Produce at a minimum, the following month-end reports in electronic form (in both PDF and Excel format). All reports must be available by individual manager

and composites of managers. All reports must present transactions in both local and base currency.

- a. Statement of Assets and Liabilities: a balance sheet report summarizing the assets and liabilities of the Agency at both Cost and Market Value;
 - b. Reconciliation of Assets: a summarized reconciliation report tracking activity affecting assets between the beginning and ending balances;
 - c. Reconciliation of Cash: a cash reconciliation report tracking all transactions affecting cash between the beginning and ending cash balances;
 - d. Accrued Income: a summarized and detailed report of receivables and payables to include all income earned but not yet paid as well as items that should have been paid but have not been received;
 - e. Pending Trades: a summarized and detailed report of all trades initiated by managers but not yet settled as of month-end;
 - f. Statement of Income: a summarized and detailed report tracking transactions affecting income to arrive at an earned income total;
 - g. Statement of Expenses Incurred: a summarized and detailed report tracking transactions affecting expenses to arrive at total expenses;
 - h. Statement of Net Unrealized Gains and Losses: a summarized report tracking current unrealized gains and losses and change in net unrealized gains and losses by asset type;
 - i. Statement of Net Realized Gains and Losses: a summarized report tracking current proceeds vs. cost and net realized gains and losses by asset type;
 - j. Detail Statement of Assets and Liabilities: a report tracking cost and market value by asset type sorted in alphabetical order;
 - k. Detail Statement of Purchase and Sale Transactions: listing must be available in chronological order within each transaction type and must include derivatives; and
 - l. Fail Report: a detailed audit trail must be produced tracking all trades that have failed. This report should include sufficient detail to allow a thorough review of the trade;
4. Provide a monthly working trial balance in Excel and PDF format to facilitate posting monthly activity to the Agency's general ledger;
 5. Provide a daily reconciliation report for all cash accounts associated with internally managed accounts as well as alternative investments;

6. Provide access to management information and accounting systems utilizing personal computers at the Agency with the capability of providing the following information on a daily basis:
 - a. Exposure reporting for custodied holdings, including, but not limited to, country, currency, corporation, economic sectors, industry class, and types of securities.
 - b. Underlying exposure to asset holdings in commingled funds;
 - c. Current and historical performance;
 - d. Current and historical prices and exchange rates;
 - e. Composite portfolios;
 - f. Current and historical transactions;
 - g. Current and historical holdings in any aggregation;
 - h. Performance aggregate data and (custom) benchmarks;
 - i. Performance and analytic databases;
 - j. Customized reports as required; and
 - k. *Ad hoc* holdings and performance reports;
7. Provide an accurate report of all holdings, yearly transactions, and other pertinent investment data, in a format acceptable to the Agency, no later than 30 days after the end of each fiscal year;
8. Provide on-line access to recent and pending transactions, current asset listings, and cash flow projections must be available. These reports must be available for individual and combined portfolios and must include, at a minimum, the following capability:
 - a. Ability to access real time portfolio information including market indices from the Agency's office;
 - b. Automated report writer interface with Windows based spreadsheets and databases;
 - c. Complete selection of month-end multi-currency accounting reports;
 - d. Multi-currency performance and analytic reports;
 - e. Ability to download data elements with user selected formats and sorting; and
 - f. Customization of reports to client specifications at no additional charge;

9. The contractor must be able to provide information to investment managers for bankruptcy filings;
10. The contractor must be able to provide data access to Agency-approved third parties; and
11. Provide a monthly file (in acceptable media) of all transactions in all the Agency accounts to the Agency's general investment consultant (currently NEPC) for the purpose of receiving audited positions and transaction data by the third (3rd) business day after the books are closed for all accounts custodied at the Contractor. The Agency and Contractor may mutually agree, in writing, to a later delivery schedule for transaction reports subject to availability of third-party information or substantive changes in the Agency's portfolio composition or structure.

