

# TRADITIONAL INDIVIDUAL RETIREMENT ACCOUNT CUSTODIAL ACCOUNT AGREEMENT



(Under section 408(a) of the Internal Revenue Code)

Form 5305-A (Revised April 2017)

Department of the Treasury – Internal Revenue Service

(800) 777 - 9878

(800) 867 - 7668

operations@digitaltrust.com

## PURPOSE OF THIS FORM

This Custodial Account Agreement outlines the terms and conditions required to meet the Internal Revenue Service (IRS) requirements for opening a Traditional Individual Retirement Account (Traditional IRA). Form 5305-A is a model custodial account agreement that meets the requirements of section 408(a). However, only Articles I through VII have been reviewed by the IRS. A traditional individual retirement account (traditional IRA) is established after the form is fully executed by both the individual (depositor) and the custodian. To make a regular contribution to a traditional IRA for a year, the IRA must be established no later than the due date of the individual's income tax return for the tax year (excluding extensions). This account must be created in the United States for the exclusive benefit of the depositor and his or her beneficiaries. Article VIII was prepared by Digital Trust, LLC herein known as "Custodian" "we" "us" and "our" for the agreement with the Depositor hereafter known as the "Account Owner", "client" "you" or "your."

A Traditional IRA is established after the Traditional IRA Account Application has been fully executed by both the Account Owner (depositor) and the Custodian. The Custodian's action of the opening of the account signifies its execution of the Agreement. The Traditional IRA Account Application (Application) includes the following Account Agreement provisions along with the IRA Account Application, the Fee Schedule and the Traditional IRA Custodial Account Disclosures documents together as one which have been presented to the Account Owner, electronically or otherwise, prior to executing the Application. The IRA account is established by the Custodian in the capacity of a Directed Custodian for the exclusive benefit of the Account Owner who agrees to the below terms and conditions.

**Do not file Form 5305-A with the IRS. Instead, keep it with your records.**

For more information on IRAs, including the required disclosures the custodian must give the depositor, see Pub. 590-A, Contributions to Individual Retirement Arrangements (IRAs), and Pub. 590-B, Distributions from Individual Retirement Arrangements (IRAs).

## DEFINITIONS

**Custodian.** The custodian must be a bank or savings and loan association, as defined in section 408(n), or any person who has the approval of the IRS to act as custodian.

**Depositor.** The depositor is the person who establishes the custodial account.

## TRADITIONAL IRA FOR NONWORKING SPOUSE

Form 5305-A may be used to establish the IRA custodial account for a nonworking spouse.

Contributions to an IRA custodial account for a nonworking spouse must be made to a separate IRA custodial account established by the nonworking spouse.

## SPECIFIC INSTRUCTIONS

**Article IV.** Distributions made under this article may be made in a single sum, periodic payment, or a combination of both. The distribution option should be reviewed in the year the depositor reaches age 72 to ensure that the requirements of section 408(a)(6) have been met.

**Article VIII.** Article VIII and any that follow it may incorporate additional provisions that are agreed to by the depositor and custodian to complete the agreement. They may include, for example, definitions, investment powers, voting rights, exculpatory provisions, amendment and termination, removal of the custodian, custodian's fees, state law requirements, beginning date of distributions, accepting only cash, treatment of excess contributions, prohibited transactions with the depositor, etc.

## ARTICLE I

Except in the case of a rollover contribution described in section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), an employer contribution to a simplified employee pension plan as described in section 408(k), or a recharacterized contribution described in section 408A(d)(6), the custodian will accept only cash contributions up to \$5,500 per year for 2013 through 2017. For individuals who have reached the age of 50 by the end of the year, the contribution limit is increased to \$6,500 per year for 2013 through 2017. For years after 2017, these limits will be increased to reflect a cost-of-living adjustment, if any.

## ARTICLE II

The depositor's interest in the balance in the custodial account is nonforfeitable.

## ARTICLE III

1. No part of the custodial account funds may be invested in life insurance contracts, nor may the assets of the custodial account be commingled with other property except in a common trust fund or common investment fund (within the meaning of section 408(a)(5)).
2. No part of the custodial account funds may be invested in collectibles (within the meaning of section 408(m)) except as otherwise permitted by section 408(m)(3), which provides an exception for certain gold, silver, and platinum coins, coins issued under the laws of any state, and certain bullion.

## ARTICLE IV

1. Notwithstanding any provision of this agreement to the contrary, the distribution of the depositor's interest in the custodial account shall be made in accordance with the following requirements and shall otherwise comply with section 408(a)(6) and the regulations thereunder, the provisions of which are herein incorporated by reference.
2. The depositor's entire interest in the custodial account must be, or begin to be, distributed not later than the depositor's required beginning date, April 1 following the calendar year in which the depositor reaches age 72. By that date, the depositor may elect, in a manner acceptable to the custodian, to have the balance in the custodial account distributed in:
  - a. A single sum, or
  - b. Payments over a period not longer than the life of the depositor or the joint lives of the depositor and his or her designated beneficiary.
3. If the depositor dies before his or her entire interest is distributed to him or her, the remaining interest will be distributed as follows:
  - a. If the depositor dies on or after the required beginning date, and:
    - i. The designated beneficiary is the depositor's surviving spouse, the remaining interest will be distributed over the surviving spouse's life expectancy as determined each year until such spouse's death, or over the period in paragraph (a)(iii) below if longer. Any interest remaining after the spouse's death will be distributed over such spouse's remaining life expectancy as determined in the year of the spouse's death and reduced by 1 for each subsequent year, or, if distributions are being made over the period in paragraph (a)(iii) below, over such period.
    - ii. The designated beneficiary is not the depositor's surviving spouse, the remaining interest will be distributed over the beneficiary's remaining life expectancy as determined in the year following the death of the depositor and reduced by 1 for each subsequent year, or over the period in paragraph (a)(iii) below, if longer.
    - iii. There is no designated beneficiary, the remaining interest will be distributed over the remaining life expectancy of the depositor as determined in the year of the depositor's death and reduced by 1 for each subsequent year.
  - b. If the depositor dies before the required beginning date, the remaining interest will be distributed in accordance with paragraph (i) below, or if elected, or there is no designated beneficiary, in accordance with paragraph (ii) below.
    - i. The remaining interest will be distributed in accordance with paragraphs (a)(i) and (a)(ii) above (but not over the period in paragraph (a)(iii), even if longer), starting by the end of the calendar year following the year of the depositor's death. If, however, the designated beneficiary is the depositor's surviving spouse, then this distribution is not required to begin before the end of the calendar year in which the depositor would have reached age 72. But, in such case, if the depositor's surviving spouse dies before distributions are required to begin, then the remaining interest will be distributed in accordance with paragraph (a)(ii) above (but not over the period in paragraph (a)(iii), even if longer), over such spouse's designated beneficiary's life expectancy, or in accordance with paragraph (ii) below if there is no such designated beneficiary.
    - ii. The remaining interest will be distributed by the end of the calendar year containing the fifth anniversary of the depositor's death.
4. If the depositor dies before his or her entire interest has been distributed and if the designated beneficiary is not the depositor's surviving spouse, no additional contributions may be accepted in the account.
5. The minimum amount that must be distributed each year, beginning with the year containing the depositor's required beginning date, is known as the "required minimum distribution" and is determined as follows.
  - a. The required minimum distribution under paragraph 2(b) for any year, beginning with the year the depositor reaches age 72, is the depositor's account value at the close of business on December 31 of the preceding year divided by the distribution period in the uniform lifetime table in Regulations section 1.401(a)(9)-9. However, if the depositor's designated beneficiary is his or her surviving spouse, the required minimum distribution for a year shall not be more than the depositor's account value at the close of business on December 31 of the preceding year divided by the number in the joint and last survivor table in Regulations section 1.401(a)(9)-9. The required minimum distribution for a year under this paragraph (a) is determined using the depositor's (or, if applicable, the depositor and spouse's) attained age (or ages) in the year.
  - b. The required minimum distribution under paragraphs 3(a) and 3(b)(i) for a year, beginning with the year following the year of the depositor's death (or the year the depositor would have reached age 72, if applicable under paragraph 3(b)(i)) is the account value at the close of business on December 31 of the preceding year divided by the life expectancy (in the single life table in Regulations section 1.401(a)(9)-9) of the individual specified in such paragraphs 3(a) and 3(b)(i).
  - c. The required minimum distribution for the year the depositor reaches age 72 can be made as late as April 1 of the following year. The required minimum distribution for any other year must be made by the end of such year.
6. The owner of two or more traditional IRAs may satisfy the minimum distribution requirements described above by taking from one traditional IRA the amount required to satisfy the requirement for another in accordance with the regulations under section 408(a)(6).

## ARTICLE V

1. The depositor agrees to provide the custodian with all information necessary to prepare any reports required by section 408(i) and Regulations sections 1.408-5 and 1.408-6.
2. The custodian agrees to submit to the Internal Revenue Service (IRS) and depositor the reports prescribed by the IRS.

## ARTICLE VI

Notwithstanding any other articles which may be added or incorporated, the provisions of Articles I through III and this sentence will be controlling. Any additional articles inconsistent with section 408(a) and the related regulations will be invalid.

## ARTICLE VII

This agreement will be amended as necessary to comply with the provisions of the Code and the related regulations. Other amendments may be made with the consent of the persons whose signatures appear below.

## ARTICLE VIII

### 1. Account Owner Responsibilities

- a. Account Owner.** The Account Owner acknowledges that the Account is a non-interest bearing self-directed IRA account. The custodian acts as a "fiduciary" for this account, as defined by the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), by the Internal Revenue Code or any other applicable local, state, or federal laws only in relation to its custodial services. The Custodian does not, and the Account Owner acknowledges that the Custodian does not assume fiduciary responsibilities for any Account Owner's Investment Decisions associated with the account. The Account Owner also acknowledges that the IRA Account with the Custodian will be established in the name of the Custodian for the benefit of the IRA Account Owner and Account Owner agrees that all transactions related to the IRA account must go through the IRA Account held with the Custodian otherwise this could result in tax implications. It is the Account Owner's responsibility (not the Custodian's) to select and monitor the investments in the IRA Account. The Account Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the IRA Account and accepts full and sole responsibility for such selection ("Account Owner Investment Decisions"). The Custodian provides no investment, legal, or tax advice or recommendations related to your account. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the IRA Account and accepts full and sole responsibility for the success or failure of such investments. Assets in your account are not guaranteed by Digital Trust and are subject to investment risk, including the possible loss of your investment value.
- b. Authorized Agent.** The Account Owner may appoint a third party as their authorized agent to direct the investment of the IRA Account by notifying the Custodian in a form acceptable to the Custodian. The Custodian shall assume that the authorized agent is at all times qualified to act as agent for the Account Owner and shall recognize the agent as having the authority to direct the investment of the IRA Account until such time as 1.) the Account Owner notifies the Custodian in writing that he has removed the authorized agent, or 2.) the Custodian is notified of the death of the Account Owner. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement. Custodian shall bear no responsibility for any transactions in the IRA Account, or resultant losses or damages to Account Owner, caused by any acts or omissions of Authorized Agents. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement. Custodian and TPA shall bear no responsibility for any transactions in the Account, or resultant losses or damages to Account Owner, caused by any acts or omissions of Authorized Agents.
- c. Additional Information.** Account Owner agrees and acknowledges that, unless where required by law, the Custodian is not responsible for communicating, forwarding or notifying any party, including the Account Owner, with respect to communications or other matters which are received by or come to the attention of the Custodian with respect to assets in the account. It is the Account Owner's responsibility to make arrangements to receive such information or monitor public sources for such information.
- d. Prohibited Transactions.** It is the Account Owner's responsibility to determine if a transaction constitutes a prohibited transaction. Generally, a prohibited transaction is any improper use of your traditional IRA account by you, your beneficiary, or any disqualified person. Disqualified persons include members of your family (spouse, ancestor, lineal descendant, and any spouse of a lineal descendant). The following are some examples of prohibited transactions with a traditional IRA. 1.) Borrowing money from it. 2.) Selling property to it. 3.) Using it as security for a loan. 4.) Buying property for personal use (present or future) with IRA funds. The Custodian reserves the right to request a certification from the Account Owner that an Investment Direction provided by the Account Owner does not create a prohibited transaction, however, if a certification is not requested that does not indicate a transaction is not prohibited. Custodian reserves the right to take any action necessary, within its discretion, which may include resigning as Custodian from the IRA Account.
- e. Unrelated Business Income.** An IRA is subject to tax on unrelated business income if it carries on an unrelated trade or business. An unrelated trade or business means any trade or business regularly carried on by the IRA or by a partnership of which it is a member, and not substantially related to the IRA's exempt purpose or function. If the IRA has \$1,000 or more of unrelated trade or business gross income, the IRA must file a Form 990-T, Exempt Organization Business Income Tax Return and pay the tax due. Account Owner is responsible for monitoring UBTI for their Traditional IRA account which you may hold and prepare, or have prepared, the proper 990-T tax form and forward it to Custodian for filing, along with authorization to pay any tax due from the Traditional IRA account. In order to file the 990-T tax form, the Account Owner must apply for an Employer Identification Number (EIN) for the IRA Account before requesting Custodian to pay any tax owed. This EIN must be used on the 990-T tax form - the Account Owner's social security number or Custodian's EIN cannot be used.
- f. Employer Contributions.** If the Account Owner's IRA Account is the type of IRA which may receive contributions from the Account Owner's employer, the Custodian shall not be liable for any expenses, losses, damages, costs or penalties incurred as a result of the failure of the employer of the Account Owner to make any contributions to the IRA Account required under Account Owner's IRA

plan. The Custodian is not responsible for monitoring the employer's contributions to your Custodial Account or notifying Account Owner of the employer's contributions. If applicable, the Account Owner is responsible for contacting the employer regarding its contributions and monitoring those contributions.

- g. Account Owner's Representations.** Account Owner represents and warrants that any information given or any information that will be given in the future with respect to this IRA Account is complete and accurate. Account Owner also agrees that any directions Account Owner or Account Owner's authorized agent give to the Custodian, or any actions Account Owner or Account Owner's authorized agent take will be proper under this Agreement and that the Custodian is entitled to rely upon any such information or directions. The Custodian shall not be responsible for losses of any kind that may result from such directions to the Custodian or from the Account Owner's actions, or the Account Owner's authorized agent's actions, or failures to act of both. Account Owner agrees to reimburse the Custodian for any losses the Custodian may incur as a result of such directions, actions or failures to act.
- h. Review of Statements.** Custodian, shall provide Account Owner with quarterly Account Statements containing the account assets and account activity within your IRA. Please review the statement carefully and if you identify any discrepancies please document in writing and provide to Custodian via email within forty-five (45) days of the statement issuance at [Operations@digitaltrust.com](mailto:Operations@digitaltrust.com) or via mail at the address listed on the statement. If the notice of discrepancies is not received within the forty-five (45) day time frame, it will signify your approval of the statement and precludes you from making future objections or exceptions regarding the information contained in this statement. Such approval by you shall be full acquittal and discharge of Custodian regarding the transactions and information on such statement. Issuance shall mean (1) the posting of your Account Statement within the online platform or (2) the date of mailing of a paper Account Statement.
- i. Fair Market Valuations.** The IRS requires the Custodian to report the Fair Market Value ("FMV") of the account on an annual basis. It is the Account Owner's responsibility to ensure that the FMV is accurate. The valuation for investments must be provided to the Custodian on a timely basis by the Account Owner or another party chosen by the Account Owner for this purpose ("Valuation Agent") and identified as such in a written document delivered to the Custodian. It is the Account Owner's responsibility to determine and provide the valuation of Alternative Assets to the Custodian. The Custodian shall have no responsibility for acting on an FMV reported by the Account Owner or Valuation Agent. For Alternative Assets such as investments in limited liability companies, limited partnerships, hedge funds, and other similar entities, the Account Owner directs the Custodian to obtain the FMV of the Account Owner's Alternative Assets from the investment entity itself and hereby appoints each such entity as the Valuation Agent for the Account's investment in the entity itself. Each Valuation Agent shall be required to sign such documents as the Custodian shall deem appropriate or necessary to confirm the understanding and agreement of the Valuation Agent to its obligation to provide such to the Custodian. Failure of the Account Owner or Valuation Agent to provide a timely valuation shall be the sole responsibility of the Valuation Agent or the Account Owner, as the case may be, and the Custodian shall not be required to take any further steps to secure an updated FMV for the Account. The Custodian shall not be responsible for the timeliness or the accuracy of any FMV of any Alternative Asset furnished by the Account Owner or a Valuation Agent. The Custodian shall reflect the latest valuation received on an asset in the Custodial Account's statements on a timely basis, but the Custodian shall have no duty to inform the Account Owner or to follow up with any Valuation Agent with respect to the status of any such additional valuations. The Custodian shall have no duty or responsibility to solicit any valuation from either the Account Owner or the Valuation Agent. If the Custodian does not receive an updated FMV for an Alternative Asset, the Custodian shall be entitled to use the last FMV provided to the Custodian, or if none, the original purchase price for the Alternative Asset in question (such last FMV or original purchase price, as the case may be, shall hereinafter be referred to as the "Last Value").
- j. Indemnity.** Custodian shall be indemnified by Account Owner against any liabilities, losses, damages, costs and expenses (including but not limited to legal fees) incurred by Custodian and arising out of any action taken or omitted to be taken by the Custodian hereunder or pursuant to any Instructions, including but not limited to (i) any taxes or other governmental charges, and any expenses related thereto, which may be imposed or assessed with respect to the asset/investment, and/or (ii) the Custodian or any nominee or agent of the Custodian, appearing as holder or holder of record of the asset/investment or any part thereof, but excluding those liabilities, losses, damages, costs and expenses which arise (whether through act or omission) as the result of fraud, willful default or gross negligence on the part of the Custodian in the performance of its duties under this Agreement.

## 2. Custodian Responsibilities

- a. Account.** The Custodian shall establish and maintain a separate Account in the name of the Account Owner. All contributions to the Individual Retirement Account (IRA) shall be in cash except for IRA-to-IRA transfers and rollovers if applicable. The Custodian's acceptance of in-kind asset transfers will be in accordance with the Custodian's current policies and procedures. We recommend that you contact the Custodian or Third Party Administrator (TPA) for additional information. Neither the Account Owner nor a Beneficiary shall assign any portion of the Account Owners Account and the Custodian shall not recognize any such assignment. It is the Account Owner's sole responsibility not the Custodian's to determine the amount of permissible contributions and the contribution timing as permissible by law. It is the Account Owner's responsibility to communicate in writing to the Custodian if a deposit in current year applies to the prior calendar tax year. In addition, it is the Account Owner's not the Custodian's responsibility to determine and maintain records of the deductible portion of any contribution. If you inherit a traditional IRA from anyone other than your deceased spouse, you cannot treat the inherited IRA as your own. This means that you cannot make any contributions to the IRA. It also means you cannot roll over any amounts into or out of the inherited IRA. However, you as beneficiary can make a trustee-to-trustee transfer as long as the IRA into which amounts are being moved is set up and maintained in the name of the deceased IRA owner for the benefit of you as beneficiary. See IRS Publication 590-B for more information.
- b. Uninvested Cash Funds.** From time to time you may deposit cash or digital assets with us, or we may receive funds in settlement of trades, that are not subject to a current Direction of Investment (or are awaiting your direction) (collectively referred to as "Uninvested Funds"). Digital Trust may place funds in one or more money markets, demand deposit accounts (savings or checking), including but not limited to Certificates of Deposit (CDs), investment grade bonds, "A" rated or higher life insurance companies (fixed annuities), municipal bonds, United States treasuries, fixed Income annuities with our without life insurance companies, mortgage and real estate backed securities or collateralized investments, and/or Digital or Non Digital yield generating structured investments. Your account is credited with all Uninvested Funds. You agree that if we receive no other instructions, Uninvested Funds from your IRA shall be invested in account(s) of Custodian's choosing using a method designed to maintain liquidity of the Uninvested Funds.

  - i. Specifically, you authorize and direct us to sweep Uninvested Cash Funds automatically into Custodian's designated account(s) until such time as further direction is received from you or your designated representative(s). If FDIC insurance applies to the investments purchased with Uninvested Cash Funds, the insurance will be subject to all applicable laws and regulations related to FDIC insurance limitations.
  - ii. We may adjust the method for investment between the accounts from time to time and we are not required to provide notice or obtain your consent.
  - iii. If we receive monies after hours or that otherwise cannot be immediately swept into an approved interest-bearing investment, such amounts may remain uninvested in our bank account overnight. In that case, we may also earn float on such amounts. In addition, if we issue a check on your behalf in connection with (1) distributions requested by you or (2) fees paid to third

party service providers to your account, we debit your account the amount of the check and deposit the funds into a special disbursement account held by us. In that case, we will earn float on the amount of the check from the date it is issued until the date the check is presented and paid.

