

MEMORANDUM

TO: Finance, Expenditures and Legal Subcommittee

SUBJ: Participation in the Nebraska Public Agency Investment Trust

DATE: November 2, 2018

FROM: Carey Fry, Senior Accountant

For the last several years, interest rates have been historically low. The best strategy for the District has been to leave cash beyond our immediate needs in our checking accounts, where it would earn credits to offset bank service fees. Now that interest rates are beginning to rise and our earnings credit rate has also been increased, we are looking for alternatives to provide a better return on taxpayer money. Our options under statute and policy are extremely limited.

The Nebraska Public Agency Investment Trust (NPAIT) is a cash management tool allowing public agencies to maximize interest income on short-term investments that are permitted under statute, including U.S. government and U.S. agency securities and investments collateralized by those securities. No minimum balance is required, and all funds may be withdrawn at any time, providing the District with a highly liquid option that will be compatible with our cash flow needs. Thirteen NRDs already participate in NPAIT.

Although results will depend on many variables, such as interest rates, earnings credit rates, and the timing of project expenditures, the District could potentially realize an additional \$50,000 or more in interest income over the next year through this essentially risk-free investment.

It is management's recommendation that the Subcommittee recommend to the Board of Directors that the following resolution be adopted:

WHEREAS, Nebraska law expressly allows public agencies to invest surplus or excess funds; and

WHEREAS, the Interlocal Cooperative Act, § 13-801 et seq. Neb. Rev. Stat. (Reissue 1991) provides that two or more public agencies may jointly cooperate in the exercise or in the performance of their respective governmental functions, powers or responsibilities and may enter into joint agreements as may be deemed appropriate for such purposes when such agreements have been adopted by appropriate action by the governing bodies of the participating public agencies; and

WHEREAS, the Declaration of Trust (Interlocal Agreement) and an Information Statement relating to the Nebraska Public Agency Investment Trust have been presented to this Governing Body; and

WHEREAS, the Declaration of Trust authorizes public agencies to adopt and enter into the Declaration of Trust and become participants of such trust; and

WHEREAS, this Governing Body deems it advisable for this Public Agency to adopt and enter into the Declaration of Trust and become a participant of the Nebraska Public Agency Investment Trust for the purpose of the joint investment of this Public Agency’s money with those other public agencies so as to enhance the investment earnings accruing to each such public agency.

NOW, THEREFORE, be it resolved as follows:

- 1. This Public Agency shall and does hereby join with other Nebraska public agencies in accordance with the provisions of Nebraska law and in accordance with the Interlocal Cooperative Act, as applicable, by becoming a participant of the Nebraska Public Agency Investment Trust, and the Declaration of Trust and Interlocal Agreement is hereby adopted by this reference with the same effect as if it had been set out verbatim in this Resolution. A copy of the Declaration of Trust is attached hereto and incorporated herein by this reference and shall be filed with the minutes of the meeting at which this Resolution was adopted.**

- 2. a. This Public Agency hereby delegates all authority and duties which the law otherwise authorizes it to delegate in accordance with the Declaration of Trust. The following officers and officials of this Public Agency and the respective successors in office each are hereby designated as “Authorized Officials” and are authorized to take actions and execute any and all such documents as they deem necessary and appropriate to effectuate the entry by this Public Agency into the Declaration of Trust and to effectuate the investment and withdrawal of monies of the Public Agency from time to time in accordance with the Declaration of Trust:**

Name:	John Winkler
Title:	General Manager
Name:	Marlin Petermann
Title:	Assistant General Manager
Name:	John Conley
Title:	Treasurer
Name:	Timothy Fowler
Title:	Assistant Treasurer

b. The Authorized Officials of this Public Agency hereby authorize the following “Authorized Signers” to invest the Public Agency’s available funds from time to time and to withdraw such funds from time to time in accordance with the provisions of the Declaration of Trust:

Name:	Carey Fry
Title:	Senior Accountant
Name:	Kyra Peterson
Title:	District Accountant

An Authorized Official of this Public Agency shall advise the Nebraska Public Agency Investment Trust of any changes in the Authorized Signers in accordance with the procedures established by the trust.

- 3. The Trustees of the Nebraska Public Agency Investment Trust are hereby designated as having official custody of this Public Agency's monies which are invested in accordance with the Declaration of Trust.**
- 4. Authorization is hereby given for members of this Governing Body and officials of this Public Agency to serve as Trustees of the Nebraska Public Agency Investment Trust from time to time if elected as such pursuant to the Declaration of Trust.**
- 5. All resolutions and parts of resolutions insofar as they conflict with the provisions of this Resolution being the same are hereby rescinded.**

Information Statement



Nebraska Public Agency Investment Trust

A Cash Management System designed exclusively for
Nebraska Public Agencies

No person or entity has been authorized to give any information or to make any representations other than those contained in this Information Statement, and, and if given or made, such information or representations must not be relied upon as having been authorized by the Nebraska Public Agency Investment trust (the "Trust"), its Trustees, the Investment Adviser, the Administrator, the Custodian, or any agent of the Trust or the Trustees.

The date of this Information Statement is February 16, 2018

THE PORTFOLIOS

The Nebraska Public Agency Investment Trust (the "Trust") is a separate legal and administrative entity organized and existing pursuant to the Interlocal Cooperation Act and other Nebraska law. The Trust was established as of July 6, 1996, by the adoption of an Interlocal Agreement and Declaration of Trust (the "Declaration of Trust") by the Initial Participants and Settlers.

The Declaration of Trust allows eligible Nebraska Public Agencies to open an account and become a Participant as described in this Information Statement. The word "Public Agency" includes Nebraska Counties, Cities, School Districts, Community Colleges, Natural Resource Districts, Public Utilities, Mental Health Regions, Irrigation Districts, and other political subdivisions.

To receive specific information about the Trust and the Board of Trustees, write to: Nebraska Public Agency Investment Trust, PO Box 82529, Lincoln, Nebraska 68501-2529

INVESTMENT OBJECTIVE AND POLICIES

The general objective of the Trust is to provide a high yield for the Participants while maintaining liquidity and preserving capital by investing only in instruments permitted by Nebraska law.

The Trust seeks to attain its investment objective by pursuing a professionally managed investment program consistent with the policies and restrictions described below.

PORTFOLIO COMPOSITION

The Trust is specifically designed for Nebraska Public Agencies. Accordingly, its portfolio at all times consists solely of instruments in which Public Agencies are permitted to invest funds under Nebraska law. Such Permitted Investments are investments of the nature which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another, including, without limitation, the following:

1. Securities issued or guaranteed as to payment of principal and interest by the United States Government. These include, for example, Treasury bills, bonds, and notes which are direct obligations of the United States Government ("U.S. Government Securities");
2. Obligations issued or guaranteed as to payment of principal and interest by agencies or instrumentalities of the United States Government ("Federal Agency Securities"). Such agencies and instrumentalities include, for example, Federal Intermediate Credit Banks, Federal Home Loan Banks, the Federal National Mortgage Association, and the Farmers Home Administration. Such securities will include those supported by the full faith and credit of the United States Treasury or the right of the agency or instrumentality to borrow from the Treasury, as well as those supported only by the credit of the issuing agency or instrumentality;
3. Collateralized perfected repurchase agreements secured by securities in the immediately foregoing categories;
4. Certificates of deposit and time deposits in compliance with applicable laws;
5. Securities in which the state investment officer is authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made, including without limitation interests in student loans (or participation thereof) guaranteed and insured pursuant to the Higher Education act of 1965, as amended;

6. Loans or interests in loans or pools thereof guaranteed by the United States Small Business Administration, Farmers Home Administration, or any other agency of the United States (or participation's or beneficial interests therein); and
7. Any other type of investment now or hereafter permitted for Public Agencies by the provisions of law.

INVESTMENT RESTRICTIONS

The Trust may buy and sell, and enter into agreements to buy and sell, Permitted Investments subject to the restrictions described below. These restrictions are considered to be fundamental to the operation and activities of the Trust and may not be changed without the affirmative vote of a majority of the Participants in the Trust. The Trust:

1. May not make any investment other than investments authorized by provisions of law applicable to the investment of funds by the Participants as the same may be amended from time to time; and
2. May not borrow money or incur indebtedness on behalf of the Trust; and
3. May not make loans, provided that the Trust may make Permitted Investments.

No assurance can be given that the Trust will achieve its investment objective or that any benefits described in this Information Statement will result from the placement of monies in the Trust by a Public Agency entity that becomes a Participant.

PORTFOLIO MANAGEMENT

In addition to limiting itself to Permitted Investments, the Trust may adopt internal investment guidelines from time to time which are no less restrictive than the terms set forth in the Declaration of Trust, and which are developed to minimize the risk that the value of Permitted Investments might materially vary. The Trust's Permitted Investments shall be limited by the following: (i) no individual investment may exceed one (1) year in length, unless it is subject, at the time of purchase by the Trust, to an agreement to purchase the Permitted Investment from the Trust; (ii) the maximum average maturity of all Permitted Investments purchased by the Trust shall not exceed ninety (90) days, unless such investments have a variable feature and thus reprice on the basis of one week or less, or unless such Permitted Investments are guaranteed, insured or reinsured by the U.S. Government or any agency thereof, unless such Permitted Investments regularly trade at par value; and (iii) the market value of all Permitted Investments purchased by the Trust shall be monitored daily by the Adviser, and the Adviser shall promptly report to the Trustees a material deviation (greater than 0.5 percent) between the current market value and amortized cost of the Permitted Investments.

INVESTMENTS BY BANK FUNDS TRANSFER

A Participant may authorize Union Bank & Trust as Trust Administrator to cause moneys to be transferred, by means of the Automated Clearinghouse System ("ACH"), from the Participant's local bank to NPAIT. The Participant may also have its local bank wire federal funds directly to Union Bank, the Trust Custodian.

Funds transferred will be invested at the net asset value of a Trust Unit computed as of 3:00 p.m. on the day the transfer is authorized and will begin earning interest the following day.

A Participant has the ability to invest in the Trust by the following methods:

1. An authorized signer may telephone the Trust toll-free at 1-800-640-8817 and furnish the public body's

name, name of person calling, the Trust account number, and the amount being invested. A request for the Trust investment to be transferred by ACH, which will be effective the next business day, must be made by 2:00 p.m. Central Time, 1:00 p.m. Mountain Time.

2. To make an investment by wire transfer, to be effective the same business day, an authorized official must notify a Trust representative by 10:00 a.m. Central Time, 9:00 a.m. Mountain time furnishing the information described above. The Participant must also instruct its local financial institution to wire funds to the Trust Custodian with the following instructions:

Union Bank & Trust Lincoln, Nebraska
ABA # 1049-1079-5
Credit to: Nebraska Public Agency Investment Trust
(Further credit to Participant Name and Trust account number)

3. A Participant may invest in Trust Units by mailing a check or other bank draft to the Trust Custodian. Until the check has been converted into federal funds, the investment order will not be accepted, and no income will be earned on the investment until that time.

TRUSTEES AND OFFICERS

The Trustees have full, exclusive, and absolute control and authority over the business and affairs of the Trust and the Trust's assets, subject to the rights of the Participants as provided in the Declaration of Trust. The Trustees may perform such acts as in their sole judgment and discretion are necessary and proper for conducting the business and affairs of the Trust or promoting the interest of the Trust. They oversee, review, and supervise the activities of all consultants and professional Advisers to the Trust.

The number of Trustees may change from time to time by resolution of the Trustees, provided that the number of Trustees may never be less than three or more than 15. The Trustees, and any additional Trustees who may be appointed prior to the next annual meeting or vote of the Participants following the conclusion of the Trust's fiscal year on June 30, will serve until their successors are elected and qualified. The Trustees are divided into three classes, arranged so that the term of one class expires each year. At each annual meeting or vote, the Trustees of the class whose term then expires are elected to serve for a term of three years. Trustees may be elected to any number of successive terms.

All Trustees must be members of the Governing Board or officers or employees of the Public Agency and their respective Public Agencies must be authorized Participants of the Trust.

The Trustees may, from time to time, by resolution require that certain classes of Participants or Public Agencies be represented on the Board of Trustees. Such resolutions requiring representation of classes may also provide for shorter terms of office than required under Section 9.3 of the Declaration of Trust. A resolution altering the composition of the Board of Trustees shall become effective with respect to a Trustee upon expiration of that particular Trustee's term of office. The executive directors of the Associations shall be ex officio nonvoting members of the Board of Trustees who shall not be counted in the determination of a quorum, and the term "Trustee" as used herein shall not refer to such ex officio nonvoting members unless otherwise expressly stated.

The Trustees serve without compensation, but they are reimbursed by the Trust for reasonable travel and other out-of-pocket expenses incurred in connection with their duties as Trustees. The Trustees are not required to devote their entire time to the affairs of the Trust.

The Trustees annually elect one of their number to serve as Chairperson of the Trust and be its Chairperson. They also elect a Vice Chairperson from their number, and a Secretary, and a Treasurer who need not be one of the Trustees. Election of the Trustees is by the affirmative vote of a majority of the Participants. A Trustee's vacancy may be filled or the unexpired portion of the applicable term by vote of a majority of the remaining Trustees or a majority of the Participants. The Trustees

are responsible for the general investment policy and program of the Trust and for the general supervision and administration of the business and affairs of the Trust. However, the Trustees are not required personally to conduct all of the business of the Trust and consistent with their ultimate responsibility, the Trustees have appointed an Administrator, Investment Adviser, Marketing Agent, and Custodian. The Trustees assign such duties to the Administrator, Marketing Agent, Investment Adviser, and Custodian as they deem to be appropriate.

As of the date of this Information Statement, it is required that (i) the county treasurers' representative to the Nebraska Association of County Officials ("NACO") board of directors be appointed as a Trustee, (ii) county treasurers elect two Trustees, one for a term of two years and one a term of one year, (iii) the president of the Nebraska County Treasurer's Association shall appoint one Trustee for a term of one year and (iv) the president of NACO shall appoint three Trustees who shall be members of a County Board of Commissioners or a member of a County Board of Supervisors.

Please see the Appendix A to this Information Statement for the name and affiliation of the current NPAIT Board.