F. Credit Availability and Scheduling

1. All funds received by Contractor for credit to the Agency accounts shall be credited in immediately available funds on payable date.
2. Contractor shall provide to the Agency from time to time a schedule of cutoff times for the receipt of various types of funds pertaining to investment transactions and the receipt of income. Contractor shall provide to the Agency a daily online report of all funds not received in the Agency accounts by the appropriate cutoff time.
3. Nothing in this Agreement shall require the Contractor to complete any cash transaction for which there are not sufficient available funds in the applicable account to the extent the lack of funds is not Contractor's fault.

G. Other Services

1. Wire Transfer Service
 - a. Contractor shall provide funds transfer services via Fedwire (the Federal Reserve Bank wire system) as instructed by the Agency. Funds wired must be in immediately available funds. All requests for wire transfers shall be executed in a timely and customary manner, in compliance with industry standards.
 - b. Incoming wire transfers shall be credited by Contractor to the appropriate Agency Account the same day it is received. The receipt of transferred funds shall be noted on the electronic reporting system for the day the funds were received.
2. Account Activity Analysis
 - a. Contractor shall provide to the Agency by the twentieth (20th) business day of each month an account analysis for each Agency Account showing activity for the preceding month in each category and the fee for each service. The Board shall pay those charges to the Contractor in direct fees.

- b. Any uninvested cash balances left in any Agency Account will be used in calculating account-analysis credit back to the particular Agency Account.
 - c. Contractor shall provide record keeping for external short term investment funds for the Agency.
3. Fund Accounting Services. The Agency may request Contractor to provide fund accounting services in support of the Agency's STIF fund held in a Separate Account established by or for the Agency. These services include calculating the fund net asset value according to fund requirements, coordinating daily fund admissions and distributions through an automated transfer process, and monthly payment of Separate Account income to participating accounts as further set forth in the Accounting Services Rider, which is attached hereto as Exhibit E.

H. Cash Management – The Contractor shall:

- 1. Provide an automated daily sweep of net cash flows from all domestic and international accounts to Contractor short-term investment fund (STIF) or external money market funds, as directed by the Agency;
- 2. Compound and accrue income earned by the STIF daily;
- 3. Meet the restrictions imposed by New Mexico statutes for the securities in the STIF utilized by the Agency and be within guidelines mutually agreed on;
- 4. Provide overnight investment management services for the funds received after the occurrence of the daily sweep;
- 5. Provide an interactive and secure transaction processing system for cash movements and wire transfers;
- 6. Provide for transfer of cash between accounts, make and accept wire transfers of funds in both USD and non-U.S. currency (including provision of Fed reference numbers upon request);
- 7. Provide for same-day settlement of cash trades, such as physical, DTC, and Fed wireable repo and term purchases. Cash flow from purchases and sales must be debited/credited on contractual settlement date;
- 8. Credit income earned, redemptions, and maturities to the proper accounts on payable date in Fed funds. The Contractor must identify any security types not eligible;
- 9. Provide a system that daily projects cash by account for a minimum of five days forward. Projections should incorporate STIF balances, dividend and interest income, and income from trade settlements, corporate actions, or other known cash flows;
- 10. Provide currently available cash balances to the Agency's investment managers each morning by 10 AM Eastern Time;

11. Provide notification of overdrafts to the Agency and its investment managers daily; and
12. Complete and report foreign currency conversion and movement transactions

I. Foreign Trade and Foreign Exchange Processing (FX) – The Contractor shall:

To facilitate the administration of the Agency’s trading and investment activity, Contractor may, but will not be obliged to, enter into spot or forward foreign exchange contracts with the Agency, or an Agent, and may also provide foreign exchange contracts and facilities through its affiliates or Foreign Subcustodians. Instructions, including standing Instructions, may be issued with respect to such contracts, but Contractor may establish rules or limitations reasonably acceptable to the Agency concerning any foreign exchange facility made available and subject to the terms and conditions of this Agreement. In all cases where Contractor, its affiliates or Foreign Subcustodians enter into a master foreign exchange contract that covers foreign exchange transactions for the Accounts, the terms and conditions of that foreign exchange contract and, to the extent not inconsistent, this Agreement, will apply to such transactions.