- iv. Amounts held in our bank account or Digital Asset wallets are held in an omnibus account and are not segregated from other deposit funds.
  - c. **Investments.** Under this agreement the Custodian provides Self Directed Custody Services for the assets/investments selected by the Account Owner. Custodian acts on the Account Owner's Investment Decisions provided by the Account Owner and has no responsibility for any transactions made in accordance with Account Owner's Investment Decisions, including the performance, disclosure of any risks associated with the asset/investment, any due diligence, or suitability of the assets/investments selected by the Account Owner. Account Owner agrees that Custodian has no responsibility on the outcome of self-directed investments including but not limited to total loss.
  - d. **Acting on Direction.** The Custodian shall act on the Account Owner's Investment Decisions for transfers, investments and distributions of assets/ investments when the Account Owner has submitted directions in the manner required by Custodian. Custodian may also act on Account Owner's Investment Decisions submitted by your Authorized Agent and any other authority granted by the Account Owner in compliance with Custodian's then current policies and procedures. The Custodian is not responsible for losses or damages resulting from the delay of acting on an Account Owner's Investment Decision if the direction is unclear, incomplete and not in acceptable form to the Custodian. The Custodian has no responsibility to question any Account Owner's Investment Decisions received in good order from the Account Owner or your Authorized Agent. When the Custodian is directed to invest in assets in accordance with Account Owner's Investment Decisions, including assets that are not publicly traded, the Custodian shall not have any responsibility or liability of the entity or the broker/agent involved does not settle the trade in accordance with the trade executed by the account owner.
  - e. **Standard of Care/Liability.** Custodian will use commercially reasonable efforts in performing their obligations under this Agreement.
    - i. Subject to the terms of this Agreement, Custodian shall not be responsible for any loss or damage suffered by Account Holder as a result of the Custodian performing such duties unless the same results from an act of fraud, willful default or gross negligence on the part of the Custodian. In such event the liability of the Custodian in connection with the asset/investment so affected by the Custodian's fraud, willful default or gross negligence shall not exceed the market value (as determined by the Custodian in any reasonable commercial manner) of such asset/investment at the time when Account Owner discovers such fraud, willful default or gross negligence.
    - ii. Custodian will be entitled to rely on and may act upon the advice of legal counsel and accountants or other agents with expertise in the relevant area, in relation to matters of law, regulation or market practice, and shall not be liable to Account Owner under this Agreement for any action taken or omitted pursuant to such advice, provided that Custodian has acted in good faith and with commercially reasonable efforts.
    - iii. Custodian shall not, save as stated in Section 8.1 d.) i.) above, be responsible for the title, validity or genuineness of any asset/ investment (or any evidence of title thereto) received or delivered by it pursuant to this Agreement.
    - iv. Neither Custodian nor its affiliates shall be liable for any consequential, incidental, exemplary, punitive, special or indirect damages, whether or not the likelihood of such damages was known by Custodian or its affiliates.
    - v. Custodian shall not be liable to the Account Owner for any statements, representations, actions or inactions of any salesperson, broker or other third party provider of the investment purchased for this IRA.
    - vi. The Custodian may take any and all other actions which in its judgment may be necessary or appropriate for the proper administration of the assets of the IRA Account. In the performance of its duties and responsibilities under this Agreement the Custodian may employ such agents and vendors as it feels appropriate without notice to the Account Owner.
  - f. **Statements and Reports.** Reporting required by Custodian, to be provided to Account Owner and the IRS, will be provided by the Custodian in a format and within the time deadlines required in accordance with IRS rules, regulations and guidelines. According to IRS regulations, Custodian must provide Account Owner with a statement of the fair market value ("FMV") of the IRA Account as of December 31 of each year which must be provided by January 31 of the following year. Additionally, if applicable, Custodian must provide to client and the IRS for the prior tax year tax form 1099-R for any distributions by January 31 and IRS tax form 5498 for contributions and account FMV by May 31.
  - g. **Privacy and Subpoena.** Custodian shall use reasonable measures to maintain and protect the Account Owners personal data. Data will be shared only when necessary to fulfill the activities requested by the Account Owner. Custodian does reserve the right to respond to a subpoena or request from a regulator or law enforcement agency in accordance with the applicable law without your prior approval or notice.
  - h. **No Tax, Legal or Investment Advice.** Custodian is not responsible for providing legal, tax or investment advice. Account Owner should consult with their financial or tax advisor if such advice is required. The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the IRA Account. It is the Account Owner's responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
  - i. **Common Ownership:** Digital Trust, Alternative IRA Services, LLC dba BitcoinIRA, Rocket Dollar, Inc., Rocket Dollar Capital, Rocket Dollar Advisor, Inc, WAO Advisory, Inc., and/or Choiceapp.io are companies affiliated by common ownership, and that because these entities are under common ownership, the use of any of the entities may result in an indirect financial benefit to the owners of the entities.
3. **Fees and Expenses.** Custodian shall be entitled to collect fees for their Custodial Services and the administration of the Account Owner's IRA in accordance with the Fee Schedule and this agreement. Custodian reserves the right to change the Fee Schedule from time to time and will notify Account Owner of such changes. All fees and expenses, including legal or other fees resulting from the administration of your account, will be collected by Custodian according to the payment method selected by Account Owner under this Agreement. If Account Owner has selected to have Custodian collect fees and expenses from the cash in the account, in the event there is not enough cash to cover the fees and expenses, the Account Owner authorizes the Custodian to sell or liquidate a portion of the assets in the account to collect the fees and expenses. If the Account Owner has selected the option to pay the Custodian fees and expenses by selling an asset in the account, the Custodian will sell a portion of the asset with the largest market value to collect such fees. Sales of assets to cover fees will be executed in or around the first week of every month. Sales for expenses will be executed as needed. The Custodian shall not incur any liability from initiating the sale or liquidation of assets to collect the fees and expenses. Custodian reserves the right to send Account Owner's debt to collections agents or resign as custodian for unpaid fees.
  4. **Fee Requirements.** Generally, there are two types of fees associated with retirement accounts: custodial fees and asset fees. Custodial fees are related to the administration of your account and may generally be paid either with funds in the account or with personal funds. Custodial fees are typically assessed by the custodian and may include fees such as account opening fees, document fees, annual

account fees, and transaction fees. Asset fees are typically related to expenses and fees that are incurred with the maintenance of investments in your account and must be paid with funds that are in the account. Asset fees can include items such as property taxes, repair bills, HOA fees, storage fees for precious metals, digital asset purchase/sale fees, and brokerage fees. Non-trustee fees that are paid with personal funds may result in a prohibited transaction. Further, the account owner cannot be reimbursed for paying non-trustee fees with personal funds.

**5. Amendments to Agreement.** From time to time the Custodian may amend this agreement for any reason deemed necessary by Custodian. Some amendments may be necessary to comply and abide by new laws and regulations. Any such amendment will be provided by providing a copy of the amendment to Account Owner at your last known mailing or electronic address as shown in our records. Account Owner shall have thirty (30) calendar days to object to the Amendment. Such objection shall include the direction to terminate your IRA account, termination and other fees will apply to the account closing. If no objection is received by Custodian, Custodian deems that Amendment is accepted and consented to by Account Owner

**6. Notice, Delivery and Electronic Signature**

**a. CONSENT FOR ELECTRONIC DISCLOSURES UNDER THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** The Account Application (Application) includes the Account Agreement provisions, the Fee Schedule and the Traditional IRA Custodial Account Disclosures documents together as one which have been presented to the Account Owner prior to executing the Application. By completing this IRA Application online, you agree to be bound by all terms and conditions contained in the Application.

**b. Consent to Electronic Delivery of Statements and Other Communications.** By consenting to the terms and conditions of this Application, you agree to receive the following communications electronically: periodic statements, disclosures, notices (including Amendment changes), agreements, changes to terms and conditions, records, documents, tax statements, Privacy Notice, and all other information we provide to you. We may deliver these communications to you through your online access, by email or by using other electronic methods allowed pursuant to applicable laws and regulations. While electronic delivery and email notifications are provided free of charge, you may incur internet access and telephone charges. However, we reserve the right to deliver any communication to you as a paper copy, rather than electronically. Your consent remains in effect until you give us notice that you are withdrawing it and covers all communications, including those related to any product or service offered either now or in the future. Electronic documents will no longer be sent after the account is terminated and all regulatory reporting requirements have been satisfied.

**c. Withdrawal of Consent.** You may contact us in any of the ways described below to withdraw your consent to receive any future communication electronically. If you wish to receive electronic communications after you have withdrawn your consent, please contact Digital Trust at the phone number or address below. Please refer to the Fee Schedule for any fee that may apply for paper copies.

**d. Paper Delivery of Disclosures and Notices.** You have the right to receive a paper copy of any communication sent electronically. To receive a paper copy, you may request it in writing by sending your request to Digital Trust, 7336 W. Post Road, Suite #111, Las Vegas, Nevada 89113 or calling us at (800) 777-9878. You may have to pay a fee for the paper copy unless charging a fee is prohibited by law.

**e. IMPORTANT.** It is your responsibility to provide and maintain a current email and residential address with us. We may treat an invalid email address or the subsequent malfunction of a previously valid email address as a withdrawal of your consent to receive electronic communication. We will not impose a fee to process the withdrawal of your consent; however, fees may apply to paper copies mailed. Withdrawal of your consent to receive electronic communications will be effective only after we have a reasonable period of time to process your withdrawal. All communications in either electronic or paper format from us to you will be considered "in writing."

**f. How to Update Your Records.** It is your responsibility to provide us with true, accurate and complete email address, contact, and other information related to your account. You must promptly notify us of any changes in this information. You can update your information via TPA's platform, by calling us, or by writing us at the address above.

**g. Equipment and Software Requirements.** In order to view and retain electronic communications that we make available to you, you must have:

- A PC or other device with an Internet browser that has "cookies" enabled and supports 128-bit encryption
- An Internet connection
- An email address
- A PDF viewer (such as Adobe Reader)
- A printer or computer with sufficient electronic storage space

All communications shall be delivered to the last address we have on file for the Account Owner. These notices will be sent through electronic delivery (email) and will be considered delivered the same day as sent. If you have opted out of electronic delivery, communications sent to you through the United States Postal Service are considered delivered 5 business days after the postmark date. It is the Account Owner's responsibility to notify the Custodian of any email address change or residential address change. Custodian will not be held liable for any losses or damages if the Account Owner has not provided Custodian with the most current address information. The electronically signed copy of this document should be considered equivalent to a printed hard copy form. It is considered a true and complete record of the document, admissible in arbitration and/or administrative hearings or proceedings. Your electronic signature on the Application and other electronic forms such as the Investment Direction are considered valid and the same as if the paper form or Application were physically signed.

**7. Distributions.** Account Owner will provide full and complete instructions for any Distributions out of the Account Owners IRA. Custodian offers no tax or legal advice and Account Owner should consult with their tax or financial advisor to understand the implications of the action requested. Instructions should be submitted to Custodian in a manner acceptable to the Custodian. Custodian will not under any circumstances be responsible for the timing, purpose or propriety of any distribution from the account, nor shall the Custodian incur any liability or responsibility for any tax or penalty imposed on account of any distribution or failure to make a required distribution. Custodian may make any payment or distribution required or authorized hereunder by mailing a check or other property or by ACH or Federal wire or other electronic transfer to the payee at the address last furnished to the Custodian. Custodian shall not be liable for any payment made in good faith without actual knowledge of any changed condition or status of any person receiving benefits hereunder.

Custodian may, but shall not be obligated to, pay any estate, inheritance, income, or other tax or assessment attributable to any property or interest held in the IRA Account out of the assets of the IRA Account upon such information or direction as it may require. Before payment of any benefit, Custodian may also require releases or other related documentation from the taxing authority and require indemnification from such payee as may be necessary for the Custodian's protection against tax liability.

- 8. Designation of Beneficiaries.** In the event of your death, any account balance will be paid to your beneficiary designation deemed legally valid by the Custodian. In the event that the beneficiary designated is a minor or not of sound mind, the Custodian may at its discretion make beneficiary payments to such person acting as a parent or guardian of said beneficiary.
- a. Validity.** A beneficiary designation is deemed legally valid when the Account Owner has provided a full complete and executed designation clearly providing if the Account Owner is adding to or changing a portion of the then current beneficiary designation form in a format approved by the Custodian. Any valid beneficiary designation shall be effective upon receipt by the Custodian. Upon opening your account, you can designate your beneficiaries, and while still living, you can change your beneficiaries by submitting a fully completed Change of Beneficiary form acceptable to the Custodian.
  - b. Beneficiary Designations and Change of Beneficiary.** In the event of marriage, divorce, death, adoption and the birth of children the Account Owner should evaluate the beneficiaries listed on the IRA account and provide the Custodian with a fully completed Change of Beneficiary form to update the IRA account. The Custodian reserves the right to reject or not accept a beneficiary designation not made to individuals or entities. If you do not live in a "community property" State, you are free to name any person or entity as your IRA beneficiary, even if you are married. In "community property" States, Account Owners who earn monies contributed to their IRA during a legal marriage will be required to provide a spousal consent to designate a person or entity as beneficiary other than their spouse. (Subject to changes in law, "community property" States currently include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.)
  - c. Death Distributions.** Custodian will rely on a certified copy of the death certificate or other evidence deemed appropriate by the Custodian that certifies the Account Owner's death. The Custodian has no responsibility to search for beneficiaries if Account Owner does not provide beneficiary information for the IRA account. By entering into this Agreement, you authorize Custodian to rely on any representation of facts made by the legal representative of your estate, any beneficiary, or any other person or source deemed appropriate by us, in determining the identity of unnamed beneficiaries. Your estate, and any unnamed beneficiaries further understand and agree that any information or instructions provided by such persons may be reviewed with counsel and Custodian may require further documentation to determine the beneficiaries. Prior to a distribution of assets to a beneficiary or the estate of the Account Owner, Custodian reserves the right to request from the beneficiary or the estate of the Account Owner, indemnification and discharge from any liability.
  - d. Distribution to Estate.** Custodian reserves the right to distribute the account to the estate of the Account Owner in the event that there is conflicting or incomplete information in determining the beneficiaries. In the event that there are no beneficiaries provided to Custodian or all beneficiaries renounce their rights to receive any benefit from the Account, or in the event that no beneficiaries survive the Account Owner, the IRA will be distributed to your estate.
- 9. Successor Custodian.** In the event that Digital Trust changes its name, reorganizes, is acquired by another organization, or if all or a portion of our entire organization is purchased by another organization, that organization will automatically become the trustee or custodian of your Account so long as the organization is authorized to serve as a trustee or custodian and satisfies the requirements of the IRS Code Section 408(a)(2).
- 10. Termination or Resignation.** Account Owner or Custodian may terminate this agreement at any time by giving written notice to the other. We can resign as Custodian at any time effective 30 days after we send written notice of our resignation to you. Upon receipt of that notice, you must make arrangements to transfer your IRA to another Custodian (Successor Custodian) or request a distribution of your IRA. If you do not complete a distribution form or transfer your IRA within 30 days from the date we send the notice to you, we have the right to either a) transfer your IRA assets to a successor IRA trustee or custodian that we choose or b) we may distribute your IRA to you in a single lump sum and/or re-register the assets to you in-kind. In the event of re-registration of the assets, the Custodian's authority to re-register the assets supersedes any and all conflicting instructions, directions, or authorities with respect to said assets contained in any investment documents. If this agreement is terminated, we may charge to your IRA a reasonable amount of money that is necessary to cover any costs associated with distributing or transferring your account, including but not limited to fees and expenses incurred and taxes. The Custodian shall not be liable for any taxes, penalties, or losses arising from any delays, omissions, acts, or other action or inaction of any other person(s) or entity, including the Account Owner in connection with transfer or distribution of the IRA account. The Successor Custodian shall acquire all of the powers and authority conferred by the resigning Custodian. The transfer and delivery of assets to the Successor Custodian shall be a complete discharge and exoneration of any liability for the resigning Custodian unless the Account Owner or Successor Custodian notifies the resigning Custodian within forty-five (45) days from the date of resignation. Custodian may close the Account if it is not funded within ninety (90) days from IRA Account opening.
- 11. Arbitration Agreement.** In the event any legal or equitable claims or disputes arise out of performance of this agreement, or a breach of this Agreement, the parties agree to attempt to resolve the claim or dispute through good faith negotiation. In the event the parties are unable to resolve or settle such claim or dispute through negotiations, the parties agree that the claim or dispute will be settled by binding arbitration. Any arbitration proceedings shall be conducted in Las Vegas, Nevada, in accordance with the Commercial Dispute Resolution Procedures of the American Arbitration Association (AAA) in effect at the time a demand for arbitration is made. The Account Owner expressly waives any right he or she may have to establish or conduct litigation or arbitration in any other forum or location, or before any other body. The Account Owner may only bring claims and disputes in his or her individual capacity and not as a plaintiff or class member. Any and all claims arising out of or relating to this Agreement are required to have an arbitration filed within two (2) years from the date that the Account Owner knew of the facts giving rise to such claim or claims. The arbitrator shall have the authority to award reasonable attorneys' fees and costs, including the costs of arbitration, to the prevailing party.
- 12. Governing Law.** This Agreement and all amendment hereto shall be governed by and construed in accordance with the laws of the State of Nevada and the federal laws of the United States of America, and the obligations hereunder shall be determined in accordance with such laws. If any provision of this Agreement or the application thereof to any person or circumstances shall be determined to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 13. Other Administrative Powers.** Anything in this Agreement to the contrary notwithstanding, the Custodian may choose to request direction from the Account Owner as to any specific action or situation that arises with the IRA Account. If a request for direction is made, the Custodian shall not incur any liability for following the Account Owner's direction or for taking no action if no such direction is furnished to the Custodian. The Custodian shall have the right, at the expense of the Account Owner, to seek a direction or approval of its accounts from a court of competent jurisdiction whenever the Custodian shall, in its sole discretion, deem it appropriate. The Custodian is not required to, but in its sole discretion may, exercise the full power and authority to settle, compound or abandon all claims and demands in favor of or against the IRA Account or Account Owner, including any claim that may be asserted for taxes under present or future laws; to maintain or defend any litigation necessary in its administration of the IRA Account if indemnified to its satisfaction against any expenses and liabilities sustained or anticipated in connection therewith; to retain any fiat subject to any dispute without liability for payment of interest or decline to make payment thereof, until final adjudication of such dispute by a court of competent jurisdiction.

**14. Digital Currency.** Custodian cannot and does not guarantee the value of digital currency or any other investment. Custodian shall not be responsible for any third-party services. Furthermore, Custodian or TPA cannot cancel or reverse a transaction involving digital currency. Once a transaction request has been made, Account Owner will subsequently not be able to cancel or otherwise modify the transaction request. Account Owner acknowledges and agrees that Custodian shall have no liability for losses you suffer in connection with any digital currency transaction initiated via the TPA Platform under this Agreement unless such losses are the direct result of Custodian's fraud, willful default or gross negligence. Custodian does not ensure that any transaction request you submit or cause to be submitted to a digital currency network via the TPA Platform will be completed by the applicable network. You acknowledge and agree that the transaction requests you authorize Custodian to submit for completion on a digital currency network may not be completed, or may be substantially delayed, by the digital currency network and Custodian is not responsible for any delay or any failure of completion caused by the digital currency network. When you complete a transaction request via the TPA Platform, this authorizes Custodian to submit the transaction request to the digital currency network in accordance with the instructions you provide.