THE INVESTMENT ADVISER

Miles Capital Inc., West Des Moines, Iowa, has been appointed by the Trustees as the Adviser to the Trust pursuant to an Investment Advisory Agreement.

The Trust's agreement with the Investment Adviser is reviewed annually and is not assignable.

Miles Capital Inc. is a registered Investment Adviser in the state of Nebraska and provides investment advice and, in general, to supervise the investment program of the Trust.

The Trust does not engage in the trading of investment instruments with or through the Investment Adviser.

THE ADMINISTRATOR

Union Bank & Trust, Lincoln, Nebraska, has been appointed by the Trustees as the Administrator of the Trust pursuant to an Administrator Agreement.

The Trust's agreement with the Administrator is reviewed annually and is not assignable.

The Administrator services all Participant accounts in the Trust; determines and allocates income of the Trust; provides certain written confirmation of the investment and withdrawal of monies by Participants; provides administrative personnel and facilities to the Trust; determines the net asset value of the Trust on a daily basis; bears certain expenses for the Trust; and performs all related administrative services for the Trust.

THE CUSTODIAN

Union Bank & Trust, Lincoln, Nebraska, has been appointed by the Trustees as the Custodian to the Trust pursuant to a Custodian Agreement.

The Custodian acts as a safekeeping agent for the Trust's investment portfolio and serves as the conduit in connection with the direct investment and withdrawal mechanisms of the Trust. The Custodian does not participate in the Trust's investment decision making process. The Trust may invest in obligations of the Custodian and buy and sell Permitted Investments from and to it. The Trust's agreement with the Custodian is reviewed annually and is not assignable.

THE MARKETING AGENT

Union Bank & Trust, Lincoln, Nebraska, serves as the marketing and development agent for the Trust.

The Marketing Agent pays the Trust's expenses for printing certain documents, such as the Information Statement and other marketing expenses.

LEGAL COUNSEL AND INDEPENDENT ACCOUNTANTS

Perry, Guthery, Haase, & Gessford, P.C., Lincoln, Nebraska, serves as General Counsel of the Trust.

KPMG, LLP, Omaha, Nebraska, serves as independent accountant of the Trust. Audited financial reports will be provided to each authorized Trust participant.

EXPENSES

Under its agreement with the Trust, the Investment Adviser is paid an annual investment advisory fee for its services rendered and duties undertaken which is payable monthly and computed daily at an annual rate equal to 0.135 percent (thirteen and one-half basis points) of the Trust's average daily net assets.

Under its agreement with the Trust, the Administrator is paid a fee at an annual rate equal to (i) 0.155 percent (fifteen and one-half basis points) of the Trust's average daily net assets if such average daily net assets are \$100 million or less, (ii) 0.1675 percent (sixteen and three-fourths basis points) of the Trust's average daily net assets if such average daily net assets are greater than \$100 million and less than or equal to \$200 million, and (iii) 0.175 percent (seventeen and one-half basis points) of the Trust's average daily net assets if such average daily net assets exceed \$200 million. This fee is calculated daily and paid monthly. Effective May 16, 2008 the Administrator reduced its fee to 0.155 percent (fifteen and one-half basis points) of the Trust's average daily net assets until further notice.

Under its agreement with the trust, the Custodian is paid a fee of 0.025 percent (two and one-half basis points) of the Trust's average net assets. This fee is calculated daily and paid monthly.

Under its agreement with the Trust, the Marketing Agent for the Trust receives a fee equal to the following (i) 0.16 percent (sixteen basis points) of the Trust's average daily net assets if such average daily net assets are \$100 million or less, (ii) 0.14 percent (fourteen basis points) of the Trust's average daily net assets if such average daily net assets are greater than \$100 million and less than or equal to \$200 million, and (iii) 0.125 percent (twelve and one-half basis points) of the Trust's average daily net assets if such average daily net assets exceed \$200 million. This fee is calculated daily and paid monthly.

The Trust pays a fee up to 0.10 percent (ten basis points) of the Trust's average daily net assets to Associations which sponsor Participants. This fee is calculated daily and paid monthly.

The Trust also pays the reasonable out-of-pocket expenses incurred by the Trustees and officers in connection with the discharge of their duties, and other expenses such as brokerage commissions, insurance costs, and the auditing and legal fees of the Trust. The Trust may accrue up to 0.10 percent (ten basis points) of the Trust's average daily net assets to pay for such miscellaneous expenses. This fee is calculated daily and paid monthly.

DAILY INCOME ALLOCATIONS

All net income of the Trust is determined as of the close of business on each Nebraska banking day (and at such other times as the Trustees may determine) and is credited immediately thereafter pro rata to each Participant's account. Net

income which has thus accrued to the Participants is converted as of the close of business of each calendar month into additional units which thereafter are held in each Participant's Trust accounts. Such net income is converted into full and fractional units at the rate of one unit for each one dollar credited. Although daily income accruals are not transmitted automatically in cash, Participants may obtain cash by withdrawing units at their net asset value without charge. Net income for each period consists of (i) all accrued interest income on Trust assets, (ii) plus or minus all realized gains or losses on Trust assets and any amortized purchased discount or premium, and (iii) less the Trust's accrued and paid expenses (including accrued expenses and fees payable to the Investment Adviser, Marketing Agent, Custodian and Administrator) applicable to that income period. Since net income (including realized gains and losses on the Trust's assets, if any) is allocated among the Participants each time net income is determined, the net asset value per unit remains at \$1.00 per unit. The Trust expects to have net income each day. If, for any reason there is a net loss on any day, the Trust will reduce the number of its outstanding units by having each Participant contribute to the Trust its pro rata portion of the total number of units required to be canceled in order to maintain the net asset value per unit of the Trust at a constant value of \$1.00. Each Participant will be deemed to have agreed to such contribution in these circumstances by its adoption of the Declaration of Trust and its investment of monies.

COMPUTATION OF YIELD

The "seven-day average yield" of the Trust may, from time to time, be quoted in reports, literature and information published by the Trust. Seven-day average yield is computed in connection with an identified seven-day period with respect to a hypothetical Participant account having a balance of exactly \$1.00 at the beginning of such seven-day period. The unannualized seven-day period return for such period is the change (namely accrued investment income, plus or minus any amortized purchase discount or premium less all paid and accrued expenses, including investment income accrued or income earned and realized capital gains and losses during the period but excluding unrealized appreciation and depreciation) in the value of the hypothetical account during the period divided by \$1.00.

The seven-day average yield is calculated by multiplying the unannualized seven-day period return by 365 divided by 7. The Trust also may prepare the effective annual yield computed by compounding the unannualized seven-day period return as follows: by adding 1 to the unannualized seven-day period return, raising the sum to a power equal to 365 divided by 7, and subtracting 1 from the result. The Trust also may quote its yield from time to time on other bases for the information of its Participants. The yields quoted from time to time should not be considered a representation of the yield of the Trust in the future since the yield is not fixed. Actual yield will depend on a variety of factors such as the type, quality, and maturities of the Trust's investments, changes in interest rates on such investments, and changes in the Trust's expenses during the period.

Yield information may be useful in reviewing the performance of the Trust and for providing a basis for comparison with other investment alternatives. However, the Trust's yield fluctuates, unlike certificates of deposit or other investments which typically pay a fixed yield for a stated period of time.

DETERMINATION OF NET ASSET VALUE

The net asset value per unit of the Trust for the purpose of calculating the price at which units are issued and redeemed is determined by the Administrator or Custodian as of the close of business of each Nebraska banking day. Such determination is made by subtracting from the value of the assets of the Trust the amount of its liabilities and dividing the remainder by the number of outstanding units of the Trust.

The Trust determines the value of its portfolio investments by the amortized cost method. The amortized cost method of valuation involves valuing an investment instrument at its cost at the time of purchase and thereafter assuming a constant amortization to maturity of any discount or premium, regardless of the impact of fluctuating interest rates on the market value of the instrument. While this method provides certainty in valuation, it may result in periods during which value, as determined by amortized cost, is higher or lower than the price the Trust would receive if it sold the instrument. During such periods, the yield to Participants may differ somewhat from that which would be obtained if the Trust used the market value

method for all its portfolio investments. For example, if the use of amortized cost resulted in a lower (higher) aggregate portfolio value on a particular day, a prospective Participant of the Trust would be able to obtain somewhat higher (lower) yield than would result if the Trust used the market value method, and existing participants would receive less (more) investment income. The purpose of this method of calculation is to attempt to maintain a constant net asset value per unit of \$1.00.

The Trustees have adopted certain procedures with respect to the Trust's use of the amortized cost method to value its portfolio. These procedures are designed and intended (taking into account market conditions and the Trust's investment objectives) to stabilize net asset value per unit as computed for the purpose of investment and redemption at \$1.00 per unit. The procedures include a periodic review by the Trustees, in such manner as they deem appropriate and at such intervals as are reasonable in light of current market conditions, of the relationship between net asset value per unit based upon the amortized cost value of the Trust's portfolio investments and the net asset value per unit based upon available indications of market value with respect to such portfolio investments. The Trustees will consider what steps, if any, should be taken in the event of a difference of more than 0.5 percent between the two methods of valuation. The Trustees will take such steps as they consider appropriate (such as shortening the average portfolio maturity or realizing gains or losses) to minimize any material dilution or other unfair results which might arise from differences between the two methods of valuation.

The Trustees intend to maintain a dollar weighted average portfolio maturity (which will not be more than ninety days) appropriate to the objective of maintaining a stable net asset value of \$1.00 per unit.

PORTFOLIO TRANSACTIONS

Subject to the general supervision of the Trustees, the Investment Adviser is responsible for the investment decisions and the placing of the orders of portfolio transactions for the Trust. The Trust's portfolio transactions primarily occur with major dealers in money market instruments acting as principals. Such transactions normally are on a net basis which do not involve payment of brokerage commissions. Transactions with dealers normally reflect the spread between bid and asked prices.

The Investment Adviser places orders for all purchases and sales of portfolio securities. Although the Trust does not ordinarily seek, but may nonetheless make profits through short term trading, the Investment Adviser may, on behalf of the Trust, dispose of any portfolio investment prior to its maturity if it believes such disposition is advisable. The Trust's policy of generally investing in instruments with maturities of less than one year may result in apparently high portfolio turnover. However, since brokerage commissions normally are not paid on the types of investments which the Trust may make, any turnover resulting from such investments should not affect adversely the net asset value or net income of the Trust.

The Investment Adviser seeks to obtain the best net price and most favorable execution of orders for the purchase and sale of portfolio securities. Where price and execution offered by more than one dealer are comparable, the Investment Adviser may, in its discretion, purchase and sell investments through dealers which provide research, statistical and other information to the Investment Adviser or to the Trust. Such supplemental information received from a dealer is in addition to the services required to be performed by the Investment Adviser under its agreement with the Trust, and the expenses of the Investment Adviser will not necessarily be reduced as a result of the receipt of such information. Portfolio investments will not be purchased from or sold to the Investment Adviser or any affiliate of the Investment Adviser.

REPORTS TO PARTICIPANTS

Participants receive transaction advice subsequent to all investments and withdrawals that they make and a monthly summary of all transaction activity. In addition, each Participant receives semi-annual unaudited and annual audited reports providing financial information regarding the Trust (including a statement of net income). The annual report includes audited financial statements of the Trust. The Trust's fiscal year ends on June 30 each calendar year. Potential Participants are advised to review the financial reports of the Trust that are made available to them. See Appendix B for the NPAIT holiday

schedule.

The Trust answers inquiries at any time during business hours from a Participant concerning the status of its account (number of units, etc.) and the current yield available through the Trust's investment program. Such inquiries can be made by telephoning toll-free, 1-800-640-8817, or by writing to the Nebraska Public Agency Investment Trust, PO Box 82529, Lincoln, Nebraska 68501-2529

DECLARATION OF TRUST

Each potential Participant is given a copy of the Declaration of Trust before becoming a Participant. Certain portions of the Declaration of Trust are summarized in this Information Statement. These summaries are qualified in their entirety by reference to the text of the Declaration of Trust.

Description of Units. The Declaration of Trust provides that the beneficial interests of the Participants in the assets of the Trust and the earnings thereon are, for convenience of reference, divided into units which are used as units to measure the proportionate allocation of beneficial interest among the Participants. The Declaration of Trust authorizes an unlimited number of full and fractional units of a single class as well as adjustments in the total number of units outstanding from time to time without changing their proportionate beneficial interest in the Trust in order to permit the Trust to maintain a constant net asset value of \$1.00 per unit. All units participate equally in dividend allocations and have equal liquidation and other rights. The units have no preference, conversion, exchange, or preemptive rights.

For all matters requiring a vote of Participants, each Participant is entitled to one vote with respect to each matter, without regard to the number of units held by the Participant. It is necessary for a Participant to hold a minimum of one unit to be entitled to vote. Participants are not entitled to cumulative voting.

No units may be transferred to any person other than the Trust itself at the time of withdrawal of monies by a Participant.

Participant Liability. The Declaration of Trust provides that, Participants shall not be subject to any individual liability for the acts or obligations of the Trust and provides that every written undertaking made by the Trust shall contain a provision that such undertaking is not binding upon any of the Participants individually.

Responsibility of Trustees, Officers, Employees, and Agents. No Trustee, officer, employee, or agent of the Trust is individually liable to the Trust, a Participant, an officer, an employee or an agent of the Trust for any action or failure to act unless it is taken or omitted in bad faith or constitutes willful misfeasance, reckless disregard of duty or negligence. All third parties shall look solely to the Trust property for the satisfaction of claims arising in connection with the affairs of the Trust. The Trust will indemnify each Trustee, officer, employee, or agent of the Trust designated by the Trustees to receive such indemnification, to the extent permitted by law, against all claims and liabilities to which they may become subject by reason of serving in such capacities for the Trust, except in certain circumstances set forth in the Declaration of Trust.

Termination of the Declaration of Trust. The Trust may be terminated by the affirmative vote of a majority of the Participants entitled to vote or by an instrument in writing, signed by a majority of the Trustees and consented to by a majority of the Participants entitled to vote. Upon the termination of the Trust and after paying or adequately providing for the payment of all of its liabilities, and upon receipt of such releases, indemnities and refunding agreements as they deem necessary for their protection, the Trustees may distribute the remaining Trust property, in cash or in kind, or partly in cash and partly in kind, among the Participants according to their respective proportionate beneficial interests.