1. Obtain best execution on FX conversions relating to income and tax reclaim transactions, but not limited to these types of transactions, and provide transparency in reporting FX transactions compared to FX benchmarks;
2. Provide monthly report demonstrating best execution with respect to FX transactions; and
3. Ascertain that FX transactions associated with repatriation of international dividends to USD are competitive.

J. Subcustodian Network Management – The Contractor shall:

1. Have subcustodian relationships to service all of the Agency’s international and emerging markets investments;
2. Provide a comprehensive procedure for selecting subcustodians and evaluating and monitoring their internal control structures, performance, and financial condition;
3. Have a thorough knowledge of tax treaties, withholding laws and tax reclamation procedures;
4. Have a thorough knowledge of relevant securities and tax laws in each country, as well as the ability to recover assets in the event of broker bankruptcy, and
5. Facilitate the setup of accounts in new markets and assistance with ongoing maintenance of existing accounts.

K. Investment Manager Liaison – The Contractor shall:

1. Communicate directly with the investment managers of the Agency on all trading matters.
2. Keep the Staff informed of significant issues including but not limited to trade failures, overdrafts and reconciling items outside the variances detailed in the Agency's Investment Policy dated December 8, 2023.
3. Provide a monthly reconciliation between investment managers and Contractor. The Contractor is responsible for reviewing each holding on the reconciliation and investigating differences that lie outside of thresholds (determined by the Agency), and documenting their work. The Contractor shall send reconciliation spreadsheets to the managers who explain any significant differences and submit the final reconciliation spreadsheet to the Agency's back office.
4. The Contractor must also interface with the Agency's current and future external investment managers and with those managers that may be added by the Agency from time to time. The Contractor shall discontinue exchanging data related to the Agency with any such manager if directed to do so by the Agency.

L. Investment Manager Transition Services

Contractor may be requested to provide investment manager transition services upon request by the Agency. The foregoing shall be carried out through a separate transition management agreement with the relevant business unit of the contractor.

M. Corporate Actions, Class Actions and Proxy Voting –The Contractor shall:

1. Provide advance notification and same day posting of corporate actions including, but not limited to stock splits, spin-offs, mergers, exchanges, and other scheduled and non-scheduled redemptions to the Agency and/or its external investment managers in a timely manner. A secure interactive internet-based system to process corporate actions is preferred.
2. Provide an automated feed between the Contractor's system and the Agency's class action monitoring service provider (currently Institutional Shareholder Services, Inc.) on at least a monthly basis.
3. File claims in all class action or similar suits associated with any investment securities owned by the Agency on behalf of the Agency when applicable with respect to claim periods for which Contractor or any prior Custody Bank or other entity with possession of data is the holder of record relating to those securities. Further, upon expiration or termination of any contract, the Contractor shall agree to continue to file claims for any future or potential class action claim of settlement regarding such investment securities.
4. In the event Contractor receives any deficiency or rejection notices from litigation agents in connection with a claim filing (other than a minor deficiency which it determines that it can readily cure), it will use reasonable efforts to forward such notice to the Agency. Contractor shall take no further action with respect to a claim filing that has been deemed deficient or rejected by a litigation agent until instructed by the Agency as provided herein.