- a. Third Parties.** Digital Trust as custodian has a contractual agreement with Alternative IRA Services, LLC dba BitcoinIRA ("Bitcoin IRA") to act as a third-party servicer to your cryptocurrency or gold IRA account in conjunction with certain cryptocurrency service providers. You acknowledge Bitcoin IRA may change service providers at any time without notice. Those services performed by Bitcoin IRA include but are not limited to client servicing, hosting of the client platform, administrative functions necessary to open the IRA and facilitate the investment transactions including identity verification. Any issues or errors arising out of the use of the third-party platform are the responsibility of the third-party platform.
- b. Key Storage.** Custodian shall use commercially reasonable efforts to keep in safe custody on behalf of Account Holder all Custodial Coins received by Custodian. Custodian will use commercially reasonable efforts to keep all Keys to the Custodial Wallet held by Custodian secure and shall maintain at least one (1) backup Key. Custodian shall exercise all commercially reasonable efforts to prevent unauthorized access to or use of the Keys held by Custodian to the Custodial Wallet. Custodian shall not be held liability for any prohibited transactions or tax liabilities or penalties related to the storage of keys.
- c. Asset Value Reporting Policy.** To value digital assets in your IRA, Custodian will electronically obtain USD equivalent prices from digital currency market data providers or other sources as of the last date of the statement to report on your IRA statement. Custodian does not guarantee the accuracy or timeliness of prices received and the prices are not to be relied upon for any investment decisions for your account.
- d. Trading, Transactions, and Residuals.**
  - i. Account Owner acknowledges and accepts the risk of trading, settlement and holding assets such as Digital Assets.
  - ii. Account Owner acknowledges that Custodian reserves the right to suspend or restrict transaction activity in the asset or account reasonably necessary to comply with Custodian's anti-money laundering programs and policies, any requirements under applicable law, to prevent fraud, prevent suspicious transactions, or for any security reasons. Account Owner acknowledges for digital asset transfers or withdrawals that the vault withdrawal timeframe may take up to forty-eight (48) hours to execute.
  - iii. Custodian will reflect in Account Owners Account market occurrences such as dividends, rewards, etc. when such activity occurs and after Custodian receives the proper information to reflect such activity.
  - iv. Upon liquidation of digital currency, Account Owner may incur negligible mining fees that are charged at an unknown rate by miners of blockchain based products. This fee will be the responsibility of Account Owner. The Digital IRA Platform accounts for an estimation of this which is withheld upon liquidation. The withholding will be greater than the amount charged by the miners, leaving a residual referred to as dust. Account Owner acknowledges Custodian will use dust for payment and apply any residual to Account Owner's account for outstanding Custodial Fees or any cost associated with maintaining the wallet and/or account.
- e. Transaction Requests and Verification.** For transactions initiated by Account Owner, the Account Owner appoints the Custodian with the authority to request the movement of assets and perform the out of band transaction verification as required by then current policies and procedures (e.g. video ID verification) including movement of assets out of the Cold Wallet Storage for purposes of settling trades executed by the Account Owner. Authority is granted to Custodian, provided Account Owner has appropriately provided direction or instruction in accordance with the Custodian's current policy and procedures via the Bitcoin IRA Platform or other method acceptable to Custodian.
- f. Acknowledgement of Fork, Airdrop, and Token Support.** Account Owner agrees that all "airdrops" and "forks" will be handled by Custodian pursuant to its current policies and procedures. Account Owner acknowledges that Custodian is under no obligation to support any airdrops or forks, or handle them in any manner. Account Owner acknowledges that Custodian does not own or control the underlying software protocols which govern the operation of Digital Currencies. Digital Asset protocols are subject to changes in protocol rules (referred to as "forks"), and such forks may materially affect the value, function, or name of the Digital Asset. You acknowledge and agree (i) that Custodian is not responsible for operation of the underlying Digital Asset protocols and that Custodian makes no guarantee of their functionality, security, or availability; and (ii) if a fork occurs, Custodian may temporarily suspend the ability to transact in the Digital Asset affected, and Custodian may decide not to support the forked protocol entirely or may enable you to transfer the affected Digital Asset.

Account Owner further acknowledges that Custodian, at its sole discretion, may update the policies and procedures from time to time. Custodian is under no obligation to provide notification to Customer of any modification. Account Owner further acknowledges and agrees that Custodian may, from time to time, offer support for select ERC20 tokens or other tokens, metacoins, colored coins, side chains, or coins which enhance or interoperate with coins supported by Custodian (collectively, "Tokens"). Custodian will notify Account Owner and the general public if the Custodian supports a particular Token. Account Owner further acknowledges and agrees that, upon the occurrence of any event outside the control of Custodian resulting in the migration of any ERC20 token from Ethereum to another protocol, including but not limited to a "mainnet launch," (a "Migration Event") Custodian may immediately cease any and all support for such ERC20 token, and that Custodian will be under no obligation to provide support for any Token related to or resulting from such a Migration Event.

CUSTODIAN WILL HAVE NO RESPONSIBILITY OR LIABILITY IF CLIENT LOSES, BURNS, OR OTHERWISE CANNOT ACCESS OR CONTROL ANY TOKEN THAT CUSTODIAN DOES NOT SUPPORT.



# TRADITIONAL INDIVIDUAL RETIREMENT ACCOUNT ACCOUNT DISCLOSURE STATEMENT



(Under section 408(a) of the Internal Revenue Code)

(800) 777 - 9878

(800) 867 - 7668

operations@digitaltrust.com

## PURPOSE OF THIS DISCLOSURE STATEMENT

The Internal Revenue Code (Code) requires that Digital Trust, LLC (Custodian) provide individuals establishing an Individual Retirement Account (IRA) with the information contained in this Disclosures document. This Disclosure document is intended to provide information to help you understand your IRA Account. This Disclosure document cannot cover every rule in the IRS Code and Custodian encourages you to refer to IRA Publications 590-A and 590-B and consult with a tax professional when necessary. Publications 590-A and 590-B will also provide insight to changes for the upcoming tax year.

You should read and complete the Traditional IRA Application (Application) which includes the Account Agreement provisions above along with the IRA Account Application, the Fee Schedule and the Traditional IRA Custodial Account Disclosures documents together as one which have been presented to the Account Owner prior to executing the Application. The IRS requires your Custodian to provide you, the Account Owner, with this Disclosure document.

## DISCLOSURES

- 1. Information.** You can set up an IRA with a bank or other financial institution, life insurance company, mutual fund or stockbroker. The firm that sets up your IRA is your Custodian. Digital Trust, LLC is the only Custodian of this IRA Account you are establishing.
- 2. Important Information About Procedures for Opening a New Account.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.
- 3. Revocation of IRA.** You have the right to revoke this IRA Account within seven (7) days of the date your IRA Account is established. If you exercise this right you are entitled to a return of the amount contributed to the IRA without penalty, service charge or administrative expenses. Please note, as Custodian, we must report on the appropriate IRS form both the contributions made to the account and the amount returned to you, however, this is not required if funded by a non-reportable transfer. If you do not exercise this right within seven (7) days of the date your IRA Account is established, it is assumed that you will have accepted the terms and conditions of the IRA you have established. If you choose to initiate an Investment Direction prior to the expiration of the seven (7) day period, this will signify you have declined this revocation right. Notice should be provided to the Custodian in writing through first class mail and must be postmarked within seven (7) days of the Account establishment date if you decide to revoke your Account. Revocation Notices can be mailed to: **Digital Trust, LLC, 7336 W. Post Road, Ste 111, Las Vegas, NV 89113**
- 4. Contributions.**
  - a. Compensation.** In order to contribute to an IRA, you must have earned income/compensation. According to the IRS, wages, salaries, tips, professional fees, bonuses, and other amounts you receive for providing personal services are compensation. An amount you receive that is a percentage of profits or sales price is compensation. For IRA purposes, compensation includes any taxable alimony and separate maintenance payments you receive under a decree of divorce or separate maintenance. If you were a member of the U.S. Armed Forces, compensation includes any nontaxable combat pay you received.
  - b. IRA Contributions.** To make a regular contribution to a traditional IRA for a year, the IRA must be established, and the contribution deposited, no later than the due date of your tax return for the tax year - generally April 15th. Contributions to your IRA must be made in cash. In the Custodian's sole discretion, in-kind rollover contributions or transfers may be accepted.
  - c. Limits For 2022.** The contribution limit is the lesser of: 1.) \$6,000 (\$7,000 if you are age 50 or older\*) minus all contributions to your other IRAs (other than employer contributions under a SEP or SIMPLE IRA plan) 2.) Your taxable compensation minus all contributions to your other IRAs (other than employer contributions under a SEP or SIMPLE IRA plan) for the tax year. Note. This limit is reduced by any contributions to a pension plan. This contribution limit is subject to an annual cost-of-living adjustment by the IRS from year to year and you should check the IRS site for updated information each year.

\* The IRS allows for a "catch up contribution" of \$1,000 only for taxpayers aged 50 or over.
  - d. Spousal Contributions.** You can contribute to an IRA for your spouse as long as the contributions satisfy the *Kay Bailey Hutchison Spousal IRA limit* (outlined below), you file jointly, and your modified AGI is within the minimum and maximum thresholds.

**Kay Bailey Hutchison Spousal IRA Limit**

If you file a joint return and your taxable compensation is less than that of your spouse, the most that can be contributed for the year to your IRA is the smaller of the following two amounts. 1.) \$6,000 (\$7,000 if you are age 50 or older). 2.) The total compensation includible in the gross income of both you and your spouse for the year, reduced by a.) Your spouse's traditional IRA contribution for the year b.) Any contributions for the year to a Roth IRA on behalf of your spouse.
  - e. Multiple IRAs.** If you have more than one IRA, the contribution limit applies to the total contributions made on your behalf to all your IRAs for the year.
  - f. Tax Year.** Contributions made between January 1 and the tax filing deadline (generally April 15th) should include a designation of which tax year the contribution should apply to. If no designation is made, Custodian will report the contribution for the tax year received.
  - g. Deductible Contributions for 2021.** The deduction you can take for contributions made to your traditional IRA depends on whether you or your spouse was covered for any part of the year by an employer retirement plan. Your deduction is also affected by how much income you had, by your filing status and possibly by social security benefits you received. If you are covered by a retirement plan at work, use the table below to determine if your modified Adjusted Gross Income (AGI) affects the amount of your deduction. Please note: Your modified AGI may not be the same as your compensation. Your modified AGI may include income in addition to your compensation such as interest, dividends, and income from IRA distributions.

You can use this chart to determine if your modified AGI affects the amount of your deduction if you are covered by a retirement plan at work.

IF your tax filing status is ...	AND your modified AGI is ...	THEN you can take ...
single or head of household	\$66,000 or less	a full deduction.
	more than \$66,000 but less than \$76,000	a partial deduction.
	\$76,000 or more	no deduction.
married filing jointly or qualifying widow(er)	\$105,000 or less	a full deduction.
	more than \$105,000 but less than \$125,000	a partial deduction.
	\$125,000 or more	no deduction.
married filing separately <sup>^</sup>	less than \$10,000	a partial deduction.
	\$10,000 or more	no deduction.

<sup>^</sup> (Based on IRS guidelines, your filing status is considered single if you didn't live with your spouse at any time during the year.)

If you aren't covered by a retirement plan at work, use this table to determine if your modified AGI affects the amount of your deduction.

IF your filing status is ...	AND your modified AGI is ...	THEN you can take ...
Single, head of household, or qualifying widow(er)	any amount	a full deduction.
married filing jointly or separately with a spouse who isn't covered by a plan at work	any amount	a full deduction.
married filing jointly with a spouse who is covered by a plan at work	\$198,000 or less	a full deduction.
	more than \$198,000 but less than \$208,000	a partial deduction.
	\$208,000 or more	no deduction.
married filing separately with a spouse who is covered by a plan at work. (You are entitled to the full deduction if you didn't live with your spouse at any time during the year.)	less than \$10,000	a partial deduction.
	\$10,000 or more	no deduction.

You should refer to IRS Publication 590-A - Contributions to Individual Retirement Arrangements (IRAs) for additional information and worksheets to help you determine your modified AGI and the deductibility of your contributions.

**h. Nondeductible Contributions.**

- i. You can still contribute the maximum amount of your allowable contribution even if it is nondeductible. Nondeductible contributions should be reported to the IRS with your federal tax return. When filing your tax return, include a completed Form 8606 to inform the IRS of the nondeductible contribution amount. You can't deduct a rollover contribution on your federal tax return because the funds are going into another retirement plan.
- ii. Employers can contribute to your SEP IRA, however, you cannot deduct these contributions on your federal tax return. Employers can contribute the smaller of 25% of your compensation (maximum limit of \$305,000 for 2022 can be considered) or \$61,000 for 2022. These limits are subject to cost of living adjustments and may be modified by the IRS from year to year.

**5. Excess Contributions.**

- a. **Determining your Excess Contribution.** Excess contributions are the contributions to your IRAs for a year that equal the total of: 1.) Amounts contributed for the tax year to your IRAs that are more than your contribution limit for the year. 2.) Any excess contributions for the preceding year, reduced by the total of: a.) Any distributions out of your IRAs for the year, plus b.) Your contribution limit for the year minus your contributions to all your IRAs for the year. NOTE: Do not include amounts that are properly and timely rolled over from a Roth IRA or properly converted from a traditional IRA or rolled over from a qualified retirement plan, when determining your excess contributions.

- b. Removing Excess Contributions.** For purposes of determining excess contributions, any contribution that is withdrawn on or before the due date (including extensions) for filing your tax return for the year is treated as an amount not contributed. This treatment only applies if any earnings on the contributions are also withdrawn. The earnings are considered earned and received in the year the excess contribution was made. If you filed your tax return without withdrawing a contribution that you made in the tax year, the IRS allows you to have the contribution returned to you within 6 months of the due date of your tax return, excluding extensions. If you make this withdrawal you can file an amended federal tax return with "Filed pursuant to section 301.9100-2" written at the top. You should also report any related earnings on the amended return and include an explanation of the withdrawal. In general, if the excess contributions for a year aren't withdrawn by the date your federal tax return for the year is due (including extensions), you will be subject to a 6% tax and other taxes may apply. You must pay the 6% tax each year on excess amounts that remain in your IRA at the end of the tax year.
- c. Applying excess contributions.** If contributions to your IRA for a year were more than the limit, you can apply the excess contribution in one year to a later year, however, your contribution for the later year cannot exceed the maximum contribution allowed for that year.
- 6. Distributions.**
- a. Distributions Generally.** Distributions from your IRA will be processed by the Custodian upon direction from the Account Owner in a manner that is acceptable to the Custodian. Custodian is not responsible for acting on instructions that were provided in error or that do not provide all the required information. If you direct the Custodian to distribute from your IRA Account before you have reached the age of 59 ½, the IRS describes these as "premature" or "early" distributions. These distributions are subject to a 10% early withdrawal tax which is in addition to the income tax that must be paid on the distribution. There are a number of exceptions to this 10% early withdrawal tax. For example, individuals that are disabled or first-time homebuyers or a qualified reservist are among those not subject to this additional tax. Please consult with a tax advisor for guidance on your distribution situation. Taxable distributions from your IRA are taxed as ordinary income. You can elect to have Federal Tax withheld at the time of distribution. State taxes will be withheld for the required states according to the state's guidelines. The Custodian's distribution form will provide the elections available.
- b. Required Minimum Distributions.** For IRAs (including SEP and SIMPLE IRAs) you must start taking distributions from your IRA by April 1 of the year following the calendar year in which you reach age 72. For each year after your required beginning date, you must withdraw your RMD by December 31st. If you take your initial RMD between January 1st and April 1st, you will have two required distributions for the year as the second RMD is due by December 31st. To avoid having to report two distributions for the same tax year, you can take your first RMD by December 31st of the year you turn 72. If you do not take any distributions, or if the distributions are not large enough to satisfy the requirement, you may have to pay a 50% excise tax on the amount not distributed as required. If you have more than one IRA that is subject to the RMD rule, you can satisfy the requirement by taking the distribution out of one of the IRAs or multiple IRAs as long as the required distribution will be satisfied. For additional information including the amount required to be distributed, please see IRS Publication 590-B. The Traditional Individual Retirement Custodial Account Agreement also had additional information on RMDs in Section IV.
- c. Distributions Under Divorce, Levys and Similar Court Directives.** In the event that the Custodian is presented with a Court Order to distribute all or part of your IRA due to divorce, Custodian will transfer the assets into an IRA account of the receiving spouse. The portion or amount transferred will have no tax implications to you if the Court Order is received and acceptable to the Custodian. The Custodian reserves the right to request additional information from you or your former spouse to carry out such orders. In some instances, such as a levy or a court order, the Custodian may make a distribution from the IRA Account without instruction from the Account Owner. In those cases, the distribution may be reportable to the IRS as a taxable event.
- d. Rollovers.** Generally, a rollover is a tax-free distribution to you of cash or other assets from one retirement plan that you contribute to another retirement plan. This rollover must be completed within sixty (60) days from the date you received the payment or distribution. There are several exceptions to this sixty (60) day rule; however, you are required to provide your Custodian with a certification, meeting the IRS requirements, indicating you are eligible for one or more of these exceptions. The contribution to the second retirement plan is called a "rollover contribution." Common rollovers to a traditional IRA come from: a.) A traditional IRA. b.) An employer's qualified retirement plan for its employees. c.) A deferred compensation plan of a state or local government (section 457 plan). d.) A tax-sheltered annuity plan (section 403 plan). NOTE: Rollovers from Traditional IRAs or SEP-IRAs into or out of a SIMPLE IRA can only take place after two (2) years. The 2-year period begins on the first day on which your employer deposits contributions in your SIMPLE IRA. Rollovers between two SIMPLE IRAs are not subject to the two (2) year waiting period. Rollovers from Traditional IRAs, SEP-IRAs and SIMPLE IRAs into Roth IRAs must be included in your income for that year. The SIMPLE IRAs are subject to the two (2) year waiting period. Amounts that must be distributed during a particular year under the RMD rules (discussed in Pub. 590-B) aren't eligible for rollover treatment.
- e. One-rollover-per-year limitation.** You can make only one rollover from an IRA to another (or the same) IRA in any 1-year period regardless of the number of IRAs you own. The limit will apply by aggregating all of an individual's IRAs, including SEP and SIMPLE IRAs as well as traditional and Roth IRAs, effectively treating them as one IRA for purposes of the limit. However, trustee-to-trustee transfers between IRAs aren't limited and rollovers from traditional IRAs to Roth IRAs (conversions) aren't limited. The 1-year period begins on the date you receive the IRA distribution, not on the date you roll it over into an IRA.
- f. Property Rolled Over.** If property is distributed to you from your IRA and you complete the rollover by contributing property to an IRA, your rollover is tax free only if the property you contribute is the same property that was distributed to you. For example: if you received cash from your IRA and roll it over to an eligible account, the rollover contribution into the eligible account must be in cash.
- g. Partial rollovers.** If you withdraw assets from a traditional IRA, you can roll over part of the withdrawal tax free and keep the rest of it. The amount you keep will generally be taxable (except for the part that is a return of nondeductible contributions). The amount you keep may be subject to the 10% additional tax on early distributions as described above.
- 7. Recharacterizations.** You may be able to recharacterize certain contributions by recharacterizing a current year regular contribution plus earnings. Please note, beginning in 2018, recharacterizations of conversions made to a Roth IRA are no longer permitted. If you decide by your tax filing deadline (including extensions) of the year for which the contribution was made to transfer a current year contribution plus earnings from your traditional IRA to a Roth IRA, no amount will be included in your gross income if you did not take a deduction for the contribution. You may also recharacterize a current year contribution plus earnings from your Roth IRA to a traditional IRA by your tax filing deadline (including extensions) of the year for which the contribution was made. A regular contribution that is appropriately recharacterized from your Roth IRA to a traditional IRA may be deductible depending upon the deductibility rules previously discussed. In order to recharacterize a regular contribution from one type of IRA to another type of IRA, you must be eligible to make a regular contribution to the IRA to which the contribution plus earnings is recharacterized. All recharacterizations must be accomplished as a direct transfer, rather than a distribution and subsequent rollover. Any recharacterized contribution (whether a regular contribution or a conversion) cannot be revoked after the transfer.
- 8. Conversion from a Traditional IRA to a Roth IRA.** You are permitted to make a qualified rollover contribution from a traditional IRA to a Roth IRA. This is called a "conversion" and may be done at any time without waiting the usual 12 months. Beginning in 2018, for conversions made in 2018, you are no longer permitted to recharacterize a conversion made to a Roth IRA back to a traditional IRA. Taxation in Completing a Conversion from a Traditional IRA to a Roth IRA - If you complete a conversion from a traditional IRA to a Roth IRA, the conversion amount (to the extent taxable) is generally included in your gross income for the year during which the distribution is made from your traditional IRA that is converted to a Roth IRA.