Amendment of the Declaration of Trust. The Declaration of Trust may be amended by the affirmative vote of a majority of the Participants entitled to vote or by an instrument in writing, signed by a majority of the Trustees and consented to by not less than a majority of the Participants entitled to vote. The Trustees may, from time to time, by a two-thirds vote of the Trustees, and after 15 days prior written notice to the Participants, amend the Declaration of Trust without the vote or consent of the Participants, to the extent they deem necessary to conform the Declaration of Trust to the requirements of applicable laws or regulations, or any interpretation thereof by a court or other governmental agency, but the Trustees shall

not be liable for failing to do so.

Withdrawal. A Participant may withdraw from the Trust at any time by sending an appropriate notice to the Trust, as specified in the Declaration of Trust.

The name "Nebraska Public Agency Investment Trust" is the designation of the Trust under its Declaration of Trust. The Declaration of Trust provides that the name of the Trust refers to the Trustees collectively in such capacity and not personally or as individuals. All persons dealing with the Trust must look solely to the Trust property for the enforcement of any claims against the Trust since neither the Trustees, officers, agents nor Participants assume any personal liability for obligations entered into on behalf of the Trust.

FIXED TERM INVESTMENT SERVICE

Participants may also participate in the Trust's Fixed Term Investment Service (the "Fixed Term Service") which enables Participants to direct investments in specific Permitted Investments selected by the Participant and held specifically for its individual account. Securities purchased through the Fixed Term Investment Service shall bear fixed yield rates, with a fixed maturity term of no greater than sixty (60) months. Income earned from Fixed Term investments and redemption proceeds shall be automatically collected by the Custodian and credited to purchase additional Trust Units for the benefit of the Participant's account.

Any Participant which elects to use the Fixed Term Service will pay a fee based upon the amount of the investment and the time period until the investment matures. Fees for the Fixed Term Service are calculated according to the following fee schedule:

Average Investment Amount	Fee
Less than \$5,000,000	0.175%
\$5,000,000 and greater	0.100%

Such fees shall be paid the Administrator for services provided to operate the Fixed Term Service. All rates quoted will be net of all expenses. Fees are paid at time of interest receipt of Fixed Term Service investments. The minimum investment through the Fixed Term Service shall be \$100,000, and the minimum term of securities purchased for an individual Participant through the Fixed Term Service shall be six (6) months.

**APPENDIX A
NPAIT TRUSTEES AND OFFICERS**

As of the date of this Appendix A there were thirteen members of the Board of Trustees of the Trust. Their names, public agency affiliations, and terms are set forth below.

Name	Public Agency	Public Agency Affiliation	Term
Jim Bendfeldt	Nebraska Association of Resources District	NARD	Class III, November 2019
Julie DeBoer	Norris Public Power District	NREA	Class II, November 2018
Melissa Engel	Metropolitan Area Planning Agency	MAPA	Class II, November 2018
Doyle Hazen	North Central Public Power District	NREA	Class I, November 2020
Caleb Johnson	Keith County	NACO	Class I, November 2020
Jeff Kelley	Panhandle Area Development District	PADD	Class III, November 2019
Loretta McCoy	Morrill County	NACO	Class I, November 2020
Charles Neumann	Adams County	NACO	Class III, November 2019
Jody Sanders	City of Fremont	NENEDD	Class I, November 2020
Brenda Scavo	York County	NACO	Class II, November 2018
Janet Suminski	Valley County	NACO	Class I, November 2020
Clarence Tichota	Cuming County	NACO	Class II, November 2018
Richard Wassinger	Cass County	NACO	Class III, November 2019

Dated: February 16, 2018

**APPENDIX B
NPAIT HOLIDAY SCHEDULE**

For Calendar Year 2018, the holidays are:

January 1, 2018	New Year's Day - Observed
January 15, 2018	Martin Luther King, Jr. Day
February 19, 2018	President's Day
March 30, 2018	Good Friday
May 28, 2018	Memorial Day
July 4, 2018	Independence Day
September 3, 2018	Labor Day
October 8, 2018	Columbus Day
November 12, 2018	Veterans Day - Observed
November 22, 2018	Thanksgiving
December 25, 2018	Christmas

For Calendar Year 2019, the holidays are:

January 1, 2019	New Year's Day - Observed
January 21, 2019	Martin Luther King, Jr. Day
February 18, 2019	President's Day
April 19, 2019	Good Friday
May 27, 2019	Memorial Day
July 4, 2019	Independence Day
September 2, 2019	Labor Day
October 14, 2019	Columbus Day
November 11, 2019	Veterans Day - Observed
November 28, 2019	Thanksgiving
December 25, 2019	Christmas

Interlocal Agreement
and
Declaration of Trust



Nebraska Public Agency Investment Trust

A Nebraska Entity Formed Pursuant to the Interlocal Cooperation Act

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THIS DECLARATION OF TRUST made as of this 11th day of July, 1996, by the undersigned identified respectively as "Settlor(s)" and as "Initial Participant(s),"

WITNESSETH:

WHEREAS, Nebraska law provides that Nebraska Cities, Counties, School Districts, Community Colleges, Natural Resource Districts, Public Utilities, Mental Health Regions and other governmental subdivisions are authorized to invest surplus funds; and,

WHEREAS, Article XV, section 18, of the Constitution of the State of Nebraska provides, among other things, that the State or any local government may exercise any of its powers or perform any of its functions, including financing the same, jointly or in cooperation with any other governmental entity or entities; and,

WHEREAS, Sections 13-801, et. seq. Neb. Rev. Stat. (Reissue 1991), also known as the "Interlocal Cooperation Act", provides that public agencies, including any agency of state government, or any other municipal corporation or political subdivision of this state may exercise jointly with any other such organization any power or powers, privileges or authority exercised or capable of exercise by any such public agency of this state; and,

WHEREAS, Nebraska Cities, Counties, School Districts, Community Colleges, Natural Resource Districts, Public Utilities, Mental Health Regions are all public agencies, agencies of state government, municipal corporations, governmental subdivisions or political subdivisions; and,

WHEREAS, all of the Initial Participants are public agencies of the State of Nebraska that desire to establish and organize a legal entity pursuant to Nebraska law and the Interlocal Cooperation Act, by entering into this Declaration of Trust for the purpose of combining their available investment funds so as to enhance the investment opportunities available to them according to law; and,

WHEREAS, this Declaration of Trust is intended to be an "Interlocal Agreement" entered into pursuant to the Interlocal Cooperation Act, for the purpose of better exercising the Participants' authority to invest their respective funds not currently needed in accordance with Nebraska law; and,

WHEREAS, each of the governing bodies of the Initial Participants have duly adopted respective resolutions authorizing the respective Initial Participants to become a party to this Interlocal Agreement; and

WHEREAS, the governing bodies of the Initial Participants, by adoption of the aforementioned resolution authorizing them to be Initial Participants and by further resolutions have adopted this Declaration of Trust and authorized the investment of funds of such Initial Participants in investments of the nature permitted by Nebraska law and in the manner contemplated by this Declaration of Trust; and,

WHEREAS, it is proposed that the beneficial interest in the Trust's assets shall be divided into nontransferable units of beneficial interest, which shall be evidenced by a unit register maintained by the Trust or its agent; and,

WHEREAS, the Initial Participants anticipate that other public agencies may wish to become Participants by adopting this Declaration of Trust and thus becoming parties to it;

NOW, THEREFORE, the Initial Participants and Settlers hereby declare that all monies, assets, securities, funds and property now or hereinafter acquired by the Trustees, their successors and assigns under this Declaration of Trust shall be held and managed in trust for the equal and proportionate benefit of the holders of record from time to time of units of beneficial interest herein, without privilege, priority or distinction among such holders, and subject to the terms, covenants, conditions, purposes and provisions hereof.

ARTICLE
The Trust

- 1.1 **Name.** The name of the common law trust created by this Declaration of Trust shall be the "**Nebraska Public Agency Investment Trust**" (the "Trust") and, so far as may be practicable, the Trustees shall conduct the Trust's activities, execute all documents and sue or be sued under that name, which name (and the word "Trust" wherever used in this Declaration of Trust, except where the context otherwise requires) shall refer to the Trustees in their capacity as Trustees, and not individually or personally, and shall not refer to the officers, agents, employees, counsel, Advisers, consultants, accountants, or Participants of the Trust or of such Trustees. Should the Trustees determine that the use of such name is not practicable, legal, or convenient, they may use such other designation, or they may adopt such other name for the Trust as they deem proper, and the Trust may hold property and conduct its activities under such designation or name. The Trustees shall take such action as they, acting with the advice of counsel, shall deem necessary or appropriate to file or register such name in accordance with the laws of the State of Nebraska or the United States of America so as to protect and reserve the right of the Trust in and to such name.
- 1.2 **Purpose; only Certain Public Agencies to be Participants.**
- (a) The purpose of the Trust is to provide a separate instrumentality and legal entity through which Eligible Public Agencies organized under the laws of the State of Nebraska may jointly exercise in accordance with law their authority to invest available funds so as to enhance their investment opportunities pursuant to an investment program conducted under applicable Nebraska laws governing the investment of Public Agency moneys. Only Eligible Public Agencies organized under the laws of the State of Nebraska that constitute public agencies within the meaning of the Interlocal Cooperation Act may be Participants. An Eligible Public Agency may place funds in the Trust as a Participant and have a beneficial interest hereunder only after the Governing Body thereof has duly adopted a resolution, or other applicable official action, authorizing such Public Agency to become a Participant of this Trust and adopting this Declaration of Trust. Each Public Agency which becomes a Participant pursuant to this Declaration of Trust represents and warrants that monies or funds placed by the Participant into the Trust for the purchase of Units constitute excess or surplus funds which are not then needed for the operation of that Public Agency.
- (b) It is not necessary for a Public Agency to place any moneys in the Trust to become a Participant, and no minimum balance must be maintained by a Public Agency which has become a Participant in order for such Public Agency to continue to be a Participant.
- 1.3 **Location.** The Trust shall maintain an office of record in the State of Nebraska, and may maintain such other offices or places of business as the Trustees may from time to time determine. The initial office of record of the Trust shall be: c/o Perry, Guthery, Haase & Gessford, P.C., attention Daniel F. Kaplan, 233 South 13th Street, Suite 1400, Lincoln, Nebraska 68508. The office of record may be changed from time to time by resolution of the Trustees, and notice of such change of the office of record shall be given to each Participant.
- 1.4 **Nature of Trust.** The Trust shall be a common law trust organized and existing pursuant to the Interlocal Cooperation Act and other Nebraska law. The Trust is not intended to be, shall not operate as, shall not be deemed to be, and shall not be treated as, a general partnership, limited partnership, corporation, investment company, joint stock company, trust company, bank industrial loan and investment company, cooperative credit association, credit union or building and loan association. The Participants shall have such rights as are conferred upon them hereunder.
- 1.5 **Definitions.** As used in this Declaration of Trust, the following terms shall have the following meanings unless the context otherwise requires:
- "Administrator" shall mean any Person or Persons appointed, employed or contracted with by the Trustees under the applicable provisions of Section 3.1 hereof.

"Administration Agreement" shall mean the agreement with the Administrator referred to in Section 3.3 hereof as the same may be amended from time to time.

"Adviser " shall mean an Person or Persons appointed, employed or contracted with by the Trustees under the applicable provisions of Section 3.2 hereof.

"Adviser Agreement" shall mean the agreement with the Adviser referred to in Section 3.2 hereof as the same may be amended from time to time.

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

"Association" shall mean an association which sponsors one or more Participants and enters into a license agreement with the Trust.

"Board of Trustees" or "Trustees" shall mean the governing body of the Trust as provided in Section 9.1 hereof.

"City" shall mean cities organized under the laws of the State of Nebraska.

"Community College" shall mean community colleges organized under the laws of the State of Nebraska.

"County" shall mean counties organized under the laws of the State of Nebraska and the Treasurer of such county.

"Custodian" shall mean any Person or Persons appointed, employed or contracted with by the Trustees under the applicable provisions of Section 11.1 hereof.

"Custodian Agreement" shall mean the agreement with the Custodian referred to in Section 11.1 hereof as the same may be amended from time to time.

"Declaration of Trust" shall mean this Interlocal Agreement and Declaration of Trust as amended, restated, or modified from time to time. References in this Declaration of Trust to "Declaration", "hereof ", "herein", "hereby" and "hereunder" shall be deemed to refer to the Declaration of Trust and shall not be limited to the particular text, article or section in which such words appear.

"Eligible Public Agency" shall mean a City, County, School District, Community College, Natural Resource District, Public Utility, Mental Health Region, or such other public agency or political subdivision as may be approved by the Trustee, which may invest surplus funds pursuant to § 77-2341 Neb. Rev. Stat. (Cum. Supp. 1994).

"Governing Body" shall mean the governing body of a Participant.

"Information Statement" shall mean the information statement or other descriptive document or documents adopted as such by the Trustees and distributed by the Trustees to Participants and potential Participants from time to time.

"Initial Participants" shall mean the Participants, who, along with the Settlers, were involved in the formation of this Trust by the execution and adoption of this Declaration of Trust.

"Interlocal Agreement" shall mean this Declaration of Trust.

"Mental Health Regions" shall mean mental health regions organized under the laws of the State of Nebraska.

"Natural Resource Districts" shall mean natural resource districts organized under the laws of the State of Nebraska.

"Participants" shall mean the Initial Participants and the Public Agencies which enter into this Declaration of Trust pursuant to Section 15.6 hereof.

"Permitted Investments" shall mean the investments referred to in Paragraph (b) of Section 2.2 hereof.

"Person" shall mean and include individuals, corporations, limited partnerships, general partnerships, joint stock companies or associations, joint ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other entities (whether or not legal entities) and governments and agencies and political subdivisions thereof.

"Public Agency" shall mean a Nebraska public agency such as a Nebraska County, City, School District, Community College, Natural Resource District, Public Utility, Mental Health Region or other political subdivision which is subject to the investment provisions found in § 77-2341 Neb. Rev. Stat. (Cum. Supp. 1994).