5. Provide reports of all class actions, claims filed and settlements received at least monthly. This reporting shall include notification of claims yet to be filed and information regarding past and present holdings and holding periods for class action litigations. A secure internet based reporting system to view these is preferred.
 6. Provide proxies and proxy statements for U.S. corporations to the Agency or designee (currently Institutional Shareholder Services, Inc.) prior to annual and special meetings within a timeframe sufficient for relevant receipt, analysis and vote determination.
 7. Provide proxies and proxy statements to the Agency, its external managers or designee (currently Institutional Shareholder Services, Inc.) prior to annual and special meetings for foreign corporations. Such proxies and proxy statements will be provided subject to local market practice but in a manner consistent with the practice of the Contractor's peers for the relevant market, at minimum.
 8. Provide an automated feed of holdings between the Contractor's system and the Agency's proxy voting service provider (currently Institutional Shareholder Services, Inc.).
- N. Alternative Investments Processing and Reporting – The Contractor shall:
1. Provide support in the processing, accounting, and administrative requirements of alternative investments (i.e., infrastructure, opportunistic credit, private equity, real estate, etc.);
 2. Provide multi-tiered electronic approval and processing of capital calls and distributions;
 3. Provide recording of non-cash deemed distributions and contributions and distributions of tangible assets to the Agency from partnerships;
 4. Track unfunded balances for each investment on a transaction-by-transaction basis;
 5. Post transactions to reclassify distributions from recallable to non-recallable as well as fees and expenses from inside to outside the commitment;
 6. Provide monthly valuation with cash flow roll forwards.
- O. Performance Measurement and Analytics – The Contractor shall:
1. Provide audited monthly performance reports detailing the market values, cash flows and returns of the portfolio, including both custodied and non-custodied assets, asset classes and on a consolidated basis at gross, net of management fees, and net of all fees using GIPS compliant calculation methodology by the twentieth (20th) business day of the month for the prior month's performance;

2. Provide unaudited daily performance reports detailing the market values, cash flows and returns of each portfolio for all custodied assets as well as any consolidations deemed necessary by the Agency;
 3. Provide monthly audited sector, industry and CUSIP level reports by the fifteenth (15th) business day of the month;
 4. At least monthly transmit raw performance data, transactions data, rates of return or any other information concerning the Agency's accounts to the Agency or to vendor(s) selected by the Agency;
 5. Provide performance analytics and attribution analysis for the Agency's accounts versus relevant agreed-upon benchmarks in formats acceptable to the Agency;
 7. Provide monthly performance reports detailing market performance, portfolio performance, and any level of detail or any aggregate deemed necessary by the Agency. These reports are to include current as well as historical data;
 8. Provide a quarterly investment performance analysis across all Agency funds in a format to be agreed upon between the Contractor and the Agency. This report will be due thirty (30) days after the close of the calendar quarter reported upon and will be delivered to the Agency electronically; and
 9. Act as a performance consultant and, based upon its knowledge of client and industry trends, advise the Agency of the Contractor's latest performance measurement tools and products as they become available.
- P. Compliance Monitoring and Reporting – The Contractor shall:
1. Provide the Agency with an online investment compliance reporting service, which will identify, and notify staff of, investment trades that are outside established policies, tolerances and parameters based on available holdings information.
 2. Assure that the compliance monitoring and reporting service has the capability to track any internally managed portfolios as well as all externally managed portfolios. The service shall encompass the following:
 - a. Provision for formal investment management guideline review and gap analysis for each specified guideline;
 - b. Creation of the initial set of tests and reports to meet the Agency's requirements;
 - c. On-going assistance in creating new and/or modifying existing tests and reports;
 - d. Formal confirmation by the Agency of proper interpretation of the tests and results;

- e. Performance of compliance monitoring daily, with weekly and monthly reports;
 - f. Ability to capture the reason why exceptions occurred and to retain history of compliance monitoring results; and
 - g. Ability to review exception reports online and to download the exception reports in pdf and excel formats.
- 3. Reports shall display the status of each test; a pass, an alert or a warning, and ability to summarize why the alert occurred. Reports shall be based on post-trade date and pre-settlement date holdings previously reported to the Contractor.
 - 4. The application shall incorporate compliance fail management capabilities, including the ability to assign severities, breaches and approvals for each alert. Agency or assigned Contractor employee shall be able to view the test breaches, assign breaches to individuals for follow-up, and record commentary or research results on-line.

Q. Notifications

If the Agency has agreed to access information concerning the Accounts through Contractor's website, Contractor may make any notifications required under this Agreement by e-mail to the Accounting & Operations Manager or other designated contact.