## 9. Investments.

- a. **Investments-No Duty to Review or Monitor Investments.** The Custodian shall have no duty or responsibility to review any investment held in the IRA Account or any investment under consideration by the Account Owner or any purchase directed by the Account Owner with respect to any issue, including but not limited to, its safety, risk, suitability or whether or not it should be registered as a security with the appropriate government agencies and shall have no liability with respect to its safety, risk, suitability or whether or not it should be registered as a security with the appropriate government agencies. The Custodian shall not be responsible to investigate or perform any due diligence on any investment, investment sponsor or any principal involved with any investment. Further, the Custodian has no duty to monitor any investment held in the IRA Account. Under this agreement the Custodian provides Custody Services for the assets selected by the Account Owner. Custodian acts on the Investment Directions provided by the Account Owner and has no responsibility for the performance or suitability of the assets selected by the Account Owner. Acting on the Account Owner's Investment Direction in no way implies endorsement by the Custodian of the assets selected by the Account Owner. The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the IRA Account. At its sole discretion, the Custodian can refuse to act as Custodian on any asset selected by the Account Owner.
  - b. **IRA Owner Investment Responsibility.** The Account Owner has the full responsibility to review and investigate the assets they direct the Custodian to invest in for their IRA Account. It is the Account Owner's responsibility, not the Custodian's, to select and monitor the investments in the IRA Account. The Account Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the IRA Account and accepts full and sole responsibility for such selection. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the IRA Account and accepts full and sole responsibility for the success or failure of such investments. The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the IRA Account. It is the Account Owner's responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
  - c. **Pledging IRA Assets.** If you use (pledge) a part of your traditional IRA account as security for a loan, that part is treated as a distribution and is included in your gross income. You may have to pay the 10% additional tax on early distributions discussed in item 8.) above and in IRS Publication 590-B.
  - d. **Prohibited Investments.** The IRS Code does not permit IRA funds to be invested in life insurance or collectibles. The IRS considers the following items as collectibles: artwork, rugs, antiques, metals, gems, stamps, coins, alcoholic beverages, and certain other tangible personal property. The IRS has indicated that there are some exceptions as noted here: Roth IRAs can invest in one, one-half, one-quarter, or one-tenth ounce U.S. gold coins, or one-ounce silver coins minted by the Treasury Department. It can also invest in certain platinum coins and certain gold, silver, palladium, and platinum bullion. If you invest your Roth IRA in collectibles, the amount invested is considered distributed in the year invested and you may have to pay a 10% additional tax on early distributions.
  - e. **Prohibited Transactions.** Generally, a prohibited transaction is any improper use of your traditional IRA account by you, your beneficiary, or any disqualified person. Disqualified persons include members of your family (spouse, ancestor, lineal descendant, and any spouse of a lineal descendant). If you or your beneficiary engages in a prohibited transaction in connection with your IRA account at any time during the year, the account stops being an IRA as of the first day of the year in which the prohibited transaction occurs. The IRA Account is treated as distributing all its assets to the Account Owner at their fair market value(s) on the first day of the year in which the prohibited transaction occurs. If the IRA Account ceases to qualify as an IRA because of a prohibited transaction by you or your beneficiary, you may have a taxable gain that is reportable as income. In addition, you or your beneficiary may have to pay other taxes. Some examples of prohibited transactions include buying property within your IRA Account for personal use, using the IRA Account as security for a loan and borrowing money from your IRA. Prohibited transactions are described in Internal Revenue Code (IRC) Section 4975. It is the Account Owner's responsibility and not the Custodian's responsibility to determine if a transaction constitutes a prohibited transaction. The Custodian reserves the right to request a certification from the Account Owner that the direction provided by the Account Owner does not create a prohibited transaction, however, if a certification is not requested that does not indicate a transaction is not prohibited. Custodian reserves the right to take any action necessary, within its discretion, which may include resigning from the IRA Account.
- 10. Inherited IRAs/Beneficiaries.** Account Owner's should review and update their IRA Account beneficiaries by providing the Custodian with a completed Beneficiary Designation Form. This is especially important after life changes such as marriage, divorce, death, and birth or adoption of children. If you inherit an IRA, you are called a beneficiary. A beneficiary can be any person or entity the Account Owner chooses to receive the benefits of the IRA after he or she dies. Beneficiaries of the IRA must include in their gross income any taxable distributions they receive.
- a. **Inherited From Spouse.** If you inherit a traditional IRA from your spouse, you generally have the following three choices. You can do one of the following: a.) Treat it as your own IRA by designating yourself as the Account Owner b.) Treat it as your own by rolling it over into your IRA, or to the extent it is taxable, into a Qualified employer plan, Qualified employee annuity plan (section 403(a) plan), Tax-sheltered annuity plan (section 403(b) plan), or Deferred compensation plan of a state or local government (section 457 plan). c.) Treat yourself as the beneficiary rather than treating the IRA as your own. If you make contributions (including rollover contributions) to the inherited IRA or if you don't take the RMD for a year as the beneficiary of the IRA, you will be considered to have chosen to treat the IRA as your own. You will only be considered to have chosen to treat the IRA as your own if: a.) You are the sole beneficiary of the IRA, and b.) You have an unlimited right to withdraw from it. However, if you receive a distribution from your deceased spouse's IRA, you can roll that distribution over into your own IRA within the 60-day time limit, as long as the distribution isn't an RMD, even if you aren't the sole beneficiary of your deceased spouse's IRA. See Publication 590-B for more information on RMDs.
  - b. **Inherited From Someone Other Than Spouse.** If you inherit a traditional IRA from anyone other than your deceased spouse, you cannot treat the inherited IRA as your own. This means that you can't make any contributions to the IRA. It also means you can't roll over any amounts into or out of the inherited IRA. However, you can make a trustee-to-trustee transfer as long as the IRA into which amounts are being moved is set up and maintained in the name of the deceased IRA owner for the benefit of you as beneficiary. See Pub. 590-B for more information. Like the original owner, you generally won't owe tax on the assets in the IRA until you receive distributions from it. You must begin receiving distributions from the IRA under the rules for distributions that apply to beneficiaries. Beneficiaries of an inherited IRA must generally begin receiving required minimum distributions by December 31 of the year following the year of the deceased person's death.
- 11. No Tax, Legal or Investment Advice.** In its role as Custodian, Digital Trust, LLC does not provide any tax, legal or investment advice. It is your responsibility as the Account Owner to consult with your investment or tax advisor. The Custodian shall act on the Account Owners directions for transfers, investments and distributions of Fiat when the Account Owner has submitted directions in the manner required by Custodian. The Custodian is not responsible for losses or damages resulting from the delay of acting on a direction if the direction is unclear, incomplete and not in acceptable form to the Custodian. Additionally, the Custodian is not responsible for the performance of the assets selected by the Account Owner. Under this agreement the Custodian provides Custody Services for the assets selected by the Account Owner. Custodian acts on the Investment Directions provided by the Account Owner and has no responsibility for the performance or suitability of the assets selected by the Account Owner.

# ROTH INDIVIDUAL RETIREMENT ACCOUNT CUSTODIAL ACCOUNT AGREEMENT



(Under section 408(a) of the Internal Revenue Code)

Form 5305-RA (Revised April 2017)

Department of the Treasury – Internal Revenue Service

(800) 777 - 9878

(800) 867 - 7668

operations@digitaltrust.com

## PURPOSE OF THIS FORM

This Custodial Account Agreement outlines the terms and conditions required to meet the Internal Revenue Service (IRS) requirements for opening a Roth Individual Retirement Account (Roth IRA). Form 5305-RA is a model custodial account agreement that meets the requirements of section 408(a). However, only Articles I through VIII have been reviewed by the IRS. A Roth individual retirement account (Roth IRA) is established after the form is fully executed by both the individual (depositor) and the custodian. This account must be created in the United States for the exclusive benefit of the depositor and his or her beneficiaries. Article IX was prepared by Digital Trust, LLC herein after known as "Custodian" "we" "us" and "our" for the agreement with the Depositor hereafter known as the "Account Owner" "client" "you" or "your."

The Custodian's action of the opening of the account signifies its execution of the Agreement. The IRA Account Application (Application) includes the following Account Agreement provisions along with the IRA Account Application, the Fee Schedule, and the Custodial Account Disclosures document together as one which have been presented to the Account Owner prior to executing the Application. The IRA account is established by the Custodian in the capacity of a Directed Custodian for the exclusive benefit of the Account Owner who agree to the below terms and conditions.

**Do not file Form 5305-RA with the IRS. Instead, keep it with your records.**

Unlike contributions to traditional individual retirement arrangements, contributions to a Roth IRA are not deductible from the depositor's gross income; and distributions after 5 years that are made when the depositor is 59 1/2 years of age or older or on account of death, disability, or the purchase of a home by a first-time homebuyer (limited to \$10,000), are not includible in gross to \$10,000, are not includible in gross income. For more information on Roth IRAs, including the required disclosures the custodian must give the depositor, see Pub. 590-A, Contributions to Individual Retirement Arrangements (IRAs), and Pub. 590-B, Distributions from Individual Retirement Arrangements (IRAs).

## DEFINITIONS

**Custodian.** The custodian must be a bank or savings and loan association, as defined in section 408(n), or any person who has the approval of the IRS to act as custodian.

**Depositor.** The depositor is the person who establishes the custodial account.

## SPECIFIC INSTRUCTIONS

**Article I.** The depositor may be subject to a 6% tax on excess contributions if (1) contributions to other individual retirement arrangements of the depositor have been made for the same tax year, (2) the depositor's adjusted gross income exceeds the applicable limits in Article II for the tax year, or (3) the depositor's and spouse's compensation is less than the amount contributed by or on behalf of them for the tax year.

**Article V.** This article describes how distributions will be made from the Roth IRA after the depositor's death. Elections made pursuant to this article should be reviewed periodically to ensure they correspond to the depositor's intent. Under paragraph 3 of Article V, the depositor's spouse is treated as the owner of the Roth IRA upon the death of the depositor, rather than as the beneficiary. If the spouse is to be treated as the beneficiary, and not the owner, an overriding provision should be added to Article IX.

**Article IX.** Article IX and any that follow it may incorporate additional provisions that are agreed to by the depositor and custodian to complete the agreement. They may include, for example, definitions, investment powers, voting rights, exculpatory provisions, amendment and termination, removal of the custodian, custodian's fees, state law requirements, beginning date of distributions, accepting only cash, treatment of excess contributions, prohibited transactions with the depositor, etc.

## ARTICLE I

Except in the case of a qualified rollover contribution described in section 408A(e) or a recharacterized contribution described in section 408A(d) (6), the custodian will accept only cash contributions up to \$5,500 per year for 2013 through 2017. For individuals who have reached the age of 50 by the end of the year, the contribution limit is increased to \$6,500 per year for 2013 through 2017. For years after 2017, these limits will be increased to reflect a cost-of-living adjustment, if any.

## ARTICLE II

1. The annual contribution limit described in Article I is gradually reduced to \$0 for higher income levels. For a grantor who is single or treated as single, the annual contribution is phased out between adjusted gross income (AGI) of \$118,000 and \$133,000; for a married grantor filing jointly, between AGI of \$186,000 and \$196,000; and for a married grantor filing separately, between AGI of \$0 and \$10,000. These phase-out ranges are for 2017. For years after 2017, the phase-out ranges, except for the \$0 to \$10,000 range, will be increased to reflect a cost-of-living adjustment, if any. Adjusted gross income is defined in section 408A(c)(3).
2. In the case of a joint return, the AGI limits in the preceding paragraph apply to the combined AGI of the depositor and his or her spouse.

## ARTICLE III

The depositor's interest in the balance in the custodial account is nonforfeitable.

## ARTICLE IV

1. No part of the custodial account funds may be invested in life insurance contracts, nor may the assets of the custodial account be commingled with other property except in a common trust fund or common investment fund (within the meaning of section 408(a)(5)).
2. No part of the custodial account funds may be invested in collectibles (within the meaning of section 408(m)) except as otherwise permitted by section 408(m)(3), which provides an exception for certain gold, silver, and platinum coins, coins issued under the laws of any state, and certain bullion.

## ARTICLE V

1. If the depositor dies before his or her entire interest is distributed to him or her and the depositor's surviving spouse is not the designated beneficiary, the remaining interest will be distributed in accordance with paragraph (a) below or, if elected or there is no designated beneficiary, in accordance with paragraph (b) below.
  - a. The remaining interest will be distributed, starting by the end of the calendar year following the year of the depositor's death, over the designated beneficiary's remaining life expectancy as determined in the year following the death of the depositor.
  - b. The remaining interest will be distributed by the end of the calendar year containing the fifth anniversary of the depositor's death.
2. The minimum amount that must be distributed each year under paragraph 1(a) above is the account value at the close of business on December 31 of the preceding year divided by the life expectancy (in the single life table in Regulations section 1.401(a)(9)-9) of the designated beneficiary using the attained age of the beneficiary in the year following the year of the depositor's death and subtracting 1 from the divisor for each subsequent year.
3. If the depositor's surviving spouse is the designated beneficiary, such spouse will then be treated as the depositor.

## ARTICLE VI

1. The depositor agrees to provide the custodian with all information necessary to prepare any reports required by sections 408(i) and 408A(d)(3)(E), Regulations sections 1.408-5 and 1.408-6, or other guidance published by the Internal Revenue Service (IRS).
2. The custodian agrees to submit to the IRS and depositor the reports prescribed by the IRS.

## ARTICLE VII

Notwithstanding any other articles which may be added or incorporated, the provisions of Articles I through IV and this sentence will be controlling. Any additional articles inconsistent with section 408A, the related regulations, and other published guidance will be invalid.

## ARTICLE VIII

This agreement will be amended as necessary to comply with the provisions of the Code, the related regulations, and other published guidance. Other amendments may be made with the consent of the persons whose signatures appear below.

### 1. Account Owner Responsibilities.

- a. **Account Owner.** The Account Owner acknowledges that the Account is a non—interest bearing self-directed account. The custodian acts as a “fiduciary” for this account as defined by the Employee Retirement Income Security Act, as amended (“ERISA”), by the Internal Revenue Code or any other applicable local, state or federal laws only in relation to its custodial services. The Custodian does not, and the Account Owner acknowledges that the Custodian does not assume fiduciary responsibilities for any Account Owner's Investment Decisions associated with the account. . The Account Owner also acknowledges that the Account with the Custodian will be established in the name of the Custodian for the benefit of the Account Owner and Account Owner agrees that all transactions related to the Account must go through the Account held with the Custodian otherwise this could result in tax implications. It is the Account Owner's responsibility (not the Custodian's) to select and monitor the investments in the Account. The Account Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the Roth IRA Account and accepts full and sole responsibility for such selection (“Account Owner's Investment Decisions”). The Custodian provides no investment, legal, or tax advice or recommendations related to your account. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the Roth IRA Account and accepts full and sole responsibility for the success or failure of such investments. Assets in your account are not guaranteed by Digital Trust and are subject to investment risk, including the possible loss of your investment value.
- b. **Authorized Agent.** The Account Owner may appoint a third party as their authorized agent for information access to the Custodial Account by notifying the Custodian in a form acceptable to the Custodian. The Custodian shall assume that the authorized agent is at

all times qualified to act as agent for the Account Owner and shall recognize the agent as having the authority to obtain information related to the Account until such time as 1.) the Account Owner notifies the Custodian in writing that he has removed the authorized agent, or 2.) the Custodian is notified of the death of the Account Owner. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement. Custodian shall bear no responsibility for any transactions in the Roth IRA Account, or resultant losses or damages to Account Owner, caused by any acts or omissions of Authorized Agents. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement.

- c. Additional Information.** Account Owner agrees and acknowledges that unless where required by law, the Custodian is not responsible for communicating, forwarding or notifying any party, including the Account Owner, with respect to communications or other matters which come to the received by or comes to the attention of the Custodian with respect to assets in the account. It is the Account Owner's responsibility for making arrangements to receive such information or monitor public sources for such information.
- d. Prohibited Transactions.** It is the Account Owner's responsibility to determine if a transaction constitutes a prohibited transaction. Generally, a prohibited transaction is any improper use of your IRA Account by you, your beneficiary, or any disqualified person. Disqualified persons include members of your family (spouse, ancestor, lineal descendant, and any spouse of a lineal descendant). The following are some examples of prohibited transactions with a Roth IRA. 1.) Borrowing money from it. 2.) Selling property to it. 3.) Using it as security for a loan. 4.) Buying property for personal use (present or future) with IRA funds. The Custodian reserves the right to request a certification from the Account Owner that an Investment Direction provided by the Account Owner does not create a prohibited transaction, however, if a certification is not requested that does not indicate a transaction is not prohibited. Custodian reserves the right to take any action necessary, within its discretion, which may include resigning from the IRA Account.
- e. Unrelated Business Income ("UBIT").** A IRA is subject to tax on unrelated business income if it carries on an unrelated trade or business. An unrelated trade or business means any trade or business regularly carried on by the IRA or by a partnership of which it is a member, and not substantially related to the IRA's exempt purpose or function. If the IRA has \$1,000 or more of unrelated trade or business gross income, the IRA must file a Form 990-T, Exempt Organization Business Income Tax Return and pay the tax due. Account Owner is responsible for monitoring UBTI for their IRA Account which you may hold and prepare, or have prepared, the proper 990-T tax form and forward it to Custodian for filing, along with authorization to pay any tax due from the IRA Account. In order to file the 990-T tax form, the Account Owner must apply for an Employer Identification Number (EIN) for the IRA Account before requesting Custodian to pay any tax owed. This EIN must be used on the 990-T tax form, the Account Owner social security number or Custodians EIN cannot be used.
- f. Employer Contributions.** If the Account Owner's IRA Account is the type of IRA which may receive contributions from the Account Owner's employer, the Custodian shall not be liable for any expenses, losses, damages, costs or penalties incurred as a result of the failure of the employer of the Account Owner to make any contributions to the IRA Account required under Account Owner's IRA plan. The Custodian is not responsible for monitoring the employer's contributions to your Custodial Account or notifying Account Owner of the employer's contributions. If applicable, the Account Owner is responsible for contacting the employer regarding its contributions and monitoring those contributions.
- g. Account Owner's Representations.** Account Owner represents and warrants that any information given or any information that will be given in the future with respect to this Account is complete and accurate. Account Owner also agrees that any directions Account Owner or Account Owner's authorized agent give to the Custodian, or any actions Account Owner or Account Owner's authorized agent take will be proper under this Agreement and that the Custodian is entitled to rely upon any such information or directions. The Custodian shall not be responsible for losses of any kind that may result from such directions to the Custodian or from the Account Owner's actions, or the Account Owner's authorized agent's actions, or failures to act of both. Account Owner agrees to reimburse the Custodian for any losses the Custodian may incur as a result of such directions, actions or failures to act.
- h. Review of Statements.** Custodian shall provide Account Owner with quarterly Account Statements containing the account assets and account activity within your Account. Please review the statement carefully and if you identify any discrepancies please document in writing and provide to Custodian via email within forty-five (45) days of the statement issuance at [Operations@digitaltrust.com](mailto:Operations@digitaltrust.com) or via mail at the address listed on the statement. If the notice of discrepancies is not received within the forty-five (45) day time frame, it will signify your approval of the statement and precludes you from making future objections or exceptions regarding the information contained in this statement. Such approval by you shall be full acquittal and discharge of Custodian regarding the transactions and information on such statement. Issuance shall mean (1) the posting of your Roth IRA Account Statement within the online platform or (2) the date of mailing of a paper Roth IRA Account Statement.
- i. Fair Market Valuations.** The IRS requires the Custodian to report the Fair Market Value ("FMV") of the account on an annual basis. It is the Account Owner's responsibility to ensure that the FMV is accurate. The valuation for investments must be provided to the Custodian on a timely basis by the Account Owner or another party chosen by the Account Owner for this purpose ("Valuation Agent") and identified as such in a written document delivered to the Custodian. It is the Account Owner's responsibility to determine and provide the valuation of Alternative Assets to the Custodian. The Custodian shall have no responsibility for acting on an FMV reported by the Account Owner or Valuation Agent. For Alternative Assets such as investments in limited liability companies, limited partnerships, hedge funds, and other similar entities, the Account Owner directs the Custodian to obtain the FMV of the Account Owner's Alternative Assets from the investment entity itself and hereby appoints each such entity as the Valuation Agent for the Account's investment in the entity itself. Each Valuation Agent shall be required to sign such documents as the Custodian shall deem appropriate or necessary to confirm the understanding and agreement of the Valuation Agent to its obligation to provide such to the Custodian. Failure of the Account Owner or Valuation Agent to provide a timely valuation shall be the sole responsibility of the Valuation Agent or the Account Owner, as the case may be, and the Custodian shall not be required to take any further steps to secure an updated FMV for the Account. The Custodian shall not be responsible for the timeliness or the accuracy of any FMV of any Alternative Asset furnished by the Account Owner or a Valuation Agent. The Custodian shall reflect the latest valuation received on an asset in the Custodial Account's statements on a timely basis, but the Custodian shall have no duty to inform the Account Owner or to follow up with any Valuation Agent with respect to the status of any such additional valuations. The Custodian shall have no duty or responsibility to solicit any valuation from either the Account Owner or the Valuation Agent. If the Custodian does not receive an updated FMV for an Alternative Asset, the Custodian shall be entitled to use the last FMV provided to the Custodian, or if none, the original purchase price for the Alternative Asset in question (such last FMV or original purchase price, as the case may be, shall hereinafter be referred to as the "Last Value").
- j. Indemnity.** Custodian shall be indemnified by Account Owner against any liabilities, losses, damages, costs and expenses (including but not limited to legal fees) incurred by Custodian arising out of any action taken or omitted to be taken by the Custodian hereunder

or pursuant to any Instructions, including but not limited to (i) any taxes or other governmental charges, and any expenses related thereto, which may be imposed or assessed with respect to the asset/investment, and/or (ii) the Custodian or any nominee or agent of the Custodian, appearing as holder or holder of record of the asset/investment or any part thereof, but excluding those liabilities, losses, damages, costs and expenses which arise (whether through act or omission) as the result of fraud, willful default or gross negligence on the part of the Custodian in the performance of its duties under this Agreement.

