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## Ohio Department of Insurance

John R. Kasich – Governor  
Mary Taylor – Lt. Governor/Director



### ***Insurer and Direct Participant/Member Bank Agreement/ Ohio Revised Code Section 3901.53***

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#### **Instructions for Form INS2010**

Both the Insurance Company and the Direct Participant/Member Bank must complete form INS2010. When completed return form to Diane Wiggins, Fiscal Officer, for approval. Copies of approved form INS2010 will be sent to both the Insurance Company and the Direct Participant/Member Bank.

If you have any questions concerning the agreement form INS2010, please contact Diane Wiggins, Fiscal Officer, at (614) 644-3266 or at [Diane.Wiggins@insurance.ohio.gov](mailto:Diane.Wiggins@insurance.ohio.gov).

Latest edition of forms may be found on our website at [www.insurance.ohio.gov](http://www.insurance.ohio.gov) under Forms, Fiscal and by our form number.

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### ***Insurer and Direct Participant/Member Bank Agreement/ Ohio Revised Code Section 3901.53***

**Agreement Number ODIBA** \_\_\_\_\_ (Number assigned by the Ohio Department of Insurance)

#### **1. Identification of book entry legal deposits:**

This agreement is made concerning Account number \_\_\_\_\_ with the account  
Name \_\_\_\_\_ as identified by Direct Participant/Member Bank.

#### **2. Definitions** (for this agreement, these words have the following meaning and effect:)

- A). “Insurer” is (name of Insurance Company) \_\_\_\_\_
- B). “Direct Participant/Member Bank” is \_\_\_\_\_  
Mailing Address \_\_\_\_\_
- C). “Parties” is both the “Insurer” and the “Direct Participant/Member Bank”.
- D). “Control” is all of the rights and authorities as to Securities that the Superintendent has under the law, regulation, order or agreement that requires the Insurer to make a legal deposit of Securities with the Superintendent.
- E). “Securities” is the investment identified by the Insurer in a “Book-Entry Legal Deposit Form” (ODI form INS2011), submitted to and approved by the Department as to the Insurer and this agreement. When a “Hold Notice”, (ODI form INS2012) is completed by the Department, “Securities” is the principle of the Securities and all accruals to the Securities (whether interest, dividends or otherwise) to which the Insurer would be entitled but for the “Hold Notice”.
- F). “ODI Form” is all editions of a particular numbered form. By signing this Agreement, Parties consent to the following Modifications of the Ohio Revised Code, Chapter 119, Administrative Procedures for adjudicatory hearings:
- 1). As to a Book-Entry Legal Deposit Form (ODI form INS2011), and a “Hold Notice” (ODI form INS2012), neither the Superintendent, nor the Department is required to provide the parties with specific written notice of their rights to: a) request a hearing within 30 days. b). to representation by counsel. c). to present testimony and arguments, and d). to subpoena witnesses; and
  - 2). As to a Hold Notice (ODI form INS2012) the Superintendent or the Department may schedule a hearing upon the 10 day notice provided by ODI (form INS2012) without either party making written request for a hearing.
- G). “Agreement” is this document. When the parties have a separate writing customarily used by Direct Participant/Member Bank for the account identified in this Agreement and any provision in that writing is inconsistent with this agreement, the provisions of the Agreement shall control. When the parties’ relationship is controlled by common, statutory or regulatory law in addition to or in lieu of a separate writing, any ambiguity between that law and the provisions of this agreement shall be resolved by the parties to protect the policyholders of the insured.

- H). "Superintendent" is the Superintendent of Insurance, State of Ohio, whether the incumbent or their successors and any Deputy Director or Assistant Director of the Department authorized by law to act for the Superintendent.
- I). "Department" is the Ohio Department of Insurance and includes any employee of the Ohio Department of Insurance designated by the Superintendent in writing to sign a Hold Notice (ODI Form INS2012) or Book-Entry Legal Deposit form(ODI Form INS2011).
- J). "Book Entry" means Un-certificated.

**3. Control by Superintendent.** The Parties agree and Warrant to the Superintendent that:

- A). Securities are under the control of the Superintendent and the records of the Parties and disclosures to any third party concerning the Securities shall state that the Securities are under the control of the Superintendent.
- B). Direct Participant/Member Bank will not transfer, pledge, hypothecate, assign or deliver to any person the securities(or the proceeds thereof) without the written approval of the Superintendent. Direct Participant/Member Bank will not change its records concerning the Securities and reference to Control of Superintendent without the written approval of the Superintendent.
- C). Insurer will not transfer, pledge, hypothecate, assign or deliver to any person, the Securities (or the proceeds thereof) without the written approval of the Superintendent. Insurer will not change its records concerning the Securities and reference to Control of Superintendent without the written approval of the Superintendent.
- D). Each of the parties will immediately notify the Superintendent and each other when a claim is made by any person to any right or interest in the Securities.
- E). The parties will use Book-Entry Form (ODI form INS2011) for identifying Securities that are the legal deposits and for replacing Securities that are legal deposits.
- F). ODI form INS2012 will be used for Hold Notices, if any, by the Superintendent. Insurer agrees that Direct Participant/ Member Bank shall comply with the provisions of a Hold Notice received by Direct Participant/Member Bank, even during such period as Insurer contests the Hold Notice in the hearing provided for the Hold Notice, or any appeal therefrom. The parties agree that in any hearing held pursuant to the Hold Notice, the hearing officer shall apply either Standard of Ohio Revised Code Section3903.09 as the case may be.
- G). When the parties receive notice from the Superintendent that this agreement has been disapproved, Direct Participant/ Member Bank will deliver Securities as directed by the Superintendent.
- H). This Agreement is made under provision of Ohio law and in any action or proceeding where the Superintendent is a party, the parties agree that the Franklin County Court of Common Pleas shall have exclusive jurisdiction over the agreement.

This agreement made on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Insurer: \_\_\_\_\_

Insurer Seal

Signature: \_\_\_\_\_

Name and Title of Officer: \_\_\_\_\_

Direct Participant/Member Bank: \_\_\_\_\_

Bank Seal

Signature: \_\_\_\_\_

Name and Title of Officer: \_\_\_\_\_

The parties hereby submit this agreement pursuant to Ohio Revised Code Section 3901.53 to the Ohio Superintendent of Insurance for his approval, expressly waiving notice, appearance and hearing before the Superintendent of Insurance, at the Ohio Department of insurance, Columbus, Ohio.

Insurer: \_\_\_\_\_

Insurer Seal

Signature: \_\_\_\_\_

Name and Title of Officer: \_\_\_\_\_

Direct Participant/Member Bank: \_\_\_\_\_

Bank Seal

Signature: \_\_\_\_\_

Name and Title of Officer: \_\_\_\_\_

Approved: The Superintendent of Insurance, State of Ohio, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at Columbus, Ohio, hereby approves the foregoing Agreement pursuant to Ohio Revised Code Section 3901.53.

Ohio Seal

\_\_\_\_\_  
Superintendent of Insurance  
State of Ohio, Department of Insurance or by her designee

\_\_\_\_\_  
Securities Compliance Officer