R. No Overdrafts

The parties anticipate that, as a rule, the Agency will manage the Accounts so that no debit balance of any Cash Account occurs, and the Agency will direct each of its Agents responsible for directing transactions affecting the Account to do so. The parties recognize, however, that in order to facilitate the proper settlement activities of the Accounts, overdrafts can occur on an intraday basis, typically with the expectation that the overdraft will be covered on the same day. If a debit to any currency in the Cash Account results in a debit balance, then Contractor may, in its discretion, (i) advance an amount equal to the overdraft, (ii) refuse to settle in whole or in part the transaction causing such debit balance, or (iii) if any such transaction is posted to the Securities Account, reverse any such posting. If Contractor elects to make such an advance, the advance will be payable on demand. No prior action or course of dealing on Contractor's part with respect to the settlement of transactions on the Agency's behalf will be asserted by the Agency against Contractor for Contractor's refusal to make advances to the Cash Account or to settle any transaction for which the Agency does not have sufficient available funds in the applicable currency in the Account. Provided that any such advance is repaid in full within two (2) Business Days of the applicable Agent receiving notice of the advance, no charge shall be applied with respect to the advance. If the advance is not repaid in full within two (2) Business Days of the applicable Agent receiving notice of the advance, Contractor shall be entitled to recover expenses in an amount based on the cost of funds to Contractor.

V. Bank Loans

Contractor shall provide bank loan servicing to the Educational Retirement Board. The fee for such service shall be stated in the fee schedule attached hereto as Exhibit F.

W. Additional Services

The Agency may request other services to facilitate management of portfolio investments, purchase and sale of public securities, transfers of cash and securities, etc. The Board may request amendments to this Agreement, which add or delete such services, and any such amendment shall be subject to approval pursuant to Section 2. In the event that such changes in services occur, all other terms and conditions of this Agreement, as it may have been previously amended, shall remain in full force and effect.

27. Systems and Technology Requirements – The Contractor shall:

- A. Provide on-line, real time access to data held in the Contractor's records by authorized Staff and the Agency's external investment managers. Complete histories of investment activity of all Agency holdings shall be maintained throughout the term of the custody bank relationship.
- B. Provide a web enabled or internet-based system with access to management information and accounting systems with the capability of providing the following information:
 - 1. Current and historical prices, market values, and exchange rates in effect at times of pricing international securities;
 - 2. Composite portfolios;
 - 3. Current and historical transactions, including pending and settled trades, by security, by account, by asset class;
 - 4. On-line access to current and historical holdings in any aggregate;
 - 5. Customized reports as required; and
 - 6. Ad hoc query and reporting;
- C. Provide state-of-the-art back-up systems to minimize loss of data and provide instant availability;
- D. Provide staff with the ability to review all externally managed portfolios;
- E. Provide access to the contractor's reporting/portal system via secure internet login for purposes of downloading reports and extracting data for analysis using software products such as Microsoft Excel, as well as "inquiry only" access by various internal and external users;
- F. Provide training to Staff as new employees are added and any time substantial changes have been made to the information-delivery program;
- G. Provide adequate protection against unauthorized access to Agency records under the Contractor's control;