## 2. Custodian Responsibilities

- a. Account.** The Custodian shall establish and maintain a separate Account in the name of the Account Owner. All contributions to a Roth IRA shall be in cash except for IRA-to-IRA transfers and rollovers if applicable. The Custodian's acceptance of in-kind asset transfers will be in accordance with the Custodian's current policies and procedures. We recommend that you contact Custodian for additional information. Neither the Account Owner nor a Beneficiary shall assign any portion of the Account Owners Account and the Custodian shall not recognize any such assignment. It is the Account Owner's sole responsibility not the Custodian's to determine the amount of permissible contributions and the contribution timing as permissible by law. It is the Account Owner's responsibility to communicate in writing to the Custodian if a deposit in current year applies to the prior calendar tax year.
- b. Uninvested Cash Funds.** From time to time you may deposit cash or digital assets with us, or we may receive funds in settlement of trades, that are not subject to a current Direction of Investment (or are awaiting your direction) (collectively referred to as "Uninvested Funds"). Digital Trust may place funds in one or more money markets, demand deposit accounts (savings or checking), including but not limited to Certificates of Deposit (CDs), investment grade bonds, "A" rated or higher life insurance companies (fixed annuities), municipal bonds, United States treasuries, fixed income annuities with our without life insurance companies, mortgage and real estate backed securities or collateralized investments, and/or Digital or Non Digital yield generating structured investments. Your account is credited with all Uninvested Funds. You agree that if we receive no other instructions, Uninvested Funds from your IRA shall be invested in account(s) of Custodian's choosing using a method designed to maintain liquidity of the Uninvested Funds.
- Specifically, you authorize and direct us to sweep Uninvested Funds automatically into Custodian's designated account(s) until such time as further direction is received from you or your designated representative(s). If FDIC insurance applies to the investments purchased with Uninvested Cash Funds, the insurance will be subject to all applicable laws and regulations related to FDIC insurance limitations.
  - We may adjust the method for investment between the accounts from time to time and we are not required to provide notice or obtain your consent.
  - If we receive monies after hours or that otherwise cannot be immediately swept into an approved interest-bearing investment, such amounts may remain uninvested in our bank account overnight. In that case, we may also earn float on such amounts. In addition, if we issue a check on your behalf in connection with (1) distributions requested by you or (2) fees paid to third party service providers to your account, we debit your account the amount of the check and deposit the funds into a special disbursement account held by us. In that case, we will earn float on the amount of the check from the date it is issued until the date the check is presented and paid.
  - Amounts held in our bank account or Digital asset wallets are held in an omnibus account and not segregated from other deposit funds.
- c. Investments.** Under this agreement the Custodian provides Self Directed Custody Services for the investments/assets selected by the Account Owner. Custodian acts on the Account Owner's Investment Decisions provided by the Account Owner and has no responsibility for any transactions made in accordance with Account Owner's Investment Decisions including, the performance, disclosure of any risks associated with the investment/asset, any due diligence, or suitability of the investments/assets selected by the Account Owner. **Account Owner agrees that Custodian has no responsibility on the outcome of the self-directed investments including but not limited to total loss.**
- d. Acting on Direction.** The Custodian shall act on the Account Owner's Investment Decisions for transfers, investments and distributions of assets/investments when the Account Owner has submitted directions in the manner required by Custodian. The Custodian will also act on Account Owner's Investment Decisions submitted by your Authorized Agent and any other authority granted by the Account Owner in compliance with Custodian's then current policies and procedures. The Custodian is not responsible for losses or damages resulting from the delay of acting on an Account Owner's Investment Decisions if the direction is unclear, incomplete and not in acceptable form to the Custodian. The Custodian has no responsibility to question any Account Owner's Investment Decisions received in good order from the Account Owner or your Authorized Agent. When the Custodian is directed to invest in assets in accordance with Account Owner's Investment Decisions, including assets that are not publicly traded, the Custodian shall not have any responsibility or liability of the entity or the broker/agent involved does not settle the trade in accordance with the trade executed by the Account Owner.
- e. Standard of Care/Liability.** Custodian will use commercially reasonable efforts in performing their obligations under this Agreement.
- Subject to the terms of this Agreement, Custodian shall not be responsible for any loss or damage suffered by Account Holder as a result of the Custodian performing such duties unless the same results from an act of fraud, willful default or gross negligence on the part of the Custodian. In such event the liability of the Custodian in connection with the asset/investment so affected by the Custodian's fraud, willful default or gross negligence shall not exceed the market value (as determined by the Custodian in any reasonable commercial manner) of such asset/investment at the time when Account Owner discovers such fraud, willful default or gross negligence.
  - Custodian will be entitled to rely on and may act upon the advice of legal counsel and accountants or other agents with expertise in the relevant area, in relation to matters of law, regulation or market practice, and shall not be liable to Account Owner under this Agreement for any action taken or omitted pursuant to such advice, provided that Custodian has acted in good faith and with commercially reasonable efforts.
  - Custodian shall not, save as stated in Section 8.1 d.) i.) above, be responsible for the title, validity or genuineness of any of the asset/investment (or any evidence of title thereto) received or delivered by it pursuant to this Agreement.
  - Neither Custodian nor its affiliates shall be liable for any consequential, incidental, exemplary, punitive, special or indirect damages, whether or not the likelihood of such damages was known by Custodian or its affiliates.
  - Custodian shall not be liable to the Account Owner for any statements, representations, actions or inactions of any salesperson, broker or other third party provider of the investment purchased for this IRA.
  - The Custodian may take any and all other actions which in its judgment may be necessary or appropriate for the proper administration of the assets of the IRA Account. In the performance of its duties and responsibilities under this Agreement the Custodian may employ such agents and vendors as it feels appropriate without notice to the Account Owner.
- f. Statements and Reports.** Reporting required by Custodian, to be provided to Account Owner and the IRS, will be provided by the Custodian in a format and within the time deadlines required in accordance with IRS rules, regulations and guidelines. According to



IRS regulations, Custodian must provide Account Owner with a statement of the fair market value (“FMV”) of the IRA Account as of December 31 of each year which must be provided by January 31 of the following year. Additionally, if applicable, Custodian.

- g. Privacy and Subpoena.** Custodian shall use reasonable measures to maintain and protect the Account Owners personal data. Data will be shared only when necessary to fulfill the activities requested by the Account Owner. Custodian does reserve the right to respond to a subpoena or request from a regulator or law enforcement agency in accordance with the applicable law without your prior approval or notice.
  - h. No Tax, Legal, or Investment Advice.** Custodian is not responsible for providing legal, tax or investment advice. Account Owner should consult with their financial or tax advisor if such advice is required, The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the IRA Account. It is the Account Owner’s responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
  - i. Common Ownership.** Digital Trust, Alternative IRA Services, LLC dba BitcoinIRA, Rocket Dollar, Inc., Rocket Dollar Capital, Rocket Dollar Advisor, Inc, WAO Advisory, Inc., and/or Choiceapp.io are companies affiliated by common ownership, and that because these entities are under common ownership, the use of any of the entities may result in an indirect financial benefit to the owners of the entities.
- 3. Fees and Expenses.** Custodian shall be entitled to collect fees for their Custodial Services and the administration of the Account Owner’s IRA in accordance with the Fee Schedule and this agreement. Custodian reserves the right to change the Fee Schedule from time to time and will notify Account Owner of such changes. All fees and expenses, including legal or other fees resulting from the administration of your account, will be collected by Custodian according to the payment method selected by Account Owner under this Agreement. If Account Owner has selected to have Custodian collect fees and expenses from the cash in the account, in the event there is not enough cash to cover the fees and expenses, the Account Owner authorizes the Custodian to sell or liquidate a portion of the assets in the account to collect the fees and expenses. If the Account Owner has selected the option to pay the Custodian fees and expenses by selling an asset in the account, the Custodian will sell a portion of the asset with the largest market value to collect such fees. Sales of assets to cover fees will be executed in or around the first week of every month. Sales for expenses will be executed as needed. The Custodian shall not incur any liability from initiating the sale or liquidation of assets to collect the fees and expenses. Custodian reserves the right to send Account Owner’s debt to collections agents or resign as custodian for unpaid fees.
- 4. Fee Requirements.** Generally, there are two types of fees associated with retirement accounts: custodial fees and asset fees. Custodial fees are related to the administration of your account and may generally be paid either with funds in the account or with personal funds. Custodial fees are typically assessed by the custodian and may include fees such as account opening fees, document fees, annual account fees, and transaction fees. Asset fees are typically related to expenses and fees that are incurred with the maintenance of investments in your account and must be paid with funds that are in the account. Asset fees can include items such as property taxes, repair bills, HOA fees, storage fees for precious metals, digital asset purchase/sale fees, and brokerage fees. Non-trustee fees that are paid with personal funds may result in a prohibited transaction. Further, the account owner cannot be reimbursed for paying non-trustee fees with personal funds.
- 5. Amendments and Agreement.** From time to time the Custodian may amend this agreement for any reason deemed necessary by Custodian. Some amendments may be necessary to comply and abide by new laws and regulations. Any such amendment will be provided by providing a copy of the amendment to Account Owner at your last known mailing or electronic address as shown in our records. Account Owner shall have thirty (30) calendar days to object to the Amendment. Such objection shall include the direction to terminate your Roth IRA Account, termination and other fees will apply to the account closing. If no objection is received by Custodian, Custodian deems that Amendment is accepted and consented to by Account Owner.
- 6. Notice, Delivery, and Electronic Signature.**
- a. CONSENT FOR ELECTRONIC DISCLOSURES UNDER THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** The Account Application (Application) includes the Account Agreement provisions, the Fee Schedule, and the Custodial Account Disclosure documents together as one which have been presented to the Account Owner prior to executing the Application. By completing this IRA Application online, you agree to be bound by all terms and conditions contained in the Application.
  - b. Consent to Electronic Delivery of Documents.** By consenting to the terms and conditions of this Application, you agree to receive the following communications electronically: periodic statements, disclosures, notices (including Amendment changes), agreements, changes to terms and conditions, records, documents, tax statements and forms, privacy notices, and all other information we provide to you. We may deliver these communications to you through your online access, by email, or by using other electronic methods allowed pursuant to applicable laws and regulations. While electronic delivery and email notifications are provided free of charge, you may incur internet access or telephone charges. However, we reserve the right to deliver any communication to you as a paper copy, rather than electronically. Your consent remains in effect until you give us notice that you are withdrawing it and covers all communications, including those related to any product or service offered either now or in the future. Electronic documents will no longer be sent after the account is terminated and all regulatory reporting requirements have been satisfied.
  - c. Withdrawal of Consent.** You may contact us in any of the ways described below to withdraw your consent to receive any future communication electronically. If you wish to receive electronic communications after you have withdrawn your consent, please contact Digital Trust at the phone number or address below. Please refer to the Fee Schedule for any fee that may apply for paper copies.
  - d. Paper Delivery of Disclosures and Notices.** You have the right to receive a paper copy of any communication sent electronically. To receive a paper copy, you may request it in writing by sending your request to: Digital Trust, 7336 W. Post Road, Suite #111, Las Vegas, Nevada 89113 or calling us at (800) 777-9878. You may have to pay a fee for the paper copy unless charging a fee is prohibited by law.
  - e. IMPORTANT.** It is your responsibility to provide and maintain a current email and residential address with us. We may treat an invalid email address or the subsequent malfunction of a previously valid email address as a withdrawal of your consent to receive electronic communication. We will not impose a fee to process the withdrawal of your consent; however, fees may apply to paper copies mailed. Withdrawal of your consent to receive electronic communications will be effective only after we have a reasonable period of time to process your withdrawal. All communications in either electronic or paper format from us to you will be considered “in writing.”
  - f. How to Update your Records.** It is your responsibility to provide us with true, accurate and complete email address, contact, and other information related to your account. You must promptly notify us of any changes in this information. You can update your information by calling us, or by writing us at the address above.

**g. Equipment and Software Requirements.** In order to view and retain electronic communications that we make available to you, you must have:

- A PC or other device with an Internet browser that has “cookies” enabled and supports 128-bit encryption
- An Internet connection
- An email address
- A PDF viewer (such as Adobe Reader)
- A printer or computer with sufficient electronic storage space

All communications shall be delivered to the last address we have on file for the Account Owner. These notices will be sent through electronic delivery (email) and will be considered delivered the same day as sent. If you have opted out of electronic delivery, communications sent to you through the United States Postal Service are considered delivered five (5) business days after the postmark date. It is the Account Owner’s responsibility to notify the Custodian of any email address change or residential address change. Custodian will not be held liable for any losses or damages if the Account Owner has not provided Custodian with the most current address information. The electronically signed copy of this document should be considered equivalent to a printed hard copy form. It is considered a true and complete record of the document, admissible in arbitration and/or administrative hearings or proceedings. Your electronic signature on the Application and other electronic forms such as the Investment Direction are considered valid and the same as if the paper form or Application were signed.

**7. Distributions.** Account Owner will provide full and complete instructions for any distributions out of the Account Owners IRA. Custodian offers no tax or legal advice and Account Owner should consult with their tax or financial advisor to understand the implications of the action requested. Instructions should be submitted to Custodian in a manner acceptable to the Custodian. Custodian will not under any circumstances be responsible for the timing, purpose or propriety of any distribution from the account, nor shall the Custodian incur any liability or responsibility for any tax or penalty imposed on account of any distribution. Custodian may make any payment or distribution required or authorized hereunder by mailing a check or other property or by ACH or Federal wire or other electronic transfer to the payee at the address last furnished to the Custodian. Custodian shall not be liable for any payment made in good faith without actual knowledge of any changed condition or status of any person receiving benefits hereunder.

Custodian may, but shall not be obligated to, pay any estate, inheritance, income, or other tax or assessment attributable to any property or interest held in the IRA Account out of the assets of the IRA Account upon such information or direction as it may require. Before payment of any benefit, Custodian may also require releases or other related documentation from the taxing authority and require indemnification from such payee as may be necessary for the Custodian’s protection against tax liability.

**8. Designation of Beneficiaries.** In the event of your death, any account balance will be paid to your beneficiary designation deemed legally valid by the Custodian. In the event that the beneficiary designated is a minor or not of sound mind, the Custodian may at its discretion make beneficiary payments to such person acting as a parent or guardian of said beneficiary.

**a. Validity.** A beneficiary designation is deemed legally valid when the Account Owner has provided a full complete and executed designation clearly providing if the Account Owner is adding to or changing a portion of the then current beneficiary designation form in a format approved by the Custodian. Any valid beneficiary designation shall be effective upon receipt by the Custodian. Upon opening your account, you can designate your beneficiaries, and while still living, you can change your beneficiaries by submitting a fully completed Change of Beneficiary form acceptable to the Custodian.

**b. Beneficiary Designations and Change of Beneficiaries.** In the event of marriage, divorce, death, adoption and the birth of children the Account Owner should evaluate the beneficiaries listed on the Roth IRA account and provide the Custodian with a fully completed Beneficiary Designation Change Form to update the Roth IRA Account. The Custodian reserves the right to reject or not accept a beneficiary designation not made to individuals or entities. If you do not live in a “community property” State, you are free to name any person or entity as your Roth IRA beneficiary, even if you are married. In “community property” States, Account Owners who earn monies contributed to their Roth IRA during a legal marriage will be required to provide a spousal consent to designate a person or entity as beneficiary other than their spouse. (Subject to changes in the law, “community property” States currently include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin.)

**c. Death Distributions.** Custodian will rely on a certified copy of the death certificate or other evidence deemed appropriate by the Custodian that certifies the Account Owner’s death. The Custodian has no responsibility to search for beneficiaries if Account Owner does not provide beneficiary information for the Roth IRA Account. By entering into this Agreement, you authorize Custodian to rely on any representation of facts made by the legal representative of your estate, any beneficiary, or any other person or source deemed appropriate by us, in determining the identity of unnamed beneficiaries. Your estate, and any unnamed beneficiaries further understand and agree that any information or instructions provided by such persons may be reviewed with counsel and Custodian may require further documentation to determine the beneficiaries. Prior to a distribution of assets to a beneficiary or the estate of the Account Owner, Custodian reserves the right to request from the beneficiary or the estate of the Account Owner, indemnification and discharge from any liability.

**d. Distribution to Estate.** Custodian reserves the right to distribute the account to the estate of the Account Owner in the event that there is conflicting or incomplete information in determining the beneficiaries. In the event there are no beneficiaries provided to Custodian or all beneficiaries renounce their rights to receive any benefit from the Account, or in the event that no beneficiaries survive the Account Owner, the IRA will be distributed to your estate.

**9. Successor Custodian.** In the event that Digital Trust changes its name, reorganizes, is acquired by another organization, or if all or a portion of our entire organization is merged with another organization, that organization will automatically become the trustee or custodian of your Account so long as the organization is authorized to serve as a trustee or custodian and satisfies the requirements of the IRS Code Section 408(a)(2).

**10. Termination or Resignation.** Account Owner or Custodian may terminate this agreement at any time by giving written notice to the other. We can resign as Custodian at any time effective thirty (30) days after we send written notice of our resignation to you. Upon receipt of that notice, you must make arrangements to transfer your Roth IRA to another Custodian (Successor Custodian) or request a distribution of your Roth IRA. If you do not complete a distribution form or transfer your Roth IRA within thirty (30) days from the date we send the notice to you, we have the right to either a.) transfer your Roth IRA assets to a successor Roth IRA trustee or custodian that we choose or b.) we may distribute your Roth IRA to you in a single lump sum and/or re-register the assets to you in-kind. . In the event of re-registration of the assets, the Custodian’s authority to re-register the assets supersedes any and all conflicting instructions, directions, or authorities with respect to

said assets contained in any investment documents. If this Agreement is terminated, we may charge to your Roth IRA a reasonable amount of money that is necessary to cover any costs associated with distributing or transferring your account, including but not limited to fees and expenses incurred and taxes. The Custodian shall not be liable for any taxes, penalties, or losses arising from any delays, omissions, acts, or other action or inaction of any other person(s) or entity, including the Account Owner in connection with transfer or distribution of the Roth IRA Account. The Successor Custodian shall acquire all of the powers and authority conferred by the resigning Custodian. The transfer and delivery of assets to the Successor Custodian shall be a complete discharge and exoneration of any liability for the resigning Custodian unless the Account Owner or Successor Custodian notifies the resigning Custodian within forty-five (45) days from the date of resignation. Custodian may close the Account if it is not funded within ninety (90) days from Account opening.

- 11. Arbitration Agreement.** In the event any legal or equitable claims or disputes arise out of performance of this agreement, or a breach of this Agreement, the parties agree to attempt to resolve the claim or dispute through good faith negotiation. In the event the parties are unable to resolve or settle such claim or dispute through negotiations, the parties agree that the claim or dispute will be settled by binding arbitration. Any arbitration proceedings shall be conducted in Las Vegas, Nevada, in accordance with the Commercial Dispute Resolution Procedures of the American Arbitration Association (AAA) in effect at the time a demand for arbitration is made. The Account Owner expressly waives any right he or she may have to establish or conduct litigation or arbitration in any other forum or location, or before any other body. The Account Owner may only bring claims and disputes in his or her individual capacity and not as a plaintiff or class member. Any and all claims arising out of or relating to this Agreement are required to have an arbitration filed within two (2) years from the date that the Account Owner knew of the facts giving rise to such claim or claims. The arbitrator shall have the authority to award reasonable attorneys' fees and costs, including the costs of arbitration, to the prevailing party.
- 12. Governing Law.** This Agreement and all amendments hereto shall be governed by and construed in accordance with the laws of the State of Nevada and the federal laws of the United States of America, and the obligations hereunder shall be determined in accordance with such laws. If any provision of this Agreement or the application thereof to any person or circumstances shall be determined to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 13. Other Administrative Powers.** Anything in this Agreement to the contrary notwithstanding, the Custodian may choose to request direction from the Account Owner as to any specific action or situation that arises with the IRA Account. If a request for direction is made, the Custodian shall not incur any liability for following the Account Owner's direction or for taking no action if no such direction is furnished to the Custodian. The Custodian shall have the right, at the expense of the Account Owner, to seek a direction or approval of its accounts from a court of competent jurisdiction whenever the Custodian shall, in its sole discretion, deem it appropriate. The Custodian is not required to, but in its sole discretion may, exercise the full power and authority to settle, compound or abandon all claims and demands in favor of or against the IRA Account or Account Owner, including any claim that may be asserted for taxes under present or future laws; to maintain or defend any litigation necessary in its administration of the IRA Account if indemnified to its satisfaction against any expenses and liabilities sustained or anticipated in connection therewith; to retain any fiat subject to any dispute without liability for payment of interest or decline to make payment thereof, until final adjudication of such dispute by a court of competent jurisdiction.
- 14. Digital Currency.** Custodian cannot and does not guarantee the value of digital currency. Custodian shall not be responsible for any third-party services. Furthermore, Custodian or TPA cannot cancel or reverse a transaction involving digital currency. Once a transaction request has been made, Account Owner will subsequently not be able to cancel or otherwise modify the transaction request. Account Owner acknowledges and agrees that Custodian shall have no liability for losses you suffer in connection with any digital currency transaction initiated via the TPA Platform under this Agreement unless such losses are the direct result of Custodian's fraud, willful default or gross negligence. Custodian does not ensure that any transaction request you submit or cause to be submitted to a digital currency network via the TPA Platform will be completed by the applicable network. You acknowledge and agree that the transaction requests you authorize Custodian to submit for completion on a digital currency network may not be completed, or may be substantially delayed, by the digital currency network and Custodian is not responsible for any delay or any failure of completion caused by the digital currency network. When you complete a transaction request via the TPA Platform, this authorizes Custodian to submit the transaction request to the digital currency network in accordance with the instructions you provide.