"Public Utilities" shall mean public utilities organized under the laws of the State of Nebraska.

"School Districts" shall mean school districts organized under the laws of the State of Nebraska.

"Settlor(s)" shall mean those Settlers executing this Declaration of Trust.

"Trust" shall mean the common law trust created by this Declaration of Trust.

"Trust Property" shall mean, as of any particular time, any and all property, real, personal or otherwise, tangible or intangible, which is transferred, conveyed or paid to the Trust or Trustees and all income, profits and gains there from and which, at such time, is owned or held by, or for the account of, the Trust or the Trustees. As herein, or as hereafter provided, the Trust Property may consist of separate portfolios of property.

"Trustees" shall mean members of the Board of Trustees of the Trust.

"Unit" or "Trust Unit" shall mean the unit used to denominate and measure the respective pro rata Trust Property as described in Article VI. Units may be issued in more than one series to denominate and measure the respective pro rata beneficial interests of the Participants in the Trust Property designated as belonging to and held only for the benefit of the Participants to which each series of Units has been issued. Units may be issued in series and all proceeds realized from the issuance of each series will become the property of and invested for the exclusive benefit of the Participants in that particular series.

"Unit Register" shall mean the register of units maintained for each series pursuant to Article VII hereof.

ARTICLE II

Powers of the Trustees

- 2.1 **General.** Subject to the rights of the Participants as provided herein, the Trustees shall have, without other or further authorization, full, exclusive and absolute power, control and authority over the Trust Property and over the affairs of the Trust to the same extent as if the Trustees were the sole and absolute owners of the Trust Property in their own right, and with such powers of delegation as may be permitted by this Declaration of Trust. The Trustees may do and perform such acts and things as in their sole judgment and discretion are necessary and proper for conducting the affairs of the Trust or promoting the interests of the Trust and the Participants. The enumeration of any specific power or authority herein shall not be construed as limiting the aforesaid general power or authority or any specific power or authority. The Trustees may exercise any power authorized

and granted to them by this Declaration of Trust. Such powers of the Trustees may be exercised without the necessity of any order of, or resort to, any court.

2.2 **Permitted Investments.** The Trustees shall have full and complete power, subject in all respects to Article IV hereof:

- (a) to conduct, operate and provide investment programs for the Participants; and
- (b) for such consideration as they may deem proper, to subscribe for, invest in, reinvest in, purchase or otherwise acquire, hold, pledge, sell, assign, transfer, exchange, distribute or otherwise deal in or dispose of investment instruments as permitted by Law (the "Permitted Investments"). Such Permitted Investments are investments of the nature which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another, including, without limitation, the following:
 - (1) Securities issued or guaranteed as to payment of principal and interest by the United States Government. These include, for example, Treasury bills, bonds, and notes which are direct obligations of the United States Government ("U.S. Government Securities");
 - (2) Obligations issued or guaranteed as to payment of principal and interest by agencies or instrumentalities of the United States Government ("Federal Agency Securities"). Such agencies and instrumentalities include, for example, Federal Intermediate Credit Banks, Federal Home Loan Banks, the Federal National Mortgage Association, and the Farmers Home Administration. Such securities will include those supported by the full faith and credit of the United States Treasury or the right of the agency or instrumentality to borrow from the Treasury, as well as those supported only by the credit of the issuing agency or instrumentality;
 - (3) Collateralized perfected repurchase agreements secured by securities in the immediately foregoing categories;
 - (4) Certificates of deposit and time deposits in compliance with applicable laws;
 - (5) Securities in which the state investment officer is authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made, including without limitation interests in student loans (or beneficial interests therein or participations thereof) guaranteed and insured pursuant to the Higher Education act of 1965, as amended;
 - (6) Loans or interests in loans or pools thereof guaranteed by the United States Small Business Administration, Farmers Home Administration or any other agency of the United States (or participations or beneficial interests therein); and
 - (7) Any other type of investment now or hereafter permitted for Public Agencies by the provisions of law.

The Permitted Investments as described above shall be limited by the following: (i) no individual investment may exceed one (1) year in length, unless it is subject, at the time of purchase by the Trust, to an agreement to purchase the Permitted Investment from the Trust which purchase agreement may be exercised within ninety (90) days or less; (ii) the maximum average maturity of all Permitted Investments purchased by the Trust shall not exceed ninety (90) days, unless such investments have a variable feature and thus reprice on the basis of one week or less or unless such Permitted Investments are guaranteed or reinsured by the U.S. Government or agency thereof, or unless such Permitted Investments regularly trade at par value; and (iii) the market value of all Permitted Investments purchased by the Trust shall be monitored daily by the Adviser, and the Adviser shall

promptly report to the Trustees a material deviation (greater than 0.5%) between the current market value and amortized cost of the Permitted Investments.

In the exercise of their powers, the Trustees shall not be limited, except as otherwise provided hereunder, to investing in Permitted Investments maturing before the possible termination of the Trust. The Trustees shall have full authority and power to make any and all Permitted Investments within the limitations of this Declaration of Trust, that they, in their absolute discretion, shall determine to be advisable and appropriate. The Trustees shall have no liability for loss with respect to Permitted Investments made within the terms of this Declaration of Trust. The Trustees shall be permitted only to make Permitted Investments in accordance with Article IV of this Declaration of Trust. The Trustees may, from time to time, adopt guidelines for Permitted Investments which shall be no less restrictive than the terms as set forth in this Declaration of Trust.

Participants may also participate in the Trust's Fixed Term Automated Investment Service (the "Fixed Term Service") which enables Participants to direct investments in specific Permitted Investments selected by the Participant and held specifically for its individual account. Securities purchased through the Fixed Term Service shall bear fixed yield rates, with a fixed maturity term of no greater than sixty (60) months. Income earned from Fixed Term investments and redemption proceeds shall be automatically collected by the Custodian and credited to purchase additional Trust Units for the benefit of the Participant's account. If a Participant elects to use the Fixed Term Service, the Participant shall pay a fee of up to 0.175% of the average daily net assets on an annualized basis. The minimum investment through the Fixed Term Service shall be \$100,000.00, and the minimum term of securities purchased for an individual Participant through the Fixed Term Service shall be ninety (90) days.

2.3 Legal Title.

- (a) Legal title to all of the Trust Property shall be vested in the Trustees on behalf of the Participants and shall be held by and transferred to the Trustees, except that the Trustees shall have full and complete power to cause legal title to any Trust Property to be held, if permitted by Law, in the name of any other Person as nominee, on such terms, in such manner, and with such powers as the Trustees may determine, so long as in their judgment the interest of the Trust is adequately protected.
- (b) The right, title, and interest of the Trust in and to the Trust Property shall not be affected by changes in the membership of the Board of Trustees. The right, title and interest of the Trustees in and to the Trust Property shall vest automatically in all Persons who may hereafter become Trustees upon their due election and qualification without any further act. Upon the resignation, disqualification, disability, removal, adjudication as an incompetent or death of a Trustee, the affected Trustee shall automatically cease to have any right, title or interest in or to any of the Trust Property, and the right, title and interest of such Trustee in and to the Trust Property shall vest automatically in the remaining Trustees without any further act.

2.4 Disposition of Assets. Subject in all respects to Article IV hereof, and to the laws which are applicable from time to time with respect to Public Agencies of the State of Nebraska, the Trustees shall have full and complete power to sell, exchange or otherwise dispose of any and all Trust Property free and clear of any and all restrictions, at public or private sale, for cash or on terms, with or without advertisement, and subject to such restrictions, stipulations, agreements and reservations as they shall deem proper, and to execute and deliver any deed, power, assignment, bill of sale, or other instrument in connection with the foregoing. The Trustees shall also have full and complete power, subject in all respects to Article IV hereof, and in furtherance of the affairs and purposes of the Trust, to give consents and make contracts relating to Trust Property or its use.

2.5 Taxes. The Trustees shall have full and complete power: (i) to pay all taxes or assessments, of whatever kind or nature, validly and lawfully imposed upon or against the Trust or the Trustees in connection with the Trust Property or upon or against the Trust Property or income or any part thereof; (ii) to settle and compromise disputed tax liabilities; and (iii) for the foregoing purposes to make such returns and do all such other acts and things as may be deemed by the Trustees to be necessary or desirable.

- 2.6 **Rights as Holders of Trust Property.** The Trustees shall have full and complete power to exercise all of the rights, powers and privileges appertaining to the ownership of all or any Permitted Investments or other property forming part of the Trust Property to the same extent that any individual might, and, without limiting the generality of the foregoing, to vote or give any consent, request or notice or waive any notice either in person or by proxy or power of attorney, with or without the power of substitution, to one or more Persons, which proxies and powers of attorney may be for meetings or actions generally, or for any particular meeting or action, and may include the exercise of discretionary powers.
- 2.7 **Delegation; Committees.** The Trustees shall have full and complete power (consistent with their continuing exclusive authority over the management of the Trust, the conduct of its affairs, their duties and obligations as Trustees, and the management and disposition of Trust Property), to delegate from time to time to such one or more of their number (who may be designated as constituting a Committee of the Trustees, including, without limitation, the Executive Committee as provided in Section 9.10 hereof) or to officers, employees or agents of the Trust (including, without limitation, the Marketing Agent, the Administrator, the Adviser, the Associations and the Custodian) the doing of such acts and things and the execution of such instruments either in the name of the Trust, or the names of the Trustees or as their attorney or attorneys, or otherwise as the Trustees may from time to time deem expedient and appropriate in the furtherance of the business affairs and purposes of the Trust.
- 2.8 **Collection.** The Trustees shall have full and complete power: (i) to collect, sue for, receive and receipt for all sums of money or other property due to the Trust; (ii) to consent to extensions of the time for payment, or to the renewal of any securities, investments or obligations; (iii) to engage or intervene in, prosecute, defend, compromise, abandon or adjust by arbitration or otherwise any actions, suits, proceedings, disputes, claims, demands or things relating to the Trust Property; (iv) to foreclose any collateral, security or instrument securing any investments, notes, bills, bonds, obligations or contracts by virtue of which any sums of money are owed to the Trust; (v) to exercise any power of sale held by them, and to convey good title there under free of any and all trusts, and in connection with any such foreclosure or sale, to purchase or otherwise acquire title to any property; (vi) to be parties to reorganization and to transfer to and deposit with any corporation, committee, voting trustee or other Person any securities, investments or obligations of any person which form a part of the Trust Property, for the purpose of such reorganization or otherwise; (vii) to participate in any arrangement for enforcing or protecting the interests of the Trustees as the owners or holders of such securities, investments or obligations and to pay any assessment levied in connection with such reorganization or arrangement; (viii) to extend the time (with or without security) for the payment or delivery of any debts or property and to execute and enter into releases, agreements and other instruments; and (ix) to pay or satisfy any debts or claims upon any evidence or that the Trustees shall deem sufficient.
- 2.9 **Payment of Expenses.** The Trustees shall have full and complete power: (i) to incur and pay any charges or expenses which in the opinion of the Trustees are necessary or incidental to or proper for carrying out any of the purposes of this Declaration of Trust; (ii) to reimburse others for the payment therefore; and (iii) to pay appropriate compensation or fees from the funds of the Trust to Persons with whom the Trust has contracted or transacted business. The Trustees shall fix the compensation, if any, of all officers and employees of the Trust. The Trustees shall not be paid compensation for their general services as Trustees hereunder. The Trustees may pay themselves or any one or more of themselves reimbursement for expenses reasonably incurred by themselves or any one or more of themselves on behalf of the Trust.
- 2.10 **Borrowing and Indebtedness.** The Trustees shall not have the power to borrow money or incur indebtedness on behalf of the Trust.
- 2.11 **Surplus Funds.** The Trustees shall have full and complete power to place, in such manner as may now or hereafter be permitted by Law, any surplus Trust monies or funds included in the Trust Property, and intended to be used for the payment of expenses of the Trust or the Trustees, with one or more banks, trust companies or other banking institutions whether or not such surplus funds will draw interest. Such surplus funds are to be subject to withdrawal in such manner as the Trustees may determine, and the Trustees shall have no responsibility for any loss which may occur by reason of the failure of the bank, trust company or other banking institution with whom the monies, investments, or securities have been placed. Each such bank, trust company

or other banking institution shall comply, with respect to such surplus funds, with all applicable requirements of all applicable laws.

2.12 **Valuation.** The Trustees shall have full and complete power to determine in good faith conclusively the value of any of the Trust Property and to revalue the Trust Property.

2.13 **Fiscal Year; Accounts.** The Trustees shall have full and complete power to determine the fiscal year of the Trust and the method or form in which its accounts shall be kept and from time to time to change the fiscal year or method or form of accounts. Unless otherwise determined by the Trustees pursuant to this Section 2.13, the fiscal year of the Trust shall terminate on June 30 and commence on July 1 of each calendar year.

2.14 **Concerning the Trust and Certain Affiliates.**

(a) The Trust may enter into transactions with any Affiliate of the Trust or of the Administrator, the Custodian or any Affiliate or agent of any Trustee, officer, director, employee or agent of the Trust or of the Administrator, or the Custodian if (i) each such transaction (or type of transaction) has, after disclosure of such affiliation, been approved or ratified by the affirmative vote of a majority of the Trustees, including a majority of the Trustees who are not Affiliates of any Person (other than the Trust) who is a party to the transaction with the Trust and (ii) such transaction (or type of transaction) is, in the opinion of the Trustees, on terms fair and reasonable to the Trust and the Participants and at least as favorable to them as similar arrangements for comparable transactions (of which the Trustees have knowledge) with organizations unaffiliated with the Trust or with the Person who is a party to the transaction with the Trust. The Participants hereby authorize and consent to the Trust's purchase and sale of student loans (or beneficial or participation interests therein) guaranteed and insured pursuant to the Federal Higher Education Act of 1965, as amended, and loans or interests in loans or pools thereof which are guaranteed by the U.S. Small Business Administration, Farmers Home Administration or any other agency of the United States (or participations or beneficial interest therein), securities or certificates of deposit from and to Union Bank and Trust Company of Lincoln, Nebraska ("Union Bank") notwithstanding any capacity that Union Bank may be serving on behalf of the Trust including, without limitation, Custodian and Administrator.