- H. Provide an established and proven plan for business continuation in emergency situations. The Contractor shall recreate records and resume operations necessary for the daily investment activities of the Agency, including but not limited to, trade settlement, money movement and cash sweep, and portfolio holding data essential to portfolio management within twenty-four hours of any occurrence of any major disaster or other cause which destroys records and/or interrupts normal operation of the Contractor's systems. The Contractor shall periodically test its business continuation plan and operating procedures. Every twelve months, the Contractor shall provide assurances that testing confirmed their abilities to operate as indicated in the Contractor's business continuation plan;
 - I. Retain computer records of all reconciled investment transactions and month-end positions on electronically readable storage media indefinitely. The Contractor shall assure that records maintained on electronically readable storage media are checked for viability on an annual basis and migrated, if necessary, to more current technology in order to maintain accessibility during the entire retention period. Upon contract termination, the Contractor shall translate the information to a flat file, or other format mutually determined, for retention by the Agency; and
 - J. Provide access to the Agency data on the Contractor's systems from the Agency's local area network. The access will occur via the internet to the on-line reporting system. The on-line reporting system will be available from any location with an internet connection in the event that the Agency's primary office internet connection is not functional, or the Agency has experienced a circumstance that requires relocation to the backup site.
28. Transition and Conversion – The Contractor shall:
- A. Perform all procedures necessary to convert from the system of the current custody bank (State Street Bank & Trust) to the new Contractor's system of record, including:
 - 1. Present to the Agency management a detailed plan for, and schedule of, the transition from the current custody bank to the Contractor. The plan and schedule must include the timing of each phase of the transition as well as the proposed involvement of the Contractor's employees in the process, the level of involvement anticipated from the Agency's employees and the proposed involvement of the current Contractor in the transition process;
 - 2. Reconcile custody positions to the prior custody bank's records, research all reconciling items, and correct all position discrepancies;
 - 3. Have in place and adequately test prior to conversion all interfaces, including, but not limited to, those of the Agency, outside investment managers, pricing services, and others(or provide mutually agreed upon acceptable alternatives);
 - 4. Complete the asset conversion process, including the reconciliation of custody positions, values, outstanding foreign tax claims, receivables, or liabilities and the proper identification of reconciling items by April 30, 2025; and run all parallel processing from May 1, 2025 through June 30, 2025 (the last day of the current contract) with full operation on July 1, 2025; and
 - 5. Provide training to Staff during the initial conversion process; and

- B. Upon termination of the Contract, cooperate fully with the successor custody bank to facilitate the transition from the Contractor's system to the successor's system. During transition, the Contractor shall:
1. Provide to the Agency and the successor custody bank all information about the Contractor's system that may reasonably be needed by or useful to the successor to prepare for and effect the transition. Such information might include data formats, data element definition, update frequencies, etc. The Contractor shall not be expected to provide proprietary information about its internal systems;
 2. Provide to the successor custody bank a copy of all Agency data in a mutually agreed form and format for test purposes, with the expectation of parallel processing for the two months prior to the end of the Contract;
 3. On the effective date of the conversion from the Contractor to the successor custody bank, provide a complete final copy of all current Agency files to the successor. To complete close-out of transactions in process, suitable and mutually agreed arrangements shall be made between the Contractor, the Agency, and the successor for processing of such transactions received subsequent to the effective date of conversion;
 4. Provide the necessary personnel to ensure a smooth transition;
 5. Continue to collect tax reclaims due the Agency and coordinate with the successor custody bank on outstanding claims; and
 6. Continue to file class action litigation claims and process those claims and disbursements for litigations referring to the time period the Contractor has served as custody bank.
29. Contractor's Corporate Audit – The Contractor shall:
- A. Provide annual financial statements audited by an independent certified public accounting firm in accordance with generally accepted accounting principles. An unqualified opinion must have been issued by the auditor in connection with the most recent audit.
 - B. Afford necessary Staff and its internal auditor (also including, when the Agency so requires, external auditors) continued access to the Contractor's corporate audit staff and make available information from the corporate internal audits such as audit reports and the working papers of the Contractor's internal audit division that pertain directly to the services utilized by the Agency, as long as such access does not violate client confidentiality, contractual obligations of Contractor, or applicable federal or state laws or regulations; and
 - C. Provide electronically the semi-annual Statement on Standards for Attestation Engagements (SSAE 16) and/or International Standard on Assurance Engagements 3402, Assurance Reports on Controls at a Service Organization (ISAE 3402).
30. Personnel, Meetings, Client Conferences

- A. The Contractor shall make appropriate personnel available to meet with Staff at Agency's offices or other designated location, at dates and times determined by the Agency, at least quarterly, or more frequently if required by the Agency, to discuss services related to the Agency's needs.
- B. Additionally, the Contractor shall provide direct access to appropriate computer system technical staff for assistance with computer system problems.
- C. The Contractor must have in place a relationship management protocol which assures the appropriate escalation of issues and special projects with defined deadlines for resolution within the context of the Agency relationship; a weekly conference call with appropriate Staff and Contractor staff shall be conducted to discuss progress of all issues.
- D. The Staff shall have direct access to specialists in each functional area to discuss processing issues as they arise.
- E. The Contractor shall invite the appropriate the Board and Staff members to participate in the Contractor's group client conferences and all other educational activities provided by the Contractor and normally offered to the Contractor's clients.
- F. The contractor will notify the Agency at least ten (10) business days prior to any change in the relationship management team, including but not limited to the relationship manager, client services manager, along with any primary staff related to the former and those associated with performance and analytics, compliance, client trade support (publicly traded securities), private market operations, and accounting.