  - a. Third Parties.** Digital Trust as custodian has a contractual agreement with Alternative IRA Services, LLC dba BitcoinIRA ("Bitcoin IRA") to act as a third-party servicer to your cryptocurrency or gold IRA account in conjunction with certain cryptocurrency service providers. You acknowledge Bitcoin IRA may change service providers at any time without notice. Those services performed by Bitcoin IRA include but are not limited to client servicing, hosting of the client platform, administrative functions necessary to open the IRA and facilitate the investment transactions including identity verification. Any issues or errors arising out of the use of the third-party platform are the responsibility of the third-party platform.
  - b. Key Storage.** Custodian shall use commercially reasonable efforts to keep in safe custody on behalf of Account Holder all Custodial Coins received by Custodian. Custodian will use commercially reasonable efforts to keep all Keys to the Custodial Wallet held by Custodian secure and shall maintain at least one (1) backup Key. Custodian shall exercise all commercially reasonable efforts to prevent unauthorized access to or use of the Keys held by Custodian to the Custodial Wallet. Custodian shall not be held responsible for any prohibited transactions or tax liabilities or penalties related to the storage of keys.
  - c. Asset Value Reporting Policy.** To value digital assets in your Roth IRA Account, Custodian will electronically obtain USD equivalent prices from digital currency market data providers or other sources as of the last date of the statement to report on your Roth IRA statement. Custodian does not guarantee the accuracy or timeliness of prices received and the prices are not to be relied upon for any investment decisions for your account.
  - d. Trading, Transactions, and Residuals.**

    - i. Account Owner acknowledges and accepts the risk of trading, settlement and holding assets such as Digital Assets.
    - ii. Account Owner acknowledges that Custodian reserves the right to suspend or restrict transaction activity in the asset or account reasonably necessary to comply with Custodian's anti-money laundering programs and policies, any requirements under applicable law, to prevent fraud, prevent suspicious transactions, or for any security reasons. Account Owner acknowledges for digital asset transfers or withdrawals that the vault withdrawal timeframe may take up to forty-eight (48) hours to execute.
    - iii. Custodian will reflect in Account Owners Account market occurrences such as dividends, rewards, etc. when such activity occurs and after Custodian receives the proper information to reflect such activity.

- iv. Upon liquidation of digital currency, Account Owner may incur negligible mining fees that are charged at an unknown rate by miners of blockchain based products. This fee will be the responsibility of Account Owner. The Digital IRA Platform accounts for an estimation of this which is withheld upon liquidation. The withholding will be greater than the amount charged by the miners, leaving a residual referred to as *dust*. Account Owner acknowledges Custodian will use dust for payment and apply any residual to Account Owner's account for outstanding Custodial Fees or any cost associated with maintaining the wallet and/or account.
- e. **Transaction Requests and Verification.** For transactions initiated by Account Owner, the Account Owner appoints the Custodian with the authority to request the movement of assets and perform the out of band transaction verification as required by then current policies and procedures (e.g. video ID verification) including movement of assets out of the Cold Wallet Storage for purposes of settling trades executed by the Account Owner. Authority is granted to Custodian, provided Account Owner has appropriately provided direction or instruction in accordance with the Custodian's current policy and procedures via the Bitcoin IRA Platform or other method acceptable to Custodian.
- f. **Acknowledgement of Fork, Airdrop, and Token Support.** Account Owner agrees that all "airdrops" and "forks" will be handled by Custodian pursuant to its current policies and procedures. Account Owner acknowledges that Custodian is under no obligation to support any airdrops or forks, or handle them in any manner. Account Owner acknowledges that Custodian does not own or control the underlying software protocols which govern the operation of Digital Currencies. Digital Asset protocols are subject to changes in protocol rules (referred to as "forks"), and such forks may materially affect the value, function, or name of the Digital Asset. You acknowledge and agree (i) that Custodian is not responsible for operation of the underlying Digital Asset protocols and that Custodian makes no guarantee of their functionality, security, or availability; and (ii) if a fork occurs, Custodian may temporarily suspend the ability to transact in the Digital Asset affected, and Custodian may decide not to support the forked protocol entirely or may enable you to transfer the affected Digital Asset.

Account Owner further acknowledges that Custodian, at its sole discretion, may update the policies and procedures from time to time. Custodian is under no obligation to provide notification to Customer of any modification. Account Owner further acknowledges and agrees that Custodian may, from time to time, offer support for select ERC20 tokens or other tokens, metacoins, colored coins, side chains, or coins which enhance or interoperate with coins supported by Custodian (collectively, "Tokens"). Custodian will notify Account Owner and the general public if the Custodian supports a particular Token. Account Owner further acknowledges and agrees that, upon the occurrence of any event outside the control of Custodian resulting in the migration of any ERC20 token from Ethereum to another protocol, including but not limited to a "mainnet launch," (a "Migration Event") Custodian may immediately cease any and all support for such ERC20 token, and that Custodian will be under no obligation to provide support for any Token related to or resulting from such a Migration Event.

CUSTODIAN WILL HAVE NO RESPONSIBILITY OR LIABILITY IF CLIENT LOSES, BURNS, OR OTHERWISE CANNOT ACCESS OR CONTROL ANY TOKEN THAT CUSTODIAN DOES NOT SUPPORT.

# ROTH INDIVIDUAL RETIREMENT ACCOUNT ACCOUNT DISCLOSURE STATEMENT

(Under section 408(a) of the Internal Revenue Code)



(800) 777 - 9878

(800) 867 - 7668

operations@digitaltrust.com

## PURPOSE OF THIS DISCLOSURE STATEMENT

The Internal Revenue Code (Code) requires that Digital Trust, LLC (Custodian) provide individuals establishing a Roth Individual Retirement Account (Roth IRA) with the information contained in this Disclosures document. This Disclosure document is intended to provide information to help you understand your Roth IRA. This Disclosure document cannot cover every rule in the IRS Code and the Custodian encourages you to refer to IRA Publications 590-A and 590-B and consult with a tax professional when necessary. Publications 590-A and 590-B will also provide insight to changes for the upcoming tax year.

You should read and complete the Roth IRA Application (Application) which includes the Account Agreement provisions above along with the IRA Account Application, the Fee Schedule and the Roth IRA Custodial Account Disclosures documents together as one which have been presented to the Account Owner prior to executing the Application. The IRS requires your Custodian to provide you, the Account Owner, with this Disclosure document.

## DISCLOSURES

- 1. Information.** You can set up an IRA with a bank or other financial institution, life insurance company, mutual fund or stockbroker. The firm that sets up your IRA is your Custodian. Digital Trust, LLC ("Digital Trust") is the Custodian of the IRA you are establishing.
- 2. Important Information About Procedures for Opening a New Account.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.
- 3. Revocation of your account.** You have the right to revoke this account within seven (7) days of the date your Account is established. If you exercise this right you are entitled to a return of the amount contributed to the account without penalty, service charge or administrative expenses. Please note, as Custodian, we must report on the appropriate IRS form both the contributions made to the account and the amount returned to you, however, this is not required if funded by a non-reportable transfer. If you do not exercise this right within seven (7) days of the date your Account is established, it is assumed that you will have accepted the terms and conditions. If you choose to initiate an Investment Direction prior to the expiration of the seven (7) day period, this will signify you have declined this revocation right. Notice should be provided to the Custodian in writing through first class mail and must be postmarked within seven (7) days of the Account establishment date if you decide to revoke your Account. Revocation Notices can be mailed to: **Digital Trust, LLC, 7336 W. Post Road, Ste 111, Las Vegas, NV 89113**
- 4. Contributions.**
  - a. Compensation.** In order to contribute to an IRA, you must have earned income/compensation. According to the IRS, wages, salaries, tips, professional fees, bonuses, and other amounts you receive for providing personal services are compensation. An amount you receive that is a percentage of profits or sales price is compensation. For IRA purposes, compensation includes any taxable alimony and separate maintenance payments you receive under a decree of divorce or separate maintenance. If you were a member of the U.S. Armed Forces, compensation includes any nontaxable combat pay you received.
  - b. IRA Contributions.** To make a regular contribution to a IRA for a year, the IRA must be established and the contribution deposited no later than the due date of your tax return for the tax year, generally April 15th. The account must be designated as an IRA when the account is opened. Contributions to your IRA must be made in cash. In the Custodian's sole discretion, in-kind rollover contributions or transfers may be accepted
  - c. Limits for 2022.** The contribution limit is the lesser of: 1.) \$6,000 (\$7,000 if you are age 50 or older\*) minus all contributions to your other IRAs (other than employer contributions under a SEP or SIMPLE IRA plan) 2.) Your taxable compensation minus all contributions to your other IRAs (other than employer contributions under a SEP or SIMPLE IRA plan) for the tax year. However, if your modified Adjusted Gross Income (AGI) is above a certain amount, your contribution limit may be reduced. The following table shows whether your contribution to a Roth IRA is affected by the amount of your modified AGI as computed for Roth IRA purposes.

IF your filing status is ...	AND your modified AGI is ...	THEN you can take ...
married filing jointly or qualifying widow(er)	less than \$204,000	up to the limit
	more than \$204,000 but less than \$214,000	a reduced amount
	more than \$214,000	zero
married filing separately and you lived with your spouse at any time during the year	less than \$10,000	a reduced amount
	more than \$10,000	zero
single, head of household, or married filing separately and you did not live with your spouse at any time during the year	less than \$129,000	up to the limit
	more than \$129,000 but less than \$144,000	a reduced amount
	more than \$144,000	zero

This contribution limit is subject to an annual cost-of-living adjustment by the IRS from year to year and you should check the IRS site for updated information each year.

\* The IRS allows for a "catch up contribution" of \$1,000 only for taxpayers aged 50 or over.

- d. **Spousal Contributions.** You can contribute to a Roth IRA for your spouse as long as the contributions satisfy the *Kay Bailey Hutchison Spousal IRA limit* (outlined below), you file jointly, and your modified AGI is within the minimum and maximum thresholds.

#### **Kay Bailey Hutchison Spousal IRA Limit**

If you file a joint return and your taxable compensation is less than that of your spouse, the most that can be contributed for the year to your IRA is the smaller of the following two amounts. 1.) \$6,000 (\$7,000 if you are age 50 or older). 2.) The total compensation includible in the gross income of both you and your spouse for the year, reduced by a.) Your spouse's traditional IRA contribution for the year b.) Any contributions for the year to a Roth IRA on behalf of your spouse.

- e. **Repayment of reservist distributions.** You can repay qualified reservist distributions even if the repayments would cause your total contributions to the Roth IRA to be more than the general limit on contributions. However, the total repayments can't be more than the amount of your distribution.
- f. **Multiple IRAs.** If you have more than one Roth or traditional IRA, the contribution limit applies to the total contributions made on your behalf to all your traditional and Roth IRAs for the year.
- g. **Tax Year.** Contributions made between January 1 and the tax filing deadline (generally April 15th) should include a designation of which tax year the contribution should apply to. If no designation is made, Custodian will report the contribution for the tax year received.
- h. **Deductibility of Contributions.** Unlike a traditional IRA, you can't deduct contributions to a Roth IRA on your federal tax return.

#### **5. Excess Contributions.**

- a. **Determining your Excess Contribution.** Excess contributions are the contributions to your Roth IRAs for a year that equal the total of: 1.) Amounts contributed for the tax year to your Roth IRAs that are more than your contribution limit for the year. 2.) Any excess contributions for the preceding year, reduced by the total of: a.) Any distributions out of your Roth IRAs for the year, plus b.) Your contribution limit for the year minus your contributions to all your IRAs for the year. NOTE: Do not include amounts that are properly and timely rolled over from a Roth IRA or properly converted from a traditional IRA or rolled over from a qualified retirement plan, when determining your excess contributions.

- b. **Removing Excess Contributions.** For purposes of determining excess contributions, any contribution that is withdrawn on or before the due date (including extensions) for filing your tax return for the year is treated as an amount not contributed. This treatment only applies if any earnings on the contributions are also withdrawn. The earnings are considered earned and received in the year the excess contribution was made.

If you filed your tax return without withdrawing a contribution that you made in the tax year, the IRS allows you to have the contribution returned to you within 6 months of the due date of your tax return, excluding extensions. If you make this withdrawal you can file an amended federal tax return with "Filed pursuant to section 301.9100-2" written at the top. You should also report any related earnings on the amended return and include an explanation of the withdrawal.

In general, if the excess contributions for a year aren't withdrawn by the date your federal tax return for the year is due (including extensions), you will be subject to a 6% tax and other taxes may apply. You must pay the 6% tax each year on excess amounts that remain in your Roth IRA at the end of the tax year.

- c. **Applying excess contributions.** If contributions to your Roth IRA for a year were more than the limit, you can apply the excess contribution in one year to a later year, however, your contribution for the later year cannot exceed the maximum contribution allowed for that year.

#### **6. Distributions.**

- a. **Distributions Generally.** You can take money out of your Roth IRA at any time. Your withdrawal is subject to a tax penalty if you take a distribution from your Roth IRA before the end of the five-year holding period or you have not attained age 59½ at the time of the distribution. Exceptions apply if you are disabled or meet the qualified first-time homebuyer exception. The five-year holding period rule means that your Roth IRA must be established for at least five years prior to your withdrawal. The five year requirement only needs to be satisfied once and applies to all of your Roth IRAs.

Regardless of when you take out your money, you do not pay income tax on the amount of any Roth IRA contribution that you withdraw because Roth contributions are after-tax contributions. You may be taxed, however, when you remove any gains earned on your contributions. If you become disabled you must provide the Custodian written notification of your disability. If you request a distribution and you are disabled, your distributions shall begin forty-five (45) days after receipt of the written notification of your disability. If you are under 59½ a 10% tax penalty may apply to any withdrawal from your Roth IRA (in addition to income tax), unless at least one of the following applies: 1.) you are permanently and totally disabled; 2.) the amount is rolled over within sixty (60) days to another Roth IRA; 3.) you remove the money in one of a scheduled series of substantially equal payments over your life expectancy or the joint life expectancies of you and your beneficiary; 4.) you use the money to pay medical expenses that are in excess of 7.5% of your Modified Adjusted Gross Income (MAGI); 5.) you qualify for medical insurance cost exceptions; 6.) you remove money (up to \$10,000 total during your lifetime) for the purchase of a primary residence for yourself, your parents, your grandparents, spouse, child or grandchild and the purchaser has not owned a primary residence for two years. Funds withdrawn for the purchase of a primary residence must be used within 120 days for expenses such as financing fees, settlement charges and closing costs; or 7.) you withdraw funds for higher education (college and beyond) qualified expenses including tuition, fees, books, room and board, supplies and equipment.

- b. **Required Minimum Distributions.** Roth IRAs do not require withdrawals until after the death of the owner.

- c. **Distributions Under Divorce, Levys and similar Court Directives.** In the event that the Custodian is presented with a Court Order to distribute all or part of your Roth IRA due to divorce, Custodian will transfer the assets into a Roth IRA of the receiving spouse. The portion or amount transferred will have no tax implications to you if the Court Order is received and acceptable to the Custodian. The Custodian reserves the right to request additional information from you or your former spouse to carry out such orders. In some instances, such as a levy or a court order, the Custodian may make a distribution from the Roth IRA without instruction from the Account Owner. In those cases, the distribution may be reportable to the IRS as a taxable event.

- d. **Rollovers.** A rollover is the distribution of cash or other assets from your retirement plan to you, which you subsequently roll over to another retirement plan. The amount you roll over maintains its tax-deferred status until it is distributed to you. You may take a distribution from part or all of the assets from one Roth IRA and move them to another Roth IRA. The rollover must be completed within sixty (60) days after the day you receive the assets from the first Roth IRA. Generally, Roth IRA assets may be rolled over between Roth IRAs only once a year. This rule applies to each Roth

IRA plan you have established. The same property distributed from one Roth IRA) must be rolled over into the new Roth IRA. No tax is paid if the rollover is completed within the sixty (60) days; however, rollovers between Roth IRAs are required to be reported on your federal tax return. If you roll over an amount from one Roth IRA to another Roth IRA, the 5-year period used to determine qualified distributions doesn't change. The 5-year period begins with the first tax year in which the contribution was made to the initial Roth IRA.

Rollovers of distributions from designated Roth accounts (such as your Roth 401(k) account) can be made to your Roth IRA. Once the designated Roth account is rolled into a Roth IRA, the Roth IRA rules apply. For example, the five-year holding period for making qualified distributions is determined independently from the rules under a Roth 401(k) plan, and the special Roth ordering rules determine the taxation of those distributions. Roth IRA distributions can never be rolled into a designated Roth account. Distributions from qualified retirement plans can be rolled over directly to a Roth IRA, subject to rules that apply to rollovers from a traditional IRA into a Roth IRA. For example, a rollover from a qualified retirement plan into a Roth IRA is includible in gross income (the exception would be the amount included that is an after-tax contributions), and the 10% premature distribution tax does not apply. For additional information, you should contact your tax advisor with any questions.

You can convert amounts from a Traditional IRA (including SEP and SIMPLE IRAs) to a Roth IRA. If you are age 70½ or older, the amount of your RMD from a Traditional IRA also does not count toward the MAGI limit to determine if you are eligible to convert. If eligible, you can withdraw all or part of your Traditional IRA and roll it over into a Roth IRA within sixty (60) days of receipt. You will owe taxes on the portion of the conversion that represents the earnings and contributions distributed from the Traditional IRA that were not previously taxed. A Roth IRA conversion made after January 1, 2018 may not be recharacterized. Prior to that date, recharacterizations were permitted. The amount you convert will be taxable in the year the distribution is made. The 10% penalty tax does not apply to the amount converted.

7. **Recharacterizations.** You may be able to recharacterize certain contributions by recharacterizing a current year regular contribution plus earnings. Please note, beginning in 2018, recharacterizations of conversions made to a Roth IRA are no longer permitted. If you decide by your tax filing deadline (including extensions) of the year for which the contribution was made to transfer a current year contribution plus earnings from your traditional IRA to a Roth IRA, no amount will be included in your gross income if you did not take a deduction for the contribution. You may also recharacterize a current year contribution plus earnings from your Roth IRA to a traditional IRA by your tax filing deadline (including extensions) of the year for which the contribution was made. A regular contribution that is appropriately recharacterized from your Roth IRA to a traditional IRA may be deductible depending upon the deductibility rules previously discussed. In order to recharacterize a regular contribution from one type of IRA to another type of IRA, you must be eligible to make a regular contribution to the IRA to which the contribution plus earnings is recharacterized. All recharacterizations must be accomplished as a direct transfer, rather than a distribution and subsequent rollover. Any recharacterized contribution (whether a regular contribution or a conversion) cannot be revoked after the transfer.
8. **Conversion from a Traditional IRA to a Roth IRA.** You are permitted to make a qualified rollover contribution from a traditional IRA to a Roth IRA. This is called a "conversion" and may be done at any time without waiting the usual 12 months.

Beginning in 2018, for conversions made in 2018, you are no longer permitted to recharacterize a conversion made to a Roth IRA back to a traditional IRA.

Taxation in Completing a Conversion from a Traditional IRA to a Roth IRA - If you complete a conversion from a traditional IRA to a Roth IRA, the conversion amount (to the extent taxable) is generally included in your gross income for the year during which the distribution is made from your traditional IRA that is converted to a Roth IRA.

## 9. Investments.

- a. **No Duty to Review or Monitor Investments.** The Custodian shall have no duty or responsibility to review any investment held in the Roth IRA Account or any investment under consideration by the Account Owner or any purchase directed by the Account Owner with respect to any issue, including but not limited to, its safety, risk, suitability or whether or not it should be registered as a security with the appropriate government agencies and shall have no liability with respect to its safety, risk, suitability or whether or not it should be registered as a security with the appropriate government agencies. The Custodian shall not be responsible to investigate or perform any due diligence on any investment, investment sponsor or any principal involved with any investment. Further, the Custodian has no duty to monitor any investment held in the Roth IRA Account.

Under this agreement the Custodian provides Custody Services for the assets selected by the Account Owner. Custodian acts on the Investment Directions provided by the Account Owner and has no responsibility for the performance or suitability of the assets selected by the Account Owner. Acting on the Account Owner's Investment Direction in no way implies endorsement by the Custodian of the assets selected by the Account Owner. The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the Roth IRA Account. At its sole discretion, the Custodian can refuse to act as Custodian on any asset selected by the Account Owner.

- b. **Roth IRA Owner Investment Responsibility.** The Roth IRA Account Owner has the full responsibility to review and investigate the assets they direct the Custodian to invest in for their Roth IRA account. It is the Account Owner's responsibility, not the Custodian's, to select and monitor the investments in the Roth IRA Account. The Roth IRA Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the Roth IRA Account and accepts full and sole responsibility for such selection. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the Roth IRA Account and accepts full and sole responsibility for the success or failure of such investments. The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the Roth IRA Account. It is the Account Owner's responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
- c. **Pledging Roth IRA Assets.** If you use (pledge) a part of your Roth IRA account as security for a loan, that part is treated as a distribution and is included in your gross income. You may have to pay the 10% additional tax on early distributions discussed in item 6.) Distributions above and in IRS Publication 590-B.
- d. **Prohibited Investments.** The IRS Code does not permit Roth IRA funds to be invested in life insurance or collectibles. The IRS considers the following items as collectibles: artwork, rugs, antiques, metals, gems, stamps, coins, alcoholic beverages, and certain other tangible personal property. The IRS has indicated that there are some exceptions as noted here: Roth IRAs can invest in one, one-half, one-quarter, or one-tenth ounce U.S. gold coins, or one-ounce silver coins minted by the Treasury Department. It can also invest in certain platinum coins and certain gold, silver, palladium, and platinum bullion. If you invest your Roth IRA in collectibles, the amount invested is considered distributed in the year invested and you may have to pay a 10% additional tax on early distributions.
- e. **Prohibited Transactions.** Generally, a prohibited transaction is any improper use of your Roth IRA account by you, your beneficiary, or any disqualified person. Disqualified persons include members of your family (spouse, ancestor, lineal descendant, and any spouse of a lineal descendant). If you or your beneficiary engages in a prohibited transaction in connection with your Roth IRA account at any time during the year, the account stops being

a Roth IRA as of the first day of the year in which the prohibited transaction occurs. The Roth IRA Account is treated as distributing all its assets to the Account Owner at their fair market value(s) on the first day of the year in which the prohibited transaction occurs.