(b) Except as otherwise provided in this Declaration of Trust or in the Laws of the State of Nebraska, in the absence of fraud, a contract, act or other transaction, between the Trust and any other Person, or in which the Trust is interested, is valid and no Trustee, officer, employee or agent of the Trust shall have any liability as a result of entering into any such contract, act or transaction even though (a) one or more of the Trustees, officers, employees or agents of such other Person, or (b) one or more of the Trustees, officers, employees, or agents of the Trust, individually or jointly with others, is a party or are parties to or directly interested in, or affiliated with, such contract, act or transaction, provided that (i) such interest or affiliation is disclosed to the Trustees and the Trustees authorize such contract, act or other transaction by a vote of a majority of the unaffiliated Trustees, or (ii) such interest or affiliation is disclosed to the Participants, and such contract, act or transaction is approved by a majority of the Participants.

(c) Any Trustee or officer, employee, or agent of the Trust may, in his personal capacity, or in a capacity as trustee, officer, director, stockholder, partner, member, agent, Adviser or employee of any Person, have business interests and engage in business activities in addition to those relating to the Trust, which interests and activities may be similar to those of the Trust and include the acquisition, syndication, holding, management, operation or disposition of securities, investments and funds, for his own account or for the account of such Person. Each Trustee, officer, employee and agent of the Trust shall be free of any obligation to present to the Trust any investment opportunity which comes to him in any capacity other than solely as Trustee, officer, employee or agent of the Trust, even if such opportunity is of a character which, if presented to the Trust, could be taken by the Trust.

(d) Subject to the provisions of Article III hereof, any Trustee or officer, employee or agent of the Trust may be interested as trustee, officer, director, stockholder, partner, member, agent, Adviser or employee of,

or otherwise have a direct or indirect interest in, any Person who may be engaged to render advice or services to the Trust, and may receive compensation from such Person as well as compensation as Trustee, officer, employee or agent of the Trust or otherwise hereunder. None of the activities and interests referred to in this paragraph (d) shall be deemed to conflict with his duties and powers as Trustee, officer, employee or agent of the Trust.

- (e) To the extent that any other provision of this Declaration of Trust conflicts with, or is otherwise contrary to the provisions of, this Section 2.14, the provisions of this Section 2.14 shall be deemed controlling.
- (f) Notwithstanding the foregoing provisions of this Section 2.14, the Trustees shall not have the power to engage in any transaction with any Affiliate that would be inconsistent with the Laws of the State of Nebraska concerning conflicts of interest, or any other law limiting the Participants' power to enter into such transaction, and the Bylaws of the Trust may contain provisions more restrictive than those set forth in this Section 2.14.

2.15 Investment Program. The Trustees shall use their best efforts to obtain through the Adviser or other qualified persons one or more continuing and suitable investment programs, consistent with the investment policies and objectives of the Trust set forth in Article IV of this Declaration of Trust, and the Trustees shall be responsible for reviewing and approving or rejecting the investment program presented by the Adviser or such other Persons. Subject to the provisions of Section 2.7 and Section 3.1 hereof, the Trustees may delegate functions arising under this Section 2.15 to one or more of their number or to the Adviser.

2.16 Power to Contract, Appoint, Retain, and Employ.

(a) Subject to the provisions of Section 2.7 and Section 3.1 hereof with respect to delegation of authority by the Trustees, the Trustees shall have full and complete power to appoint, employ, retain, or contract with any Person of suitable qualifications (including one or more of themselves and any corporation, partnership, trust or other entity of which one or more of them may be an Affiliate, subject to the applicable requirements of Section 2.14 hereof) as the Trustees may deem necessary, or desirable for the transaction of the affairs of the Trust, including any person or Persons who, under the supervision of the Trustees, may, among other things: (i) serve as the Trust's investment Adviser and consultant in connection with policy decisions made by the Trustees; (ii) serve as the Trust's administrator or co-administrators; (iii) furnish reports to the Trustees and provide research, economic and statistical data in connection with the Trust's investments; (iv) act as consultants, accountants, technical Advisers, attorneys, brokers, underwriters, corporate fiduciaries, escrow agents, depositories, custodians or agents for collection, insurers or insurance agents, registrars for Units or in any other capacity deemed by the Trustees to be necessary or desirable; (v) investigate, select, and, on behalf of the Trust, conduct relations with Persons acting in such capacities and pay appropriate fees to, and enter into appropriate contract with, or employ, or retain services performed or to be performed by, any of them in connection with the investments acquired, sold, or otherwise disposed of, or committed, negotiated, or contemplated to be acquired, sold or otherwise disposed of; (vi) substitute any other Person for any such Person; (vii) act as attorney-in-fact or agent in the purchase or sale or other disposition of investments, and in the handling, prosecuting or other enforcement of any lien or security securing investments; and (viii) assist in the performance of such ministerial functions necessary in the management of the Trust as may be agreed upon with the Trustees.

(b) The manner of employing, engaging, compensating, transferring, or discharging any person as an employee of the Trust shall be subject to Nebraska law. For purposes of the preceding sentence, "employee of the Trust" shall not include independent contractors such as the Marketing Agent, the Adviser, the Administrator, the Custodian, the Associations, counsel or independent accountants and their respective employees.

2.17 Insurance. The Trustees shall have full and complete power to purchase and pay for, entirely out of Trust Property, insurance policies insuring the Trust and the Trustees, officers, employees and agents, of the Trust individually against all claims and liabilities of every nature arising by reason of holding or having held any such

office or position, or by reason of any action alleged to have been taken or omitted by the Trust or any such Person as Trustee, officer, employee and agent, including any action taken or omitted that may be determined to constitute negligence, whether or not the Trust would have the power to indemnify such Person against such liability.

- 2.18 **Seal.** The Trustees shall have full and complete power to adopt and use a seal for the Trust, but, unless otherwise required by the Trustees, it shall not be necessary for the seal to be placed on, and its absence shall not impair the validity of, any document, instrument or other paper executed and delivered by or on behalf of the Trust.
- 2.19 **Indemnification.** In addition to the mandatory indemnification provided for in Section 5.3 hereof, the Trustees shall have full and complete power, to the extent permitted by applicable Laws, to indemnify or enter into agreements with respect to indemnification with any Person with whom the Trust has dealings, including, without limitation, the Trustees, the Marketing Agent, the Adviser, the Administrator, and the Custodian, to such extent as the Trustees shall determine, to the fullest extent permitted by then applicable law.
- 2.20 **Remedies.** Notwithstanding any provision in this Declaration of Trust, when the Trustees deem that there is a significant risk that an obligor to the Trust may default or is in default under the terms of any obligation to the Trust, the Trustees shall have full and complete power to pursue any remedies permitted by Law which, in their sole judgment, are in the interests of the Trust, and the Trustees shall have full and complete power to enter into any investment, commitment or obligation of the Trust resulting from the pursuit of such remedies as are necessary or desirable to dispose of property acquired in the pursuit of such remedies.
- 2.21 **Information Statement.** The Trustees shall have full and complete power to prepare, publish, and distribute an Information Statement and other informational or instructional material regarding the Trust and to amend or supplement the same from time to time.
- 2.22 **Further Powers.** The Trustees shall have full and complete power to take all such actions, do all such matters and things and execute all such instruments as they deem necessary, proper or desirable in order to carry out, promote or advance the interests and purposes of the Trust although such actions, matters or things are not herein specifically mentioned. The Trustees, to the extent not inconsistent with the powers enumerated herein, shall have all powers enumerated for Trustees under Section 30-2821, R.R.S., or other Nebraska law. Any determination as to what is in the best interests of the Trust made by the Trustees in good faith shall be conclusive. In construing the provisions of this Declaration of Trust, the presumption shall be in favor of a grant of power to the Trustees. The Trustees shall not be required to obtain any court order to deal with the Trust Property.
- 2.23 **Compliance with Laws.** The Trustees shall at all times exercise all powers granted hereunder in compliance with, and the operations of the trust shall be conducted with, applicable laws of the State of Nebraska.

ARTICLE III

The Marketing Agent, the Investment Adviser, the Associations, and the Administrator

- 3.1 **Appointment.** The Trustees are responsible for the general investment policy and program of the Trust and for the general supervision and administration of the business and affairs of the Trust conducted by the officers, agents, employees, investment Advisers, administrators, or independent contractors of the Trust. The Trustees are not, however, required personally to conduct all of the routine business of the Trust and, consistent with their ultimate responsibility as stated herein, the Trustees may appoint, employ or contract with, the Adviser as an investment Adviser to the Trustees, the Administrator as an Administrator for the Trust, the Marketing Agent as a Marketing and Sales Agent of the Trust and the Associations as a provider of clerical and administrative services,, and may grant or delegate such authority to the Adviser, the Administrator, the Associations or the Marketing Agent (pursuant to the terms of Section 2.16 hereof) or to any other Person the services of whom are obtained by the Adviser or the Administrator, as the Trustees, in their sole discretion, deem to be necessary or

desirable for the efficient management of the Trust. The Trustees may appoint one or more persons to serve jointly as Co-Advisers and one or more persons to serve jointly as Co-Administrators. The same person may serve simultaneously as the Administrator and the Custodian.

- 3.2 **Duties of the Adviser.** The duties of the Adviser shall be those set forth in the Investment Advisory Agreement to be entered into between the Trust and the Adviser. Such duties may be modified by the Trustees, from time to time, by the amendment of the Investment Advisory Agreement. Subject to Article IV hereof, the Trustees may authorize the Adviser to effect purchases, sales, or exchanges of Trust Property on behalf of the Trustees or may authorize any officer, employee, agent, or Trustee to affect such purchases, sales, or exchanges pursuant to recommendations of the Adviser, all without further action by the Trustees. The Investment Advisory Agreement may authorize the Adviser to employ other persons to assist it in the performance of its duties.
- 3.3 **Duties of the Administrator.** The duties of the Administrator shall be those set forth in the Administration Agreement to be entered into between the Trust and the Administrator. Such duties may be modified by the Trustees, from time to time, by the amendment of the Administration Agreement.
- 3.4 **Duties of the Marketing Agent.** The duties of the Marketing Agent shall be those set forth in the Marketing Agreement to be entered into between the Trust and the Marketing Agent. Such duties may be modified by the Trustees, from time to time, by the amendment of the Marketing Agreement.
- 3.5 **Duties of the Associations.** The duties of the Associations shall be those set forth in the license agreement to be entered into between the Trust and the respective Associations. Such duties may be modified, from time to time, by the amendment of the license agreement. The Trust shall accrue an amount (the "Association Fee") equal to 0.100% (ten basis points) of the Trust's average daily net assets to be paid to Associations as set forth in the license agreement. The Association Fee shall be calculated daily and paid monthly. If a Participant is a member in good standing of an Association for the entirety of a monthly period, then all of the Association Fee attributable to that Participant's average daily net assets shall be paid to the applicable Association to which the Participant belongs. If a participant is not a member in good standing of an Association for the entirety of a monthly period, then the Association Fee attributable to that Participant's average daily net assets shall be paid in equal pro rata shares to each of the Associations. The Association Fee shall be paid to Associations for administrative services provided to the Trust, including without limitation, clerical and administrative services.
- 3.6 **Successors.** In the event that, at any time, the position of Adviser, Administrator, or of Marketing Agent shall become vacant, for whatever reason, the Trustees may appoint, employ or contract with a successor Adviser, Administrator, Associations or Marketing Agent.

ARTICLE IV **Investments**

- 4.1 **Statement of Investment Policy and Objective.** Subject to the prohibitions and restrictions contained in Section 4.2 hereof, the general investment policy and objective of the Trustees shall be to provide to the Participants of the Trust a high investment yield, while maintaining liquidity and preserving capital by investing in Permitted Investments in accordance with applicable provisions of Law as may be set forth more fully in the Trust's Information Statement, as the same may be amended from time to time.
- 4.2 **Restrictions.** Notwithstanding anything in this Declaration of Trust which may be deemed to authorize the contrary, the Trust:
- (a) May not make any investment other than investments authorized by provisions of law applicable to the investment of funds by the Participants, as the same may be amended from time to time;
 - (b) May not borrow money or incur indebtedness on behalf of the Trust whether or not the proceeds thereof are intended to be used to purchase Permitted investments;

- (c) May not make loans, provided that the Trust may make Permitted Investments;
- (d) May not become a subscriber to, or owner of, the capital stock or any portion or interest therein of any railroad, private corporation or association; and
- (e) May not deposit funds in state or federally chartered mutual savings and loan associations.

4.3 **Restrictions as Fundamental to the Trust.** The restrictions set forth in Section 4.3 hereof are fundamental to the operation and activities of the Trust and may not be changed without the affirmative vote of a majority of the Participants entitled to vote, except that such restrictions may be changed by the Trustees when necessary to conform the investment programs and activities of the Trust to the laws of the State of Nebraska and the United States of America as they may from time to time be amended.