31. Errors and Key Performance Indicators

Contractor will work with the Agency to implement Performance Standards and Key performance indicators.

All errors occurring in the parties' performance under the Contract shall be corrected in a timely manner and back-value credit given or a back-value debit charged to the original date of the transaction for purposes of the account analysis. Errors shall be separately stated as back-dated adjustments. Actual compensation may be necessary for investment and safekeeping transaction errors, which shall be the responsibility of the party causing the error, except as otherwise specifically provided.

32. Subcontracting

Except as otherwise provided for in the Contract, Contractor shall not subcontract any portion of the services to be performed under the Contract without the prior written approval of the Board. With respect to securities issued in the United States, Contractor may subcontract to an entity which is an affiliate of Contractor, to act as a subagent of Contractor. In the event that the Agency invests in a security for which the principal trading market is a country other than the United States, Contractor will use reasonable effort to appoint a sub-custodian in the appropriate jurisdiction (“Foreign Sub-custodian”). The Foreign Sub-custodian may be a banking institution, securities depository or securities clearing system organized under the laws of a country other than the United States. Contractor may, at any time in its discretion, terminate the employment of any Foreign Sub-custodian and shall notify the Agency with respect thereto. Contractor shall be responsible for any securities held by the terminated sub-custodian.

33. Release

Contractor, upon final payment of the amount due under this Agreement, releases the State, its officers and employees, the Board and its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the State or the Board to any obligation not assumed herein by the State or the Board, unless the Contractor has express written authority to do so, and then only within the strict limits of the authority.

34. Equal Opportunity Compliance

Contractor agrees to abide by all federal and state laws and rules and regulations, and Executive Orders of the Governor of the State of New Mexico pertaining to equal employment opportunity. In accordance with all such laws, rules, regulations, and Executive Orders of the Governor of the State of New Mexico, Contractor agrees to assure that no person in the United States shall, on the grounds of race, color, religion, national origin, sex, sexual orientation, gender identity age or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

35. Applicable Law

This Agreement shall be governed by, and construed and interpreted according to, the laws of the State of New Mexico. Contractor agrees that it is and shall be subject to the jurisdiction of the federal and state courts of New Mexico in all matters related to this Agreement. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, § 38-3-1 (G).

36. Waiver

Contractor and the Board agree that no waiver of any breach of this Agreement or any of the terms or conditions thereof shall be held to be a waiver of any other or subsequent breach; nor shall any waiver be valid or binding unless the same shall be in writing and signed by the party alleged to have granted the waiver.

37. Charges and Compensation

Contractor's compensation is detailed in the compensation schedule attached to this Agreement as Exhibit F. No other compensation charges shall be charged without prior written approval of the Board. The Compensation Schedule shall not be changed during the term of this Agreement or any extension of the term except as follows:

- A. Commencing on _____, and each _____ thereafter, Contractor may request fee increases. The amount and timing of increases in Contractor fees is subject to Board approval, and is contingent upon sufficient appropriations, as determined by the Board at its sole discretion. Any fee decreases may be approved at any time, and put into effect by the Contract Administrators and submitted to the Board for post-approval in the form of an amendment, pursuant to Section 2.
- B. Cost Adjustment: Any adjustment(s) in Contractor's cost of services which result(s) in a net decrease in the costs of services to the Board or any increase in efficiency to the Board which provide(s) additional investable balances may be approved and put into effect by the Board's Contract Administrator and submitted to the Board for post approval.
- C. Monthly Billing.