If the IRA Account ceases to be a IRA because of a prohibited transaction by you or your beneficiary, you may have a taxable gain that is reportable as income. In addition, you or your beneficiary may have to pay other taxes.

Some examples of prohibited transactions include buying property within your Roth IRA Account for personal use, using the Roth IRA Account as security for a loan and borrowing money from your Roth IRA. Prohibited transactions are described in Internal Revenue Code (IRC) Section 4975.

It is the Account Owner's responsibility and not the Custodian's responsibility to determine if a transaction constitutes a prohibited transaction. The Custodian reserves the right to request a certification from the Account Owner that the direction provided by the Account Owner does not create a prohibited transaction, however, if a certification is not requested that does not indicate a transaction is not prohibited. Custodian reserves the right to take any action necessary, within its discretion, which may include resigning from the Roth IRA Account.

- 10. Inherited IRAs/Beneficiaries.** Account Owner's should review and update their Roth IRA account beneficiaries by providing the Custodian with a completed Beneficiary Designation Form. This is especially important after life changes such as marriage, divorce, death, and birth or adoption of children.

If you inherit a Roth IRA, you are called a beneficiary. A beneficiary can be any person or entity the Account Owner chooses to receive the benefits of the Roth IRA after he or she dies. Beneficiaries of the Roth IRA must include in their gross income any taxable distributions they receive.

- a. Inherited From Spouse.** If you inherit a Roth IRA from your spouse, you generally have the following three choices. You can do one of the following:
- a.) Treat it as your own Roth IRA by designating yourself as the Account Owner
  - b.) Treat it as your own by rolling it over into your Roth IRA, or to the extent it is taxable, into a Qualified employer plan, Qualified employee annuity plan (section 403(a) plan), Tax-sheltered annuity plan (section 403(b) plan), or Deferred compensation plan of a state or local government (section 457 plan).
  - c.) Treat yourself as the beneficiary rather than treating the Roth IRA as your own.

If you make contributions (including rollover contributions) to the inherited Roth IRA or if you don't take the RMD for a year as the beneficiary of the Roth IRA, you will be considered to have chosen to treat the Roth IRA as your own. You will only be considered to have chosen to treat the Roth IRA as your own if: a.) You are the sole beneficiary of the Roth IRA, and b.) You have an unlimited right to withdraw amounts from it.

However, if you receive a distribution from your deceased spouse's Roth IRA, you can roll that distribution over into your own Roth IRA within the 60-day time limit, as long as the distribution isn't an RMD, even if you aren't the sole beneficiary of your deceased spouse's Roth IRA. See Publication 590-B for more information on RMDs.

- b. Inherited From Someone Other Than Spouse.** If you inherit a Roth IRA from anyone other than your deceased spouse, you can't treat the inherited Roth IRA as your own. This means that you can't make any contributions to the Roth IRA. It also means you can't roll over any amounts into or out of the inherited Roth IRA. However, you can make a trustee-to-trustee transfer as long as the Roth IRA into which amounts are being moved is set up and maintained in the name of the deceased Roth IRA owner for the benefit of you as beneficiary. See Pub. 590-B for more information. Like the original owner, you generally won't owe tax on the assets in the Roth IRA until you receive distributions from it. You must begin receiving distributions from the Roth IRA under the rules for distributions that apply to beneficiaries. Beneficiaries of an inherited Roth IRA must generally begin receiving required minimum distributions by December 31 of the year following the year of the deceased person's death.

- 11. No Tax, Legal, or Investment Advice.** In its role as Custodian, Digital Trust does not provide any tax, legal or investment advice. It is your responsibility as the Account Owner to consult with your investment or tax advisor. The Custodian shall act on the Account Owners directions for transfers, investments and distributions of Fiat when the Account Owner has submitted directions in the manner required by Custodian. The Custodian is not responsible for losses or damages resulting from the delay of acting on a direction if the direction is unclear, incomplete and not in acceptable form to the Custodian. Additionally, the Custodian is not responsible for the performance of the assets selected by the Account Owner. Under this agreement the Custodian provides Custody Services for the assets selected by the Account Owner. Custodian acts on the Investment Directions provided by the Account Owner and has no responsibility for the performance or suitability of the assets selected by the Account Owner.



# SEP INDIVIDUAL RETIREMENT ACCOUNT CUSTODIAL ACCOUNT AGREEMENT

(Under section 408(a) of the Internal Revenue Code)

Form 5305-A (Revised April 2017)

Department of the Treasury – Internal Revenue Service



(800) 777 - 9878

(800) 867 - 7668

operations@digitaltrust.com

## PURPOSE OF THIS FORM

This Custodial Account outlines the terms and conditions required to meet the Internal Revenue Service (IRS) requirements for opening a Simplified Employee Pension Individual Retirement Account (SEP IRA). Form 5305-A is a model custodial account agreement that meets the requirements of section 408(a). However, only Articles I through VII have been reviewed by the IRS. A SEP IRA is established after the form is fully executed by both the individual (depositor) and the custodian. To make a regular contribution to a SEP IRA for a year, the IRA must be established no later than the due date of the individual's income tax return for the tax year (excluding extensions). This account must be created in the United States for the exclusive benefit of the depositor and his or her beneficiaries. Article VIII was prepared by Digital Trust, LLC herein known as "Custodian" "we" "us" and "our" for the agreement with the Depositor hereafter known as the "Account Owner", "client" "you" or "your."

A SEP IRA is established after the SEP IRA Account Application has been fully executed by both the Account Owner (depositor) and the Custodian. The Custodian's action of the opening of the account signifies its execution of the Agreement. The SEP IRA Account Application (Application) includes the following Account Agreement provisions along with the IRA Account Application, the Fee Schedule and the SEP IRA Custodial Account Disclosures documents together as one which have been presented to the Account Owner prior to executing the Application. The IRA account is established by the Custodian in the capacity of a Directed Custodian for the exclusive benefit of the Account Owner who agree to the below terms and conditions.

**Do not file Form 5305-A with the IRS. Instead, keep it with your records.**

For more information on IRAs, including the required disclosures the custodian must give the depositor, see Pub. 590-A, Contributions to Individual Retirement Arrangements (IRAs), and Pub. 590-B, Distributions from Individual Retirement Arrangements (IRAs).

## DEFINITIONS

**Custodian.** The custodian must be a bank or savings and loan association, as defined in section 408(n), or any person who has the approval of the IRS to act as custodian.

**Depositor.** The depositor is the person who establishes the custodial account.

## SEP IRA FOR NONWORKING SPOUSE

Form 5305-A may be used to establish the IRA custodial account for a nonworking spouse.

Contributions to an IRA custodial account for a nonworking spouse must be made to a separate IRA custodial account established by the nonworking spouse.

## SPECIFIC INSTRUCTIONS

**Article IV.** Distributions made under this article may be made in a single sum, periodic payment, or a combination of both. The distribution option should be reviewed in the year the depositor reaches age 70 $\frac{1}{2}$  to ensure that the requirements of section 408(a)(6) have been met.

**Article VIII.** Article VIII and any that follow it may incorporate additional provisions that are agreed to by the depositor and custodian to complete the agreement. They may include, for example, definitions, investment powers, voting rights, exculpatory provisions, amendment and termination, removal of the custodian, custodian's fees, state law requirements, beginning date of distributions, accepting only cash, treatment of excess contributions, prohibited transactions with the depositor, etc. Attach additional pages if necessary.

## ARTICLE I

Except in the case of a rollover contribution described in section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), an employer contribution to a simplified employee pension plan as described in section 408(k), or a recharacterized contribution described in section 408A(d)(6), the custodian will accept only cash contributions up to \$5,500 per year for 2013 through 2017. For individuals who have reached the age of 50 by the end of the year, the contribution limit is increased to \$6,500 per year for 2013 through 2017. For years after 2017, these limits will be increased to reflect a cost-of-living adjustment, if any.

## ARTICLE II

The depositor's interest in the balance in the custodial account is nonforfeitable.

## ARTICLE III

1. No part of the custodial account funds may be invested in life insurance contracts, nor may the assets of the custodial account be commingled with other property except in a common trust fund or common investment fund (within the meaning of section 408(a)(5)).
2. No part of the custodial account funds may be invested in collectibles (within the meaning of section 408(m)) except as otherwise permitted by section 408(m)(3), which provides an exception for certain gold, silver, and platinum coins, coins issued under the laws of any state, and certain bullion.

## ARTICLE IV

1. Notwithstanding any provision of this agreement to the contrary, the distribution of the depositor's interest in the custodial account shall be made in accordance with the following requirements and shall otherwise comply with section 408(a)(6) and the regulations thereunder, the provisions of which are herein incorporated by reference.
2. The depositor's entire interest in the custodial account must be, or begin to be, distributed not later than the depositor's required beginning date, April 1 following the calendar year in which the depositor reaches age 70 $\frac{1}{2}$ . By that date, the depositor may elect, in a manner acceptable to the custodian, to have the balance in the custodial account distributed in:
  - a. A single sum or
  - b. Payments over a period not longer than the life of the depositor or the joint lives of the depositor and his or her designated beneficiary.
3. If the depositor dies before his or her entire interest is distributed to him or her, the remaining interest will be distributed as follows:
  - a. If the depositor dies on or after the required beginning date and:
    - i. The designated beneficiary is the depositor's surviving spouse, the remaining interest will be distributed over the surviving spouse's life expectancy as determined each year until such spouse's death, or over the period in paragraph (a)(iii) below if longer. Any interest remaining after the spouse's death will be distributed over such spouse's remaining life expectancy as determined in the year of the spouse's death and reduced by 1 for each subsequent year, or, if distributions are being made over the period in paragraph (a)(iii) below, over such period.
    - ii. The designated beneficiary is not the depositor's surviving spouse, the remaining interest will be distributed over the beneficiary's remaining life expectancy as determined in the year following the death of the depositor and reduced by 1 for each subsequent year, or over the period in paragraph (a)(iii) below if longer.
    - iii. There is no designated beneficiary, the remaining interest will be distributed over the remaining life expectancy of the depositor as determined in the year of the depositor's death and reduced by 1 for each subsequent year.
  - b. If the depositor dies before the required beginning date, the remaining interest will be distributed in accordance with paragraph (i) below or, if elected or there is no designated beneficiary, in accordance with paragraph (ii) below.
    - i. The remaining interest will be distributed in accordance with paragraphs (a)(i) and (a)(ii) above (but not over the period in paragraph (a)(iii), even if longer), starting by the end of the calendar year following the year of the depositor's death. If, however, the designated beneficiary is the depositor's surviving spouse, then this distribution is not required to begin before the end of the calendar year in which the depositor would have reached age 70 $\frac{1}{2}$ . But, in such case, if the depositor's surviving spouse dies before distributions are required to begin, then the remaining interest will be distributed in accordance with paragraph (a)(ii) above (but not over the period in paragraph (a)(iii), even if longer), over such spouse's designated beneficiary's life expectancy, or in accordance with paragraph (ii) below if there is no such designated beneficiary.
    - ii. The remaining interest will be distributed by the end of the calendar year containing the fifth anniversary of the depositor's death.
4. If the depositor dies before his or her entire interest has been distributed and if the designated beneficiary is not the depositor's surviving spouse, no additional contributions may be accepted in the account.
5. The minimum amount that must be distributed each year, beginning with the year containing the depositor's required beginning date, is known as the "required minimum distribution" and is determined as follows.
  - a. The required minimum distribution under paragraph 2(b) for any year, beginning with the year the depositor reaches age 70 $\frac{1}{2}$ , is the depositor's account value at the close of business on December 31 of the preceding year divided by the distribution period in the uniform lifetime table in Regulations section 1.401(a)(9)-9. However, if the depositor's designated beneficiary is his or her surviving spouse, the required minimum distribution for a year shall not be more than the depositor's account value at the close of business on December 31 of the preceding year divided by the number in the joint and last survivor table in Regulations section 1.401(a)(9)-9. The required minimum distribution for a year under this paragraph (a) is determined using the depositor's (or, if applicable, the depositor and spouse's) attained age (or ages) in the year.
  - b. The required minimum distribution under paragraphs 3(a) and 3(b)(i) for a year, beginning with the year following the year of the depositor's death (or the year the depositor would have reached age 70 $\frac{1}{2}$ , if applicable under paragraph 3(b)(i)) is the account value at the close of business on December 31 of the preceding year divided by the life expectancy (in the single life table in Regulations section 1.401(a)(9)-9) of the individual specified in such paragraphs 3(a) and 3(b)(i).
  - c. The required minimum distribution for the year the depositor reaches age 70 $\frac{1}{2}$  can be made as late as April 1 of the following year. The required minimum distribution for any other year must be made by the end of such year.
6. The owner of two or more SEP IRAs may satisfy the minimum distribution requirements described above by taking from one SEP IRA the amount required to satisfy the requirement for another in accordance with the regulations under section 408(a)(6).

## ARTICLE V

1. The depositor agrees to provide the custodian with all information necessary to prepare any reports required by section 408(i) and Regulations sections 1.408-5 and 1.408-6.
2. The custodian agrees to submit to the Internal Revenue Service (IRS) and depositor the reports prescribed by the IRS.

## ARTICLE VI

Notwithstanding any other articles which may be added or incorporated, the provisions of Articles I through III and this sentence will be controlling. Any additional articles inconsistent with section 408(a) and the related regulations will be invalid.

## ARTICLE VII

This agreement will be amended as necessary to comply with the provisions of the Code and the related regulations. Other amendments may be made with the consent of the persons whose signatures appear below.

## ARTICLE VIII

### 1. Account Owner Responsibilities

- a. Account Owner.** The Account Owner acknowledges that the Account is a non—interest bearing self-directed account. The custodian acts as a “fiduciary” for this account as defined by the Employee Retirement Income Security Act, as amended (“ERISA”), by the Internal Revenue Code or any other applicable local, state or federal laws only in relation to its custodial services. The Custodian does not, and the Account Owner acknowledges that the Custodian does not assume fiduciary responsibilities for any Account Owner’s Investment Decisions associated with the account. . The Account Owner also acknowledges that the Account with the Custodian will be established in the name of the Custodian for the benefit of the Account Owner and Account Owner agrees that all transactions related to the Account must go through the Account held with the Custodian otherwise this could result in tax implications. It is the Account Owner’s responsibility (not the Custodian’s) to select and monitor the investments in the Account. The Account Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the Roth IRA Account and accepts full and sole responsibility for such selection (“Account Owner’s Investment Decisions”). The Custodian provides no investment, legal, or tax advice or recommendations related to your account. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the Roth IRA Account and accepts full and sole responsibility for the success or failure of such investments. Assets in your account are not guaranteed by Digital Trust and are subject to investment risk, including the possible loss of your investment value.
- b. Authorized Agent.** The Account Owner may appoint a third party as their authorized agent for information access to the Custodial Account by notifying the Custodian in a form acceptable to the Custodian. The Custodian shall assume that the authorized agent is at all times qualified to act as agent for the Account Owner and shall recognize the agent as having the authority to obtain information related to the Account until such time as 1.) the Account Owner notifies the Custodian in writing that he has removed the authorized agent, or 2.) the Custodian is notified of the death of the Account Owner. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement. Custodian shall bear no responsibility for any transactions in the Roth IRA Account, or resultant losses or damages to Account Owner, caused by any acts or omissions of Authorized Agents. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement.
- c. Additional Information.** Account Owner agrees and acknowledges that unless where required by law, the Custodian is not responsible for communicating, forwarding or notifying any party, including the Account Owner, with respect to communications or other matters which come to the received by or comes to the attention of the Custodian with respect to assets in the account. It is the Account Owner’s responsibility for making arrangements to receive such information or monitor public sources for such information.
- d. Prohibited Transactions.** It is the Account Owner’s responsibility to determine if a transaction constitutes a prohibited transaction. Generally, a prohibited transaction is any improper use of your IRA Account by you, your beneficiary, or any disqualified person. Disqualified persons include members of your family (spouse, ancestor, lineal descendant, and any spouse of a lineal descendant). The following are some examples of prohibited transactions with a Roth IRA. 1.) Borrowing money from it. 2.) Selling property to it. 3.) Using it as security for a loan. 4.) Buying property for personal use (present or future) with IRA funds. The Custodian reserves the right to request a certification from the Account Owner that an Investment Direction provided by the Account Owner does not create a prohibited transaction, however, if a certification is not requested that does not indicate a transaction is not prohibited. Custodian reserves the right to take any action necessary, within its discretion, which may include resigning from the IRA Account.
- e. Unrelated Business Income (“UBIT”).** A IRA is subject to tax on unrelated business income if it carries on an unrelated trade or business. An unrelated trade or business means any trade or business regularly carried on by the IRA or by a partnership of which it is a member, and not substantially related to the IRA’s exempt purpose or function. If the IRA has \$1,000 or more of unrelated trade or business gross income, the IRA must file a Form 990-T, Exempt Organization Business Income Tax Return and pay the tax due. Account Owner is responsible for monitoring UBTI for their IRA Account which you may hold and prepare, or have prepared, the proper 990-T tax form and forward it to Custodian for filing, along with authorization to pay any tax due from the IRA Account. In

order to file the 990-T tax form, the Account Owner must apply for an Employer Identification Number (EIN) for the IRA Account before requesting Custodian to pay any tax owed. This EIN must be used on the 990-T tax form, the Account Owner social security number or Custodians EIN cannot be used.

- f. Employer Contributions.** If the Account Owner's IRA Account is the type of IRA which may receive contributions from the Account Owner's employer, the Custodian shall not be liable for any expenses, losses, damages, costs or penalties incurred as a result of the failure of the employer of the Account Owner to make any contributions to the IRA Account required under Account Owner's IRA plan. The Custodian is not responsible for monitoring the employer's contributions to your Custodial Account or notifying Account Owner of the employer's contributions. If applicable, the Account Owner is responsible for contacting the employer regarding its contributions and monitoring those contributions.
- g. Account Owner's Representations.** Account Owner represents and warrants that any information given or any information that will be given in the future with respect to this Account is complete and accurate. Account Owner also agrees that any directions Account Owner or Account Owner's authorized agent give to the Custodian, or any actions Account Owner or Account Owner's authorized agent take will be proper under this Agreement and that the Custodian is entitled to rely upon any such information or directions. The Custodian shall not be responsible for losses of any kind that may result from such directions to the Custodian or from the Account Owner's actions, or the Account Owner's authorized agent's actions, or failures to act of both. Account Owner agrees to reimburse the Custodian for any losses the Custodian may incur as a result of such directions, actions or failures to act.
- h. Review of Statements.** Custodian shall provide Account Owner with quarterly Account Statements containing the account assets and account activity within your Account. Please review the statement carefully and if you identify any discrepancies please document in writing and provide to Custodian via email within forty-five (45) days of the statement issuance at [Operations@digitaltrust.com](mailto:Operations@digitaltrust.com) or via mail at the address listed on the statement. If the notice of discrepancies is not received within the forty-five (45) day time frame, it will signify your approval of the statement and precludes you from making future objections or exceptions regarding the information contained in this statement. Such approval by you shall be full acquittal and discharge of Custodian regarding the transactions and information on such statement. Issuance shall mean (1) the posting of your Roth IRA Account Statement within the online platform or (2) the date of mailing of a paper Roth IRA Account Statement.
- i. Fair Market Valuations.** The IRS requires the Custodian to report the Fair Market Value ("FMV") of the account on an annual basis. It is the Account Owner's responsibility to ensure that the FMV is accurate. The valuation for investments must be provided to the Custodian on a timely basis by the Account Owner or another party chosen by the Account Owner for this purpose ("Valuation Agent") and identified as such in a written document delivered to the Custodian. It is the Account Owner's responsibility to determine and provide the valuation of Alternative Assets to the Custodian. The Custodian shall have no responsibility for acting on an FMV reported by the Account Owner or Valuation Agent. For Alternative Assets such as investments in limited liability companies, limited partnerships, hedge funds, and other similar entities, the Account Owner directs the Custodian to obtain the FMV of the Account Owner's Alternative Assets from the investment entity itself and hereby appoints each such entity as the Valuation Agent for the Account's investment in the entity itself. Each Valuation Agent shall be required to sign such documents as the Custodian shall deem appropriate or necessary to confirm the understanding and agreement of the Valuation Agent to its obligation to provide such to the Custodian. Failure of the Account Owner or Valuation Agent to provide a timely valuation shall be the sole responsibility of the Valuation Agent or the Account Owner, as the case may be, and the Custodian shall not be required to take any further steps to secure an updated FMV for the Account. The Custodian shall not be responsible for the timeliness or the accuracy of any FMV of any Alternative Asset furnished by the Account Owner or a Valuation Agent. The Custodian shall reflect the latest valuation received on an asset in the Custodial Account's statements on a timely basis, but the Custodian shall have no duty to inform the Account Owner or to follow up with any Valuation Agent with respect to the status of any such additional valuations. The Custodian shall have no duty or responsibility to solicit any valuation from either the Account Owner or the Valuation Agent. If the Custodian does not receive an updated FMV for an Alternative Asset, the Custodian shall be entitled to use the last FMV provided to the Custodian, or if none, the original purchase price for the Alternative Asset in question (such last FMV or original purchase price, as the case may be, shall hereinafter be referred to as the "Last Value").
- j. Indemnity.** Custodian shall be indemnified by Account Owner against any liabilities, losses, damages, costs and expenses (including but not limited to legal fees) incurred by Custodian arising out of any action taken or omitted to be taken by the Custodian hereunder or pursuant to any Instructions, including but not limited to (i) any taxes or other governmental charges, and any expenses related thereto, which may be imposed or assessed with respect to the asset/investment, and/or (ii) the Custodian or any nominee or agent of the Custodian, appearing as holder or holder of record of the asset/investment or any part thereof, but excluding those liabilities, losses, damages, costs and expenses which arise (whether through act or omission) as the result of fraud, willful default or gross negligence on the part of the Custodian in the performance of its duties under this Agreement.