ARTICLE V

Limitations of Liability

- 5.1 **Liability to Third Persons.** No Participant shall be subject to any personal liability whatsoever, in tort, contract or otherwise to any other Person or Persons in connection with Trust Property or the affairs of the Trust; and no Trustee, officer, employee or agent (including, without limitation, the Marketing Agent, the Adviser, the Administrator and the Custodian) of the Trust shall be subject to any personal liability whatsoever in tort, contract or otherwise, to any other Person or Persons in connection with Trust Property or the affairs of the Trust; and all such other Persons shall otherwise look solely to the Trust Property for satisfaction of claims of any nature arising in connection with the affairs of the Trust.
- 5.2 **Liability to the Trust or to the Participants.** No Trustee, officer, employee or agent (including, without limitation, the Marketing Agent, the Adviser, the Administrator and the Custodian) of the Trust shall be liable to the Trust or to any Participant, Trustee, officer, employee or agent (including, without limitation, the Adviser, the Administrator and the Custodian) of the Trust for any action or failure to act (including, without limitation, the failure to compel in any way any former or acting Trustee to redress any breach of trust) except for a claim based upon acts or omissions which involve intentional misconduct or negligence.
- 5.3 **Indemnification.** The Trust shall indemnify and hold each Participant, Trustee, officers, employees and agents of the Trust (including, without limitation, the Marketing Agent, the Adviser, the Administrator and the Custodian and their respective officers, employees and agents) harmless from and against any and all claims, demands, causes of action, suits, settlements and liabilities, whether they proceed to judgment or are settled or otherwise brought to a conclusion, (including, without limitation, reasonable attorneys fees and litigation costs) to which such Persons may become subject by reason of or arising out of participation in this Trust, implementation of this Declaration of Trust and any other services rendered to the Trust or Trustees, except those that also constitute intentional misconduct or negligence. The rights accruing to a Participant under this Section 5.3 shall not exclude any other right to which such Participant may be lawfully entitled, nor shall anything herein contained restrict the right of the Trust to indemnify or reimburse a Participant in any appropriate situation even though not specifically provided herein.
- 5.4 **Surety Bonds.** No Trustee shall, as such, be obligated to give any bond or surety or other security for the performance of any duties.
- 5.5 **Apparent Authority.** No purchaser, seller, transfer agent or other Person dealing with the Trustees or any officer, employee or agent of the Trust shall be bound to make any inquiry concerning the validity of any transaction purporting to be made by the Trustees or by such officer, employee or agent or make inquiry concerning or be liable for the application of money or property paid, transferred or delivered to or on the order of the Trustees or of such officer, employee or agent.

- 5.6 **Recitals.** Any written instrument creating an obligation of the Trust shall be conclusively taken to have been executed by a Trustee or an officer, employee or agent of the Trust only in his capacity as a Trustee under this Declaration of Trust or in his capacity as an officer, employee, or agent of the Trust. Any written instrument creating an obligation of the Trust shall refer to this Declaration of Trust and contain a recital to the effect that the obligations there under are not personally binding upon, nor shall resort be had to the property of, any of the Trustees, Participants, officers, employees or agents of the Trust, and that only the Trust Property or a specific portion thereof shall be bound, and such written instrument may contain any further similar recital which may be deemed appropriate; provided, however, that the omission of any recital pursuant to this Section 5.6 shall not operate to impose personal liability on any of the Trustees, Participants, officers, employees or agents of the Trust.
- 5.7 **Reliance on Experts, Etc.** Each Trustee and each officer of the Trust shall, in the performance of duties, be fully and completely justified and protected with regard to any act or any failure to act resulting from reliance in good faith upon the books of account or other records of the Trust, upon an opinion of counsel or upon reports made to the Trust by any of its officers or employees or by the Adviser, the Administrator, the Custodian, accountants, appraisers or other experts or consultants selected with reasonable care by the Trustees or officers of the Trust.
- 5.8 **Liability Insurance.** The Trust shall, if the Trustees acting in their discretion deem it to be appropriate, maintain liability insurance for the protection of the Trust Property, and the Trustees, Participants, officers, employees and agents of the Trust in such amount as the Trustees, in their discretion, shall deem adequate to cover foreseeable tort and contract liability to the extent available at reasonable rates.
- 5.9 **Nonliability.** This Declaration of Trust shall not create any right, title, privilege, or entitlement in any person, corporation, or other legal entity except a Participant and a Person that has a direct and written contract with the Trust. The terms of this Declaration of Trust are not intended to and shall not be construed to create any cause of action, legal or equitable, in any Person against the Trust or its agents except as is provided by the specific terms in written agreements entered into by the Trustee. It is not intended and the terms of this Declaration shall not be construed so that any breach thereof by Participants, Trustees, officers, employees or agents of the Trust creates an action at common law, tort, contract or otherwise. Nothing in this Declaration of Trust shall be construed as constituting the waiver of any immunity from liability available to the Trust or the Trustees, Participants, officers, employees or agents of the Trust pursuant to any applicable provision of law.

ARTICLE VI

Interests of Participants

- 6.1 **General.** The beneficial interest of the Participants hereunder in the Trust Property and the earnings thereon shall, for convenience of reference, be divided into Units of one or more series, which shall be used as units to measure the proportionate allocation to the respective Participants of the beneficial interest in the series in which they are participating. The number of Units that may be used to measure and represent the proportionate allocation of beneficial interest among the Participants is unlimited. All Units shall be of one class representing equal distribution, liquidation and other rights.

The beneficial interest hereunder measured by the Units shall not entitle a Participant to preference, preemptive, appraisal, conversion, or exchange rights of any kind with respect to the Trust or the Trust Property. Title to the Trust Property of every description and the right to conduct any affairs hereinbefore described are vested in the Trustees on behalf, and for the beneficial interest, of the Participants, and the Participants shall have no interest therein other than the beneficial interest conferred hereby and measured by their Units, and they shall have no right to call for any partition or division of any property, profits, rights or interests of the Trust nor can they be called upon to share or assume any losses of the Trust or suffer an assessment of any kind by virtue of the allocation of Units to them, except as provided in Section 10.2 hereof.

6.2 Allocation of Units.

- (a) The Trustees shall credit a Participant with additional Units upon receipt of funds (including, without limitation, income from the investment or Trust Property) for the account of such Participant, based on the net asset value per Unit as determined pursuant to Section 10.1 hereof. In connection with any allocation of Units, the Trustees may allocate fractional Units. The Trustees may from time to time adjust the total number of Units allocated without thereby changing the proportionate beneficial interests in the Trust. Changes in the number of allocated Units may be made in order to maintain a constant net asset value per Unit as set forth in Section 10.2 hereof. Units shall be allocated and redeemed as whole Units and/or one-hundredths (1/100ths) of a Unit or multiples thereof.
- (b) Units may be allocated only to a Public Agency organized and existing under the laws of the State of Nebraska which has become a Participant of the Trust in accordance with Section 1.2. hereof. Each Participant may establish more than one account within the Trust for such Participant's convenience.
- (c) The minimum amount of funds which may be placed in the Trust by a Participant at any one time shall be determined by the Trustees from time to time. Unless otherwise determined by the Trustees pursuant to this paragraph (c) of this Section 6.2, the minimum amount of funds which may be placed in the Trust by a Participant at any one time shall be One Dollar (\$1.00).

6.3 Evidence of Unit Allocation. Evidence of Unit Allocation shall be reflected in the Unit Register maintained by or on behalf of the Trust pursuant to Section 7.1 hereof, and the Trust shall not be required to issue certificates as evidence of Unit allocation.

6.4 Reduction to Maintain Constant Net Asset Value. The Units of the Trust shall be subject to reduction in number pursuant to the procedure for reduction of Units set forth in Section 10.2 hereof in order to maintain a constant net asset value per Unit.

6.5 Withdrawals. Monies may be withdrawn from the Trust at the option of the Participant, upon and subject to the terms of this Declaration of Trust. The Trust shall, upon application of any Participant, promptly pay to such Participant all or a portion of the interest of such Participant in the Trust, and reduce the number of Units allocated to such Participant's proportionate interest in the net assets of the Trust after such withdrawal of moneys. The procedure for effecting a withdrawal shall be as adopted by the Trustees and as set forth in the Information Statement of the Trust, as the same may be amended from time to time; provided, however, that such procedure shall not be structured so as to substantially and materially restrict the ability of the Participants promptly to withdraw moneys from the Trust.

6.6 Suspension of Right to Withdraw; Postponement of Payment. Each Participant, by its adoption of this Declaration of Trust, agrees that the Trustees may, without the necessity of a formal meeting of the Trustees, temporarily suspend the right of withdrawal or postpone the date of payment pursuant to withdrawal requests for the whole or any part of any period (i) during which there shall have occurred any state of war, national emergency, banking moratorium or suspension of payments by banks in the State of Nebraska or any general suspension of trading or limitation of prices on the New York or American Stock Exchange (other than customary weekend and holiday closings) or (ii) during which any financial emergency situation exists as a result of which disposal by the Trust of Trust Property is not reasonably practicable because of the substantial losses which might be incurred or it is not reasonably practicable for the Trust fairly to determine the value of its net assets. Such suspension or postponement shall not alter or affect a Participant's beneficial interest hereunder as measured by its Units or the accrued interest and earnings thereon. Such suspension or payment shall take effect at such time as the Trustee shall specify but not later than the close of business on the business day next following the declaration of suspension, and thereafter there shall be no right of withdrawal or payment until the Trustees shall declare the suspension or postponement at an end, except that the suspension or postponement shall terminate in any event on the first day on which the period specified in clause (i) or (ii) above shall have expired (as to which, the determination of the Trustees shall be conclusive). In the case of a suspension of the right of withdrawal or a postponement of payment pursuant to a withdrawal request, a Participant may either (i)

withdraw its request for withdrawal or (ii) receive payment based on the net asset value existing after the termination of the suspension.

- 6.7 **Minimum Withdrawal.** There shall be no minimum amount which may be withdrawn at any one time at the option of a Participant; provided, however, that no request by a Participant for the withdrawal of less than one whole dollar (\$1.00) need be honored.
- 6.8 **Defective Withdrawal Requests.** In the event that a Participant shall submit a request for the withdrawal of a greater amount than is then credited to the account of such Participant, such request shall not be honored and, each Participant, by its adoption of this Declaration of Trust, agrees that the Trustees shall have full and complete power to withdraw funds from the account of a Participant and to reduce proportionately the number of Units allocated to such Participant, in an amount sufficient to reimburse the Trust for any fees, expenses, costs or penalties actually incurred by the Trust as the result of such defective withdrawal request.

ARTICLE VII Record and Transfer of Units

- 7.1 **Unit Register.** The Unit Register shall be kept by or on behalf of the Trustees, under the direction of the Trustees, and shall contain (i) the names and addresses of the Participants, (ii) the number of Units of each series representing their respective beneficial interests hereunder and (iii) a record of all allocations and withdrawals thereof. Such Unit Register shall be conclusive as to the identity of the Participants to which the Units are allocated. Only Participants whose allocation of Units is recorded on such Unit Register shall be entitled to receive distributions with respect to Units or otherwise to exercise or enjoy the rights and benefits related to the beneficial interest hereunder represented by the Units. No Participant shall be entitled to receive any distribution, nor to have notices given to it as herein provided, until it was given its appropriate address to such officer or agent of the Trust as shall keep the Unit Register for entry thereon.
- 7.2 **Registrar.** The Trustees shall have full and complete power to employ a registrar. Unless otherwise determined by the Trustees, the Unit Register shall be kept by the Administrator which shall serve as the registrar for the Trust. The registrar shall record the original allocations of Units in the Unit Register. Such registrar shall perform the duties usually performed by registrars of certificates and shares of stock in a corporation, except as such duties may be modified by the Trustees.
- 7.3 **Owner of Record.** No Person becoming entitled to any Units in consequence of the merger, reorganization, consolidation, bankruptcy or insolvency of any Participant or otherwise, by operation of Law, shall be recorded as the Participant to which such Units are allocated and shall only be entitled to the redemption value of such Units. Until the Person becoming entitled to such redemption value shall apply for the payment thereof and present any proof of such entitlement as the Trustees may in their sole discretion deem appropriate, the Participant of record to which such Units are allocated shall be deemed to be the Participant to which such Units are allocated for all purposes hereof, and neither the Trustees nor the registrar nor any officer or agent of the Trust shall be affected by any notice of such merger, reorganization, consolidation, bankruptcy, insolvency or other event.
- 7.4 **No Transfers of Units.** The beneficial interests measured by the Units shall not be transferrable, in whole or in part, other than to the Trust itself for purposes of effectuating a withdrawal of funds.
- 7.5 **Limitation of Fiduciary Responsibility.** The Trustees shall not, nor shall the Participants or any officer, registrar or other agent of the Trust, be bound to see to the execution of any trust, express, implied or constructive, or of any charge, pledge or equity to which any of the Units or any interest therein are subject, or to ascertain or inquire whether any withdrawal of funds by any Participant or its representatives is authorized by such trust, charge, pledge or equity, or to recognize any Person as having any interest therein except the Participant recorded as the Participant to which such Units are allocated. The receipt of the Participant in whose name any Unit is recorded or of the duly authorized agent of such Participant shall be a sufficient discharge for

all monies payable or deliverable in respect of such Units and from all liability to see to the proper application thereof.

- 7.6 **Notices.** Any and all notices to which Participants hereunder may be entitled and any and all communications shall be deemed duly served or given if mailed, postage prepaid, addressed to Participants of record at their last known post office addresses as recorded on the Unit Register provided for in Section 7.1 hereof.

ARTICLE VIII **Participants**

- 8.1 **Voting.** Each Participant shall be entitled to one vote, notwithstanding the number of Units held by such Participant in relation to the other Participants, with respect to the matters set forth in Section 8.7 hereof. It shall not be necessary for a Participant to hold any minimum number of Units on the record date of any meeting in order to be entitled to vote at such meeting. Participants shall not be entitled to cumulative voting except as the Trustees may determine.
- 8.2 **Meetings of Participants.**
- (a) **Annual Meetings.** Annual meetings of the Participants shall be held annually at such time and at such place within the State of Nebraska as the Trustees shall designate. The business transacted at such meeting shall include the election of Trustees using either a voice vote or ballot method of election as determined by the Participants at such annual meeting and may include the transaction of such other business as Participants may be entitled to vote upon as hereinafter provided in this Article VIII, or as the Trustees may determine.
- (b) **Special Meetings.** Special meetings of the Participants may be called at any time by a majority of the Trustees and shall be called by any Trustee upon written request of not less than ten percent (10%) of the Participants, such request specifying the purpose or purposes for which such meeting is to be called. Any such meeting shall be held within the State of Nebraska at such place, on such day and at such time as the Trustees shall designate.
- 8.3 **Quorums.** A majority of the Participants entitled to vote at such meeting present in person (including participation by conference telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other) or by proxy shall constitute a quorum at any annual or special meeting.
- 8.4 **Notice of Meetings.** Notice of annual meetings or special meetings of the Participants, stating the time, place, and purposes of the meeting and the name, telephone number and address of the Trust, which notice shall be posted at the principal office of Trust at least ten (10) days prior to the meeting of the Participants. For a rescheduled annual or special meeting the notice stating the date, time and place of the meeting shall be posted before the meeting. Only the business stated in the notice of the meeting or the agenda therefore shall be considered at such meeting. Any adjourned meeting may be held as adjourned without further notice. Any notice or other action required by any "open meeting" or similar law whether now or hereafter in effect shall also be complied with.
- 8.5 **Record Date for Meetings.** For the purpose of determining the Participants that are entitled to vote or act at any meeting or any adjournment thereof, or who are entitled to participate in any dividend or distribution, or for the purpose of any other action, the Trustees may from time to time fix a date not more than thirty (30) days prior to the date of any meeting of Participants or other action as a record vote for the determination of Participants entitled to vote at such meeting or any adjournment thereof or to be treated as holders of record of Units for purposes of such other action, except for dividend payments which shall be governed by Section 10.3 hereof. Any Participant which was a Participant at the time so fixed shall be entitled to vote at such meeting or any adjournment thereof, even though it then held no Units or has since that date disposed of its Units. No

Participant becoming such after that date shall be so entitled to vote at such meeting or any adjournment thereof or to be treated as a holder of record of Units for purposes of such other action.