The Contractor agrees to:

1 Submit an invoice within 30 days after the end of the month in which services are completed on the Contractor's letterhead detailing the fee amount for the services rendered. Payment to the Contractor pursuant to the Contract shall be made no later than 30 days after the Agency's receipt of a proper invoice from the Vendor.

2 Include on the face of each invoice submitted to the Agency the State assigned Contract Control Number, the Contractor's Federal Tax Identification or Social Security Number, and the Contractor's ACH Transfer Instructions.

3 Include on each invoice submitted to the Agency a detailed description of all services performed for which payment is sought and the applicable billing rate, fee or unit cost for such services and the total amount due for the billing period. If the Agency finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the Agency that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the agency shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

- D. Transfer Costs. Contractor agrees that it shall bear all costs associated with any transfer of any accounts or other assets of the Board to another custody bank upon the expiration or termination of this Agreement.

38. Continuing Obligation

For sixty (60) days following expiration or termination of this Agreement, Contractor agrees that it will be under a continuing duty, without charge to the Board to comply with the terms and conditions of this Agreement until all assets and funds of the Board have been successfully transferred to the successor custody bank.

39. Other Agreements

This Agreement supersedes and replaces any prior agreement between the parties with respect to the subject matter hereof. No other agreements or terms and conditions, with respect to the subject matter hereof, online or otherwise, or any version thereof shall be valid or enforceable against the Board, unless each such agreement or terms and conditions has been incorporated into this Agreement and has received prior written approval by the Board pursuant to Section 2 of this Agreement governing amendments to it. This provision does not apply to documents such as those that simply provide information, or powers of attorney whereby the Board delegates certain actions as to its voting rights to Contractor consistent with this Agreement.

40. New Mexico Employees Health Coverage

A. If the Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least twenty (20) hours per week over a six (6) month period during the term of the Agreement, Contractor certifies, by signing this Agreement, to:

1.) have in place, and agree to maintain for the term of the Agreement, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2008 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed one million dollars or;

2.) have in place, and agree to maintain for the term of the Agreement, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$500,000 dollars or;

3.) have in place, and agree to maintain for the term of the Agreement, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceeds two hundred fifty thousand dollars (\$250,000).

B. The Bank agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. The Bank agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: <http://insurenemexico.state.nm.us/>.

D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it), the Bank agrees these requirements shall apply the first (1st) day of the second (2nd) month after the Bank reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000, \$500,000 or \$1,000,000, depending on the dollar value threshold in effect at that time.

41. Employee Pay Equity Reporting

Contractor agrees if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of the Contract, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. If contractor has (250) or more employees contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first. Should contractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor agrees to provide the required report within ninety (90 days) of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter. Contractor also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of the Contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor will submit the required report, for each such subcontractor, within ninety (90 days) of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even though contractor itself may not meet the size requirement for reporting and be required to report itself.

Notwithstanding the foregoing, if the Contract was procured pursuant to a RFP, and if Contractor has already submitted the required report accompanying their response to such RFP, the report does not need to be re-submitted with the Contract.

IN WITNESS WHEREOF, the parties to this Agreement have caused the same to be executed by their duly authorized officers.

STATE OF NEW MEXICO EDUCATIONAL RETIREMENT BOARD

By: _____

David Archuleta
Executive Director

Contractor:

By: _____

Name: _____

Title: _____

Board's Legal Counsel

Certifying legal sufficiency of this Agreement

By: _____

New Mexico Taxation and Revenue Department

Contract ID Number:

EXHIBITS

EXHIBIT A: Campaign Contributions

EXHIBIT B: Placement Agency Policies

EXHIBIT C: Contractor's Reconciliation Policy

EXHIBIT D: Contractor's Electronic Access

EXHIBIT E: Accounting Services Rider

EXHIBIT F: Contractor Service Fees

EXHIBIT A

Campaign Contributions

EXHIBIT B

Placement Agent Policy

EXHIBIT C

Contractor's Reconciliation Policy

EXHIBIT D

Contractor's Electronic Access

EXHIBIT E

Accounting Services Rider

EXHIBIT F

Fee Schedule