8.6 **Inspection of Records.** The records of the Trust shall be open to inspection by Participants at all reasonable times.

8.7 **Voting Rights of Participants.** The Participants shall be entitled to vote as a matter of right only upon the following matters: (a) election of Trustees as provided in Section 9.1 and Section 9.3 hereof; (b) amendment of the Declaration of Trust or termination of this Trust as provided in Article XIII hereof; and (c) reorganization of this Trust as provided in Section 13.2 hereof. Except with respect to the foregoing matters specified in this Section 8.7, no action taken by the Participants at any meeting shall in any way bind the Trustees.

ARTICLE IX **Trustees and Officers**

9.1 **Number and Qualifications.**

- (a) The governing body of the Trust shall be the Board of Trustees, the membership of which shall be determined as hereinafter provided. The number of voting Trustees shall initially be thirteen (13) and shall thereafter be fixed from time to time by resolution of a majority of the Trustees then in office, provided, however, that the number of voting Trustees shall in no event be less than three (3) or more than fifteen (15).
- (b) Any vacancy created by an increase in the number of Trustees may be filled by the appointment of an individual having the qualifications described in this Section 9.1 made by a resolution of a majority of the Trustees then in office. Any such appointment shall not become effective, however, until the individual named in the resolution of appointment shall have (i) accepted in writing such appointment, and (ii) agreed in writing to be bound by the terms of this Declaration of Trust. No reduction in the number of Trustees shall have the effect of removing any Trustee from office prior to the expiration of his term.
- (c) Whenever a vacancy in the number of Trustees shall occur, until such vacancy is filled as provided in Section 9.6 hereof, the Trustees or Trustee continuing in office, regardless of their number, shall have all the powers granted to the Trustees and shall discharge all the duties imposed upon the Trustees by this Declaration of Trust.
- (d) A Trustee shall be an individual who is not under legal disability and who is (i) a member of the Governing Body of a Public Agency which is a Participant (whether initial or additional) of the Trust; or (ii) an officer or employee of a Participant (whether initial or additional) of the Trust; provided, however, that if an organizational Trustee is not a member of the Governing Body or an officer or employee of a Public Agency which is a Participant, such organizational Trustee shall resign if the Public Agency with which he or she is affiliated does not become a Participant within one hundred twenty (120) days of the date of this Declaration of Trust and the vacancy thereby resulting shall be filled in the manner provided in Section 9.6 hereof. With the exception of the organizational Trustees referred to in Section 9.2 hereof who shall serve until the first election of Trustees pursuant to Section 9.4 hereof (except as otherwise indicated in this Section 9.1) or any Trustees who become such prior to the first election of Trustees pursuant to Section 9.4 hereof, there shall be no more than one Trustee affiliated as a Governing Body's member or officer or employee with any one Participant; provided, however, that no Trustee shall be disqualified from serving out an unexpired term by reason of such prohibition.
- (e) The Trustees, in their capacity as Trustees, shall not be required to devote their entire time to the business and affairs of the Trust.

- (f) The Trustees may, from time to time, by resolution require that certain classes of Participants or Public Agencies be represented on the Board of Trustees. Such resolutions requiring representation of classes may also provide for shorter terms of office than required under Section 9.3 hereof. A resolution altering the composition of the Board of Trustees shall become effective with respect to a Trustee upon expiration of that particular Trustee's term of office.
- (g) The executive directors of the Associations shall be ex officio non-voting members of the Board of Trustees who shall not be counted in the determination of a quorum, and the term "Trustee" as used herein shall not refer to such ex officio nonvoting members unless otherwise expressly stated.

9.2 **Organizational Trustees.** By the execution of this Declaration of Trust, the Initial Participants appoint the following thirteen (13) individuals to serve as Trustees until the first election of Trustees pursuant to Section 9.4 hereof and until their successors shall have been elected and qualified.

See Exhibit A, attached hereto and incorporated herein by this reference.

9.3 **Term of Office.** In connection with the first election of Trustees pursuant to Section 9.4 hereof, the Trustees shall be divided into three classes, as equal in number as practicable, so arranged that the term of one class shall expire on October 1st of each year for the years 1998, 1999 and 2000. At all annual elections of Trustees thereafter the Trustees to be elected shall be elected to serve for a term of three (3) years and until their successors shall be elected and qualify. Any addition made to the number of Trustees, except by vote of the Participants, shall be made only for a term expiring at the next annual election of Trustees by the Participants or until a successor shall be elected and qualify. At the annual election of Trustees by the Participants next following any addition to the number of Trustees, or, in the case of any addition to the number of Trustees made at an annual election of Trustees by the Participants, in connection with such election, the terms of the additional Trustees shall be fixed so that, as nearly as shall be practicable, an equal number of terms shall expire on October 1st of each year. Trustees may succeed themselves in office.

9.4 **Election of Trustees.**

- (a) The Board of Trustees shall nominate candidates for membership on the Board of Trustees. These nominations may be announced to the participants at the annual meeting. Participants may nominate additional candidates for membership on the Board of Trustees at the annual meeting.
- (b) Each Participant shall determine its selection upon the candidates nominated. The voting for membership on the Board of Trustees may occur by ballot or voice vote as determined by the Participants at the annual meeting.
- (c) In the event of a tie, the results of the election will be determined by lot. Election shall require the affirmative vote of a majority of the Participants entitled to vote.
- (d) The Board of Trustees shall record in the minutes of the Participants' meeting the results of the election.
- (e) A person shall not be qualified for the office of Trustee unless and until such person shall have (i) in writing accepted his/her election; (ii) agreed in writing to be bound by the terms of this Declaration of Trust; and, (iii) presented evidence in writing of the granting of an authorization by the Participant with which he/she is affiliated as a Governing Body's member or officer or employee of a Public Agency for him/her to serve as a trustee.

9.5 **Resignation and Removal.** Any Trustee may resign (without need for prior or subsequent accounting) by an instrument in writing signed by him and delivered to the Trust and such resignation shall be effective upon such delivery, or at the later date according to the terms of the notice. Any of the Trustees may be removed (provided that the aggregate number of Trustees after such removal shall not be less than the minimum number required by Section 9.1 hereof) with cause, by the action of two-thirds (2/3) of the remaining Trustees.

9.6 Vacancies.

- (a) The term of office of a Trustee shall terminate and a vacancy shall occur in the event of the death, resignation, bankruptcy, adjudicated incompetence or other incapacity to exercise the duties of the office, or removal of a Trustee. If a Trustee shall no longer be a Governing Body's member or officer or employee of a Public Agency or if the Public Agency with which he/she is affiliated shall no longer be a Participant, such Person shall, upon the expiration of a sixty (60) day period following the occurrence of such event, no longer be a Trustee and a vacancy will be deemed to have occurred, unless such Person shall have become a Governing Body's member or officer or employee of a Public Agency which is a Participant within such sixty (60) day period and shall have presented evidence in writing of the granting of an authorization by the Participant with which he is then affiliated as a Governing Body's Member of officer or employee of a Public Agency for him/her to serve as a Trustee.
- (b) No such vacancy shall operate to annul this Declaration of Trust or to revoke any existing agency created pursuant to the terms of this Declaration of Trust. In the case of an existing vacancy (other than by reason of an increase in the number of Trustees), at least a majority of the Trustees continuing in office acting by resolution may fill such vacancy for the remainder of the unexpired term of the person who created such vacancy unless otherwise determined by the Participants at an annual or special Participants' meeting. Any Trustees so appointed shall hold office until a successor has been duly elected and has qualified to serve as Trustee.
- (c) No such election or appointment as provided in this Section 9.6 shall become effective unless or until the new Trustee shall have qualified for the office of Trustee as provided in Section 9.4.

9.7 Meetings

- (a) Meetings of the Board of Trustees shall be held from time to time upon the call of the Chairperson, the Vice Chairperson, the Secretary, or any two Trustees. Regular meetings of the Trustees may be held without call or notice at a time and place fixed by the Bylaws or by resolution of the Trustees. Notice of any other meeting shall be mailed or otherwise given not less than 48 hours before the meeting but may be waived in writing by any Trustee either before or after such meeting. Any notice required by any "open meeting", or similar law, whether now or hereafter in effect, shall also be given. The attendance of a Trustee at a meeting shall constitute a waiver of notice of such meeting except where a Trustee attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened. A quorum for all meetings of the Trustees shall be a majority of the Trustees. Subject to Section 2.14 hereof and unless specifically provided otherwise in this Declaration of Trust, any action of the Trustees may be taken at a meeting by vote of a majority of the Trustees present (a quorum being present). Any agreement, or other instrument or writing executed by one or more of the Trustees or by any authorized Person shall be valid and binding upon the Trustees and upon the Trust when authorized or ratified by action of the Trustees as provided in this Declaration of Trust.
- (b) A quorum for all meetings of any committee of the Trustees shall be a majority of the members thereof. Notice of such meeting, including such notice as may be required by any "open meeting" or similar Law, shall be given as provided in Section 9.7(a). Unless otherwise specifically provided in this Declaration of Trust, any action of any such committee may be taken at a meeting by vote of a majority of the members present (a quorum being present).
- (c) With respect to actions of the Trustees and any committee thereof, Trustees who are affiliated within the meaning of Section 2.14 hereof or otherwise interested in any action to be taken may be counted for quorum purposes under this Section 9.7 and shall be entitled to vote.
- (d) All or any one or more of the Trustees may participate in a meeting of the Trustees or any committee thereof by utilizing conference telephone or similar communications equipment by means of which all persons participating in the meeting, including members of the public, can hear each other and

participation in a meeting pursuant to such communications shall constitute presence in person at such meeting.

- 9.8 **Officers.** The Trustees shall annually elect, from among their numbers, a Chairperson who shall be the chief officer of the Trust and a Vice Chairperson who shall have such duties as the Trustees shall deem advisable and appropriate. The Trustees may elect or appoint, from among their number or otherwise, or may authorize the Chairperson to appoint a Treasurer and a Secretary, one or more Assistant Secretaries and Assistant Treasurers and such other officers or agents, who shall have such powers, duties and responsibilities as the Trustees may deem to be advisable and appropriate. Two or more officers, except those of Chairperson, Vice Chairperson, Treasurer, and Secretary, may be held by the same person. The Treasurer and the Secretary, if not themselves Trustees, shall attend meetings of the Trustees but shall have no voting power thereat.
- 9.9 **Bylaws.** The Trustees may adopt and, from time to time, amend or repeal Bylaws for the conduct of the business of the Trust, and in such Bylaws, among other things, may define the duties of the respective officers, agents, employees, and representatives of the Trust.
- 9.10 **Executive and Other Committees.**
- (a) The Trustees may, but shall not be required to, elect from their own number an Executive Committee to consist of not less than two members, which number shall include the Chairperson of the Board of Trustees, who shall be a voting member thereof. The Executive Committee shall be elected by a resolution passed by a vote of at least a majority of the Trustees then in office. The Trustees may also elect or appoint from time to time from their own number other committees consisting of one or more persons, the number composing such committees and the powers conferred upon the same to be determined by vote of the Trustees.
 - (b) Vacancies occurring in the Executive Committee from any cause shall be filled by the Trustees by a resolution passed by the vote of at least a majority of the Trustees then in office.
 - (c) All action by the Executive Committee shall be reported to the Trustees at their meeting next succeeding such action.
 - (d) During the intervals between the meetings of the Trustees, the Executive Committee, except as limited by the Bylaws or by specific directions of the Trustees, shall possess and may exercise all the powers of the Trustees in the management and direction of the business and conduct of the affairs of the Trust in such manner as the Executive Committee shall deem to be in the best interests of the Trust, and shall have power to authorize the seal of the Trust to be affixed to all instruments and documents requiring same.
- 9.11 **Reports.** The Trustees shall cause to be prepared at least annually (i) a report of operations containing a statement of assets and liabilities and statements of operations and of changes in net assets of the Trust prepared in conformity with generally accepted accounting principles and (ii) an opinion of an independent certified public accountant on such financial statements based on an examination of the books and records of the Trust made in accordance with generally accepted auditing standards. A signed copy of such report and opinion shall be filed with the Trustees within ninety (90) days after the close of the period covered thereby. Copies of such reports shall be mailed to all Participants of record within a reasonable period preceding the annual election of Trustees. The Trustees shall, in addition, furnish to the Participants, at least semi-annually an interim report containing an unaudited balance sheet of the Trust as at the end of such quarterly period and statements of operations and changes in net assets for the period from the beginning of the then current fiscal year to the end of such period.

ARTICLE X

Determination of Net Asset Value and Net Income; Distributions to Participants

- 10.1 **Net Asset Value.** The net asset value of each allocated Unit of each series of the Trust shall be determined once on each business day at such time as the Trustees may determine. The method of determining net asset value shall be established by the Trustees and shall be set forth in the Information Statement as the same may be amended from time to time. The duty to make the daily calculations may be delegated by the Trustees to the Adviser, the Administrator, the Custodian or such other Person as the Trustees may designate.
- 10.2 **Constant Net Asset Value; Reduction of Allocated Units.**
- (a) The Trustees shall have full and complete power to determine the net income (including unrealized gains and losses on the portfolio assets) of the Trust and each series thereof once on each business day as provided in Section 10.1 hereof, and upon each such determination such net income shall be credited proportionately to the accounts of the Participants in such a manner. The accounting method used for the determination of the net income of the Trust and each series thereof, and the crediting of net income proportionately to the respective accounts of the Participants shall be determined by the Trustees and shall be set forth in the Information Statements as the same may be amended from time to time. The duty to make the daily calculations may be delegated by the Trustees to the Adviser, the Administrator, the Custodian or such other Person as the Trustees may designate. If there is a net loss, the Trustees shall first offset such amounts against income accrued to each Participant. To the extent that such a net loss exceeds such accrued income, the Trustees shall reduce the aggregate number of the Trust's allocated Units in an amount equal to the amount required in order to permit the net asset value per Unit of the Trust to be maintained at a constant dollar value by having each Participant contribute to the Trust its pro rata portion of such number of Units. Each Participant will be deemed to have agreed to such reduction in such circumstances by its adoption of this Declaration of Trust.
- (b) The Trustees may discontinue or amend the practice of attempting to maintain the net asset value per Unit at a constant dollar amount at any time and such modifications shall be evidenced by appropriate changes in the Information Statement as the same may be amended from time to time.
- 10.3 **Supplementary Distributions to Participants.** In addition to withdrawals made at the request of a Participant pursuant to Section 6.5 hereof, the Trustees may from time to time declare and make to the Participants, in proportion to their respective interests, such supplementary distributions as they may determine in their sole discretion.
- 10.4 **Retained Reserves.** The Trustees may retain from the gross income of the Trust such amounts as they may deem necessary to pay the debts and expenses of the Trust and to meet other obligations of the Trust, and the Trustees shall also have the power to establish such reasonable reserves as they believe may be required.

ARTICLE XI

Custodian

- 11.1 **Duties.** The Trustees shall at all times employ a bank or trust company organized under the laws of the State of Nebraska as Custodian with authority as its agent, but subject to such restrictions, limitations and other requirements, if any, as may be contained in the Bylaws of the Trust to perform the duties set forth in the Custodian Agreement to be entered into between the Trust and the Custodian, or as may be imposed by law. The Participants authorize the Trustees to enter into any contracts and/or agreements on their respective behalf for the purpose of employing the Custodian.
- 11.2 **Appointment.** Union Bank and Trust Company is hereby appointed as the initial Custodian for the Trust, subject to such appointee's entry into a Custodian Agreement in form and substance satisfactory to the Trustees.
- 11.3 **Agents of Custodian.** The Trustees may also authorize the Custodian to employ one or more agents from time to time to perform such of the acts and services of the Custodian or as subcustodian and upon such terms and

conditions, as may be agreed upon between the Custodian and such agent and approved by the Trustees; provided, however, that, in every case, such agent shall satisfy any requirements of law.

11.4 **Successors**. In the event that, at any time, the Custodian shall resign or shall be terminated pursuant to the provisions of the Custodian Agreement, the Trustee shall appoint successor thereto.

11.5 **Custodian as Depository**. Each Participant hereby designates the Custodian as a depository for funds of the Participant.

ARTICLE XII **Recording of Declaration of Trust**

12.1 **Recording**. This Declaration of Trust and any amendment hereto shall be filed, recorded, or lodged as a document of public record in such place or places and with such official or officials as may be required by law or as the Trustees may deem appropriate. Each amendment so filed, recorded or lodged shall be accompanied by a certificate signed and acknowledged by the Trustees stating that such action was duly taken in the manner provided for herein; and unless such amendment or such certificate sets forth some earlier or later time for the effectiveness of such amendment, such amendment shall be effective upon its filing. An amended Declaration of Trust, containing or restating the original Declaration and all amendments theretofore made, may be executed any time or from time to time by a majority of the Trustees and shall, upon filing, recording or lodging in the manner contemplated hereby, be conclusive evidence of all amendments contained therein and may thereafter be referred to in lieu of the original Declaration of Trust and the various amendments thereto. Notwithstanding the foregoing provisions of this Section 12.1, no filing or recordation pursuant to the terms of this Section 12.1 shall be a condition precedent to the effectiveness of this Declaration of Trust or any amendment hereto.

ARTICLE XIII **Amendment or Termination of Trust; Duration of Trust**

13.1 **Amendment or Termination**.

(a) The provisions of this Declaration of Trust may be amended or altered or the Trust may be terminated, by the affirmative vote of a majority of the Participants entitled to vote, such vote being initiated and tabulated as provided in Section 8.2 or Section 8.4 hereof; provided, however, that the Trustees may, from time to time by a two-thirds (2/3) vote of the Trustees, and after fifteen (15) days' prior written notice to the Participants, amend or alter the provisions of this Declaration of Trust, without the vote or assent of the Participants, to the extent deemed by the Trustees in good faith to be necessary to conform this Declaration to the requirements of applicable Laws or regulations or any interpretation thereof by a court or other governmental agency of competent jurisdiction, but the Trustees shall not be liable for failing so to do. Notwithstanding the foregoing, (i) no amendment may be made pursuant to this Section 13.1 which would change any rights with respect to any outstanding Units of the Trust by reducing the amount payable thereon upon liquidation of the Trust or which would diminish or eliminate any voting rights of the Participants; and (ii) no amendment may be made which would cause any of the investment restrictions contained in Section 4.2 hereof to be less restrictive without the affirmative vote of a majority of the Participants entitled to vote thereon.

(b) Upon the termination of the Trust pursuant to this Section 13.1:

(i) The Trust shall carry on no business except for the purpose of winding up its affairs;

(ii) The Trustees shall proceed to wind up the affairs of the Trust and all of the powers of the Trustees under this Declaration of Trust shall continue until the affairs of the Trust shall have been wound up, including, without limitation, the power to fulfill or discharge the contracts of the Trust, collect its assets, sell, convey, assign, exchange, transfer or otherwise dispose of all

or any part of the remaining Trust Property to one or more persons at public or private sale for consideration which may consist in whole or in part of cash, securities or other property of any kind, discharge or pay its liabilities, and do all other acts appropriate to liquidate its affairs; provided, however, that any sale, conveyance, assignment, exchange, transfer or other disposition of all or substantially all of the Trust Property shall require approval of the principle terms of the transaction and the nature and amount of the consideration by affirmative vote of not less than a majority of the Participants entitled to vote thereon; and

(iii) After paying or adequately providing for the payment of all liabilities, and upon receipt of such releases, indemnities and refunding agreements, as they deem necessary for their protection, the Trustees shall distribute the remaining Trust Property, in cash or in kind or partly in each, among the Participants according to their respective proportionate allocation of Units.

(c) Upon termination of the Trust and distribution to the Participants as herein provided, a majority of the Trustees shall execute and lodge among the records of the Trust an instrument in writing setting forth the fact of such termination, and the Trustees shall thereupon be discharged from all further liabilities and duties hereunder, and the right, title and interest of all Participants shall cease and be cancelled and discharged.

(d) A certification in recordable form signed by a majority of the Trustees setting forth an amendment and reciting that it was duly adopted by the Participants or by the Trustees as aforesaid or a copy of the Declaration, as amended, in recordable form, and executed by a majority of the Trustees and, any others required by Law, shall be conclusive evidence of such amendment.

13.2 **Power to Effect Reorganization.** If permitted by applicable Law, the Trustees, by vote or written approval of a majority of the Trustees, may select, or direct the organization of, a corporation, association, trust or other Person with which the Trust may merge, or which shall take over the Trust Property and carry on the affairs of the Trust, and after receiving an affirmative vote of not less than a majority of the Participants entitled to vote, the notice for which includes a statement of such proposed action, the Trustees may effect such merger or may sell, convey and transfer the Trust Property to any such corporation, association, trust or other Person in exchange for cash or shares or securities thereof, or beneficial interest therein with the assumption by such transferee of the liabilities of the Trust; and thereupon the Trustees shall terminate the Trust and deliver such cash, shares, securities or beneficial interest ratably among the Participants of this Trust.

13.3 **Duration.** The Trust shall continue in existence in perpetuity, subject in all respects to the provisions of this Article XIII.

ARTICLE XIV

Nature of the Declaration of Trust

14.1 **Parties to the Declaration of Trust.** All Participants agree that the Declaration of Trust constitutes an Interlocal Agreement among any and all Public Agencies which become a party hereto pursuant to Section 1.2 and 15.6 hereof.

14.2 **Entry Into or Resignation from Declaration of Trust as Not Constituting Amendment.** It is hereby agreed by and between all Participants that the entry or resignation of any Participant into or from the Declaration of Trust shall not constitute an amendment or termination of this Interlocal Agreement.

ARTICLE XV

Miscellaneous

- 15.1 **Governing Law.** This Declaration of Trust is executed by the Initial Participants and Settlers and delivered in the State of Nebraska and with reference to the laws thereof, and the rights of all parties and the validity, construction and effect of every provision hereof shall be subject to and construed according to the Laws of said State of Nebraska.
- 15.2 **Counterparts.** This Declaration of Trust may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts, together shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.
- 15.3 **Reliance by Third Parties.** Any certificate executed by an individual who, according to the records of the Trust, or of any official or public body or office in which this Declaration of Trust may be recorded, appears to be a Trustee hereunder or the Secretary or the Treasurer of the Trust, certifying to: the number or identity of Trustees or Participants; (ii) the due authorization of the execution of any instrument or writing; (iii) the form of any vote passed at a meeting of Trustees or by the Participants; (iv) the fact that the number of Trustees or Participants present at any meeting or executing any written instrument satisfies the requirements of this Declaration of Trust; (v) the form of any Bylaw adopted by or the identity of any officers elected by the Trustees; or (vi) the existence of any fact or facts which in any manner relate to the affairs of the Trust, shall be conclusive evidence as to the matters so certified in favor of any Person dealing with the Trustees or any of them or the Trust and the successors of such Person.
- 15.4 **Provisions in Conflict with Law.** The provisions of this Declaration of Trust are severable, and if the Trustees shall determine, with the advice of counsel, that any one or more of such provisions (the "Conflicting Provisions") are in conflict with applicable federal or Nebraska Laws, the Conflicting Provisions shall be deemed never to have constituted a part of this Declaration of Trust; provided, however, that such determination by the Trustees shall not affect or impair any of the remaining provisions of this Declaration of Trust or render invalid or improper any action taken or omitted (including, but not limited to, the election of Trustees) prior to such determination.
- 15.5 **Gender; Section Headings.**
- (a) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa.
 - (b) Any headings preceding the texts of the several Articles and Sections of this Declaration of Trust and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall neither constitute a part of this Declaration of Trust nor affect its meaning, construction or effect.
- 15.6 **Adoption by Nebraska Public Agencies Electing to Become Additional Participants; Resignation of Participants.**
- (a) Any Eligible Public Agency of the State of Nebraska, meeting the requirements of Section 1.2 hereof, may become an additional Participant of this Trust by (i) taking appropriate action to adopt this Declaration of Trust and (ii) furnishing the Trustees with satisfactory evidence that such action has been taken, and furnishing the Trustees with such other documents, certificates, information and legal opinions as may be required by the Trustees. A copy of this Declaration of Trust may be adopted through incorporation by reference into the resolution of such Public Agency as may be prescribed by the Trustees, and a certified copy of such resolution shall constitute satisfactory evidence of adoption contemplated by this Section 15.6.
 - (b) Any Participant may resign and withdraw from the Trust by sending a written notice to such effect to the Trust at the address provided in Section 1.3 hereof and by requesting the withdrawal of all moneys then credited to its account within the Trust. Such resignation and withdrawal shall become effective upon the receipt thereof by the Trust. No resignation and withdrawal by a Participant shall operate to annul this Declaration of Trust or terminate the existence of the Trust.

IN WITNESS WHEREOF, the undersigned as "Settlers", and as "Initial Participants" and pursuant to the authority granted by law, have caused this Declaration of Trust to be duly executed, the date and year first above written, as of which date this Declaration of Trust shall take, and come into, full force and effect.

"Settlor"	<u>Roger Green</u> (signature on original)	"Participant"	<u>Roger Green, Scotts Bluff County Commissioner</u> (signature on original)
"Settlor"	<u>Karen Grass</u> (signature on original)	"Participant"	<u>Karen Grass, Burt County Treasurer</u> (signature on original)
"Settlor"	<u>Sue Clark</u> (signature on original)	"Participant"	<u>Sue Clark, Blaine County Treasurer</u> (signature on original)
"Settlor"	<u>Kay Hazard</u> (signature on original)	"Participant"	<u>Kay Hazard, Chase County Treasurer</u> (signature on original)
"Settlor"	<u>Jean Sidwell</u> (signature on original)	"Participant"	<u>Jean Sidwell, Buffalo County Treasurer</u> (signature on original)
"Settlor"	<u>Vernon Ritterbush</u> (signature on original)	"Participant"	<u>Vernon Ritterbush, Franklin County Supervisor</u> (signature on original)
"Settlor"	<u>Julia Moeller</u> (signature on original)	"Participant"	<u>Julia Moeller, Adams County Treasurer</u> (signature on original)
"Settlor"	<u>Mike Zoucha</u> (signature on original)	"Participant"	<u>Mike Zoucha, Boone County Commissioner</u> (signature on original)
"Settlor"	<u>Gayle Swisegood</u> (signature on original)	"Participant"	<u>Gayle Swisegood, Richardson County Board</u> (signature on original)

ACKNOWLEDGEMENT

STATE OF NEBRASKA

COUNTY OF

On this _____ day of _____, 19_____, before me, the undersigned officer, appeared _____ as _____ of _____ ("Settlor"), known to me to be the person whose name is subscribed to the within instrument, and acknowledged that he/she is subscribing this instrument on behalf of Settlor, and an "Initial Participant" and that he/she executed the same in the capacities and for purposes therein contained on _____, 1996.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My commission expires: _____

EXHIBIT A

Organizational Trustees

Jean Sidwell
Kay Hazard
Sue Clark
Karen Grass
Gayle Swisegood
Vernon Ritterbush
Dale Barth

Nebraska Public Agency Investment Trust
PO Box 82529
Lincoln, NE 68501-2529
1-800-890-9757