## 2. Custodian Responsibilities

- a. Account.** The Custodian shall establish and maintain a separate Account in the name of the Account Owner. All contributions to the Individual Retirement Account (IRA) shall be in cash except for IRA-to-IRA transfers and rollovers if applicable. The Custodian's acceptance of in-kind asset transfers will be in accordance with the Custodian's current policies and procedures. We recommend that you contact the Custodian or Third Party Administrator (TPA) for additional information. Neither the Account Owner nor a Beneficiary shall assign any portion of the Account Owners Account and the Custodian shall not recognize any such assignment. It is the Account Owner's sole responsibility not the Custodian's to determine the amount of permissible contributions and the contribution timing as permissible by law. It is the Account Owner's responsibility to communicate in writing to the Custodian if a deposit in current year applies to the prior calendar tax year. In addition, it is the Account Owner's not the Custodian's responsibility to determine and maintain records of the deductible portion of any contribution. If you inherit a SEP IRA from anyone other than your deceased spouse, you cannot treat the inherited IRA as your own. This means that you cannot make any contributions to the IRA. It also means you cannot roll over any amounts into or out of the inherited IRA. However, you as beneficiary can make a trustee-to-trustee transfer as long as the IRA into which amounts are being moved is set up and maintained in the name of the deceased IRA owner for the benefit of you as beneficiary. See IRS Publication 590-B for more information.
- b. Account.** The Custodian shall establish and maintain a separate Account in the name of the Account Owner. All contributions to a Roth IRA shall be in cash except for IRA-to-IRA transfers and rollovers if applicable. The Custodian's acceptance of in-kind asset transfers will be in accordance with the Custodian's current policies and procedures. We recommend that you contact Custodian for additional information. Neither the Account Owner nor a Beneficiary shall assign any portion of the Account Owners Account and the Custodian shall not recognize any such assignment. It is the Account Owner's sole responsibility not the Custodian's to determine

the amount of permissible contributions and the contribution timing as permissible by law. It is the Account Owner's responsibility to communicate in writing to the Custodian if a deposit in current year applies to the prior calendar tax year.

- b. Uninvested Cash Funds.** From time to time you may deposit cash or digital assets with us, or we may receive funds in settlement of trades, that are not subject to a current Direction of Investment (or are awaiting your direction) (collectively referred to as "Uninvested Funds"). Digital Trust may place funds in one or more money markets, demand deposit accounts (savings or checking), including but not limited to Certificates of Deposit (CDs), investment grade bonds, "A" rated or higher life insurance companies (fixed annuities), municipal bonds, United States treasuries, fixed Income annuities with our without life insurance companies, mortgage and real estate backed securities or collateralized investments, and/or Digital or Non Digital yield generating structured investments. Your account is credited with all Uninvested Funds. You agree that if we receive no other instructions, Uninvested Funds from your IRA shall be invested in account(s) of Custodian's choosing using a method designed to maintain liquidity of the Uninvested Funds.
- i. Specifically, you authorize and direct us to sweep Uninvested Funds automatically into Custodian's designated account(s) until such time as further direction is received from you or your designated representative(s). If FDIC insurance applies to the investments purchased with Uninvested Cash Funds, the insurance will be subject to all applicable laws and regulations related to FDIC insurance limitations.
  - ii. We may adjust the method for investment between the accounts from time to time and we are not required to provide notice or obtain your consent.
  - iii. If we receive monies after hours or that otherwise cannot be immediately swept into an approved interest-bearing investment, such amounts may remain uninvested in our bank account overnight. In that case, we may also earn float on such amounts. In addition, if we issue a check on your behalf in connection with (1) distributions requested by you or (2) fees paid to third party service providers to your account, we debit your account the amount of the check and deposit the funds into a special disbursement account held by us. In that case, we will earn float on the amount of the check from the date it is issued until the date the check is presented and paid.
  - iv. Amounts held in our bank account or Digital asset wallets are held in an omnibus account and not segregated from other deposit funds.
- c. Investments.** Under this agreement the Custodian provides Self Directed Custody Services for the investments/assets selected by the Account Owner. Custodian acts on the Account Owner's Investment Decisions provided by the Account Owner and has no responsibility for any transactions made in accordance with Account Owner's Investment Decisions including, the performance, disclosure of any risks associated with the investment/asset, any due diligence, or suitability of the investments/assets selected by the Account Owner. Account Owner agrees that Custodian has no responsibility on the outcome of the self-directed investments including but not limited to total loss.
- d. Acting on Direction.** The Custodian shall act on the Account Owner's Investment Decisions for transfers, investments and distributions of assets/investments when the Account Owner has submitted directions in the manner required by Custodian. The Custodian will also act on Account Owner's Investment Decisions submitted by your Authorized Agent and any other authority granted by the Account Owner in compliance with Custodian's then current policies and procedures. The Custodian is not responsible for losses or damages resulting from the delay of acting on an Account Owner's Investment Decisions if the direction is unclear, incomplete and not in acceptable form to the Custodian. The Custodian has no responsibility to question any Account Owner's Investment Decisions received in good order from the Account Owner or your Authorized Agent. When the Custodian is directed to invest in assets in accordance with Account Owner's Investment Decisions, including assets that are not publicly traded, the Custodian shall not have any responsibility or liability of the entity or the broker/agent involved does not settle the trade in accordance with the trade executed by the Account Owner.
- e. Standard of Care/Liability.** Custodian will use commercially reasonable efforts in performing their obligations under this Agreement.
- i. Subject to the terms of this Agreement, Custodian shall not be responsible for any loss or damage suffered by Account Holder as a result of the Custodian performing such duties unless the same results from an act of fraud, willful default or gross negligence on the part of the Custodian. In such event the liability of the Custodian in connection with the asset/investment so affected by the Custodian's fraud, willful default or gross negligence shall not exceed the market value (as determined by the Custodian in any reasonable commercial manner) of such asset/investment at the time when Account Owner discovers such fraud, willful default or gross negligence.
  - ii. Custodian will be entitled to rely on and may act upon the advice of legal counsel and accountants or other agents with expertise in the relevant area, in relation to matters of law, regulation or market practice, and shall not be liable to Account Owner under this Agreement for any action taken or omitted pursuant to such advice, provided that Custodian has acted in good faith and with commercially reasonable efforts.
  - iii. Custodian shall not, save as stated in Section 8.1 d.) i.) above, be responsible for the title, validity or genuineness of any of the asset/investment (or any evidence of title thereto) received or delivered by it pursuant to this Agreement.
  - iv. Neither Custodian nor its affiliates shall be liable for any consequential, incidental, exemplary, punitive, special or indirect damages, whether or not the likelihood of such damages was known by Custodian or its affiliates.
  - v. Custodian shall not be liable to the Account Owner for any statements, representations, actions or inactions of any salesperson, broker or other third party provider of the investment purchased for this IRA.
  - vi. The Custodian may take any and all other actions which in its judgment may be necessary or appropriate for the proper administration of the assets of the IRA Account. In the performance of its duties and responsibilities under this Agreement the Custodian may employ such agents and vendors as it feels appropriate without notice to the Account Owner.
- f. Statements and Reports.** Reporting required by Custodian, to be provided to Account Owner and the IRS, will be provided by the Custodian in a format and within the time deadlines required in accordance with IRS rules, regulations and guidelines. According to IRS regulations, Custodian must provide Account Owner with a statement of the fair market value ("FMV") of the IRA Account as of December 31 of each year which must be provided by January 31 of the following year. Additionally, if applicable, Custodian.
- g. Privacy and Subpoena.** Custodian shall use reasonable measures to maintain and protect the Account Owners personal data. Data will be shared only when necessary to fulfill the activities requested by the Account Owner. Custodian does reserve the right to

respond to a subpoena or request from a regulator or law enforcement agency in accordance with the applicable law without your prior approval or notice.

- h. No Tax, Legal, or Investment Advice.** Custodian is not responsible for providing legal, tax or investment advice. Account Owner should consult with their financial or tax advisor if such advice is required. The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the IRA Account. It is the Account Owner's responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
  - i. Common Ownership.** Digital Trust, Alternative IRA Services, LLC dba BitcoinIRA, Rocket Dollar, Inc., Rocket Dollar Capital, Rocket Dollar Advisor, Inc, WAO Advisory, Inc., and/or Choiceapp.io are companies affiliated by common ownership, and that because these entities are under common ownership, the use of any of the entities may result in an indirect financial benefit to the owners of the entities.
- 3. Fees and Expenses.** Custodian shall be entitled to collect fees for their Custodial Services and the administration of the Account Owner's IRA in accordance with the Fee Schedule and this agreement. Custodian reserves the right to change the Fee Schedule from time to time and will notify Account Owner of such changes. All fees and expenses, including legal or other fees resulting from the administration of your account, will be collected by Custodian according to the payment method selected by Account Owner under this Agreement. If Account Owner has selected to have Custodian collect fees and expenses from the cash in the account, in the event there is not enough cash to cover the fees and expenses, the Account Owner authorizes the Custodian to sell or liquidate a portion of the assets in the account to collect the fees and expenses. If the Account Owner has selected the option to pay the Custodian fees and expenses by selling an asset in the account, the Custodian will sell a portion of the asset with the largest market value to collect such fees. Sales of assets to cover fees will be executed in or around the first week of every month. Sales for expenses will be executed as needed. The Custodian shall not incur any liability from initiating the sale or liquidation of assets to collect the fees and expenses. Custodian reserves the right to send Account Owner to collections or resign as custodian for unpaid fees.
- 4. Fee Requirements.** Generally, there are two types of fees associated with retirement accounts: custodial fees and asset fees. Custodial fees are related to the administration of your account and may generally be paid either with funds in the account or with personal funds. Custodial fees are typically assessed by the custodian and may include fees such as account opening fees, document fees, annual account fees, and transaction fees. Asset fees are typically related to expenses and fees that are incurred with the maintenance of investments in your account and must be paid with funds that are in the account. Asset fees can include items such as property taxes, repair bills, HOA fees, storage fees for precious metals, digital asset purchase/sale fees, and brokerage fees. Non-trustee fees that are paid with personal funds may result in a prohibited transaction. Further, the account owner cannot be reimbursed for paying non-trustee fees with personal funds.
- 5. Amendments to Agreement.** From time to time the Custodian may amend this agreement for any reason deemed necessary by Custodian. Some amendments may be necessary to comply and abide by new laws and regulations. Any such amendment will be provided by providing a copy of the amendment to Account Owner at your last known mailing or electronic address as shown in our records. Account Owner shall have thirty (30) calendar days to object to the Amendment. Such objection shall include the direction to terminate your IRA account, termination and other fees will apply to the account closing. If no objection is received by Custodian, Custodian deems that Amendment is accepted and consented to by Account Owner
- 6. Notice, Delivery and Electronic Signature**
- a. CONSENT FOR ELECTRONIC DISCLOSURES UNDER THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** The Account Application (Application) includes the Account Agreement provisions, the Fee Schedule and the SEP IRA Custodial Account Disclosures documents together as one which have been presented to the Account Owner prior to executing the Application. By completing this IRA Application online, you agree to be bound by all terms and conditions contained in the Application.
  - b. Consent to Electronic Delivery of Documents.** By consenting to the terms and conditions of this Application, you agree to receive the following communications electronically: periodic statements, disclosures, notices (including Amendment changes), agreements, changes to terms and conditions, records, documents, tax statements and forms, privacy notices, and all other information we provide to you. We may deliver these communications to you through your online access, by email, or by using other electronic methods allowed pursuant to applicable laws and regulations. While electronic delivery and email notifications are provided free of charge, you may incur internet access or telephone charges. However, we reserve the right to deliver any communication to you as a paper copy, rather than electronically. Your consent remains in effect until you give us notice that you are withdrawing it and covers all communications, including those related to any product or service offered either now or in the future. Electronic documents will no longer be sent after the account is terminated and all regulatory reporting requirements have been satisfied.
  - c. Withdrawal of Consent.** You may contact us in any of the ways described below to withdraw your consent to receive any future communication electronically. If you wish to receive electronic communications after you have withdrawn your consent, please contact Digital Trust at the phone number or address below. Please refer to the Fee Schedule for any fee that may apply for paper copies.
  - d. Paper Delivery of Disclosures and Notices.** You have the right to receive a paper copy of any communication sent electronically. To receive a paper copy, you may request it in writing by sending your request to Digital Trust, 7336 W. Post Road, Suite #111, Las Vegas, Nevada 89113 or calling us at (800) 777-9878. You may have to pay a fee for the paper copy unless charging a fee is prohibited by law.
  - e. IMPORTANT.** It is your responsibility to provide and maintain a current email and residential address with us. We may treat an invalid email address or the subsequent malfunction of a previously valid email address as a withdrawal of your consent to receive electronic communication. We will not impose a fee to process the withdrawal of your consent; however, fees may apply to paper copies mailed. Withdrawal of your consent to receive electronic communications will be effective only after we have a reasonable period of time to process your withdrawal. All communications in either electronic or paper format from us to you will be considered "in writing."
  - f. How to Update Your Records.** It is your responsibility to provide us with true, accurate and complete email address, contact, and other information related to your account. You must promptly notify us of any changes in this information. You can update your information via TPA's platform, by calling us, or by writing us at the address above.

**g. Equipment and Software Requirements.** In order to view and retain electronic communications that we make available to you, you must have:

- A PC or other device with an Internet browser that has “cookies” enabled and supports 128-bit encryption
- An Internet connection
- An email address
- A PDF viewer (such as Adobe Reader)
- A printer or computer with sufficient electronic storage space

All communications shall be delivered to the last address we have on file for the Account Owner. These notices will be sent through electronic delivery (email) and will be considered delivered the same day as sent. If you have opted out of electronic delivery, communications sent to you through the United States Postal Service are considered delivered 5 business days after the postmark date. It is the Account Owner’s responsibility to notify the Custodian of any email address change or residential address change. Custodian will not be held liable for any losses or damages if the Account Owner has not provided Custodian with the most current address information. The electronically signed copy of this document should be considered equivalent to a printed hard copy form. It is considered a true and complete record of the document, admissible in arbitration and/or administrative hearings or proceedings. Your electronic signature on the Application and other electronic forms such as the Investment Direction are considered valid and the same as if the paper form or Application were physically signed.

**7. Distributions.** Account Owner will provide full and complete instructions for any Distributions out of the Account Owners IRA. Custodian offers no tax or legal advice and Account Owner should consult with their tax or financial advisor to understand the implications of the action requested. Instructions should be submitted to Custodian in a manner acceptable to the Custodian. Custodian will not under any circumstances be responsible for the timing, purpose or propriety of any distribution from the account, nor shall the Custodian incur any liability or responsibility for any tax or penalty imposed on account of any distribution or failure to make a required distribution. Custodian may make any payment or distribution required or authorized hereunder by mailing a check or other property or by ACH or Federal wire or other electronic transfer to the payee at the address last furnished to the Custodian. Custodian shall not be liable for any payment made in good faith without actual knowledge of any changed condition or status of any person receiving benefits hereunder.

Custodian may, but shall not be obligated to, pay any estate, inheritance, income, or other tax or assessment attributable to any property or interest held in the IRA Account out of the assets of the IRA Account upon such information or direction as it may require. Before payment of any benefit, Custodian may also require releases or other related documentation from the taxing authority and require indemnification from such payee as may be necessary for the Custodian’s protection against tax liability.

**8. Designation of Beneficiaries.** In the event of your death, any account balance will be paid to your beneficiary designation deemed legally valid by the Custodian. In the event that the beneficiary designated is a minor or not of sound mind, the Custodian may at its discretion make beneficiary payments to such person acting as a parent or guardian of said beneficiary.

**a. Validity.** A beneficiary designation is deemed legally valid when the Account Owner has provided a full complete and executed designation clearly providing if the Account Owner is adding to or changing a portion of the then current beneficiary designation form in a format approved by the Custodian. Any valid beneficiary designation shall be effective upon receipt by the Custodian. Upon opening your account, you can designate your beneficiaries, and while still living, you can change your beneficiaries by submitting a fully completed Change of Beneficiary form acceptable to the Custodian.

**b. Beneficiary Designations and Change of Beneficiary.** In the event of marriage, divorce, death, adoption and the birth of children the Account Owner should evaluate the beneficiaries listed on the IRA account and provide the Custodian with a fully completed Change of Beneficiary form to update the IRA account. The Custodian reserves the right to reject or not accept a beneficiary designation not made to individuals or entities. If you do not live in a “community property” State, you are free to name any person or entity as your IRA beneficiary, even if you are married. In “community property” States, Account Owners who earn monies contributed to their IRA during a legal marriage will be required to provide a spousal consent to designate a person or entity as beneficiary other than their spouse. (Subject to changes in law, “community property” States currently include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.)

**c. Death Distributions.** Custodian will rely on a certified copy of the death certificate or other evidence deemed appropriate by the Custodian that certifies the Account Owner’s death. The Custodian has no responsibility to search for beneficiaries if Account Owner does not provide beneficiary information for the IRA account. By entering into this Agreement, you authorize Custodian to rely on any representation of facts made by the legal representative of your estate, any beneficiary, or any other person or source deemed appropriate by us, in determining the identity of unnamed beneficiaries. Your estate, and any unnamed beneficiaries further understand and agree that any information or instructions provided by such persons may be reviewed with counsel and Custodian may require further documentation to determine the beneficiaries. Prior to a distribution of assets to a beneficiary or the estate of the Account Owner, Custodian reserves the right to request from the beneficiary or the estate of the Account Owner, indemnification and discharge from any liability.

**d. Distribution to Estate.** Custodian reserves the right to distribute the account to the estate of the Account Owner in the event that there is conflicting or incomplete information in determining the beneficiaries. In the event that there are no beneficiaries provided to Custodian or all beneficiaries renounce their rights to receive any benefit from the Account, or in the event that no beneficiaries survive the Account Owner, the IRA will be distributed to your estate.

**9. Successor Custodian.** In the event that Digital Trust changes its name, reorganizes, is acquired by another organization, or if all or a portion of our entire organization is purchased by another organization, that organization will automatically become the trustee or custodian of your Account so long as the organization is authorized to serve as a trustee or custodian and satisfies the requirements of the IRS Code Section 408(a)(2).

**10. Termination or Resignation.** Account Owner or Custodian may terminate this agreement at any time by giving written notice to the other. We can resign as Custodian at any time effective thirty (30) days after we send written notice of our resignation to you. Upon receipt of that notice, you must make arrangements to transfer your Roth IRA to another Custodian (Successor Custodian) or request a distribution of your Roth IRA. If you do not complete a distribution form or transfer your Roth IRA within thirty (30) days from the date we send the notice to you, we have the right to either a.) transfer your Roth IRA assets to a successor Roth IRA trustee or custodian that we choose or b.) we may distribute your Roth IRA to you in a single lump sum and/or re-register the assets to you in-kind. . In the event of re-registration of the assets, the Custodian’s authority to re-register the assets supersedes any and all conflicting instructions, directions, or authorities with respect to said assets contained in any investment documents. If this Agreement is terminated, we may charge to your

Roth IRA a reasonable amount of money that is necessary to cover any costs associated with distributing or transferring your account, including but not limited to fees and expenses incurred and taxes. The Custodian shall not be liable for any taxes, penalties, or losses arising from any delays, omissions, acts, or other action or inaction of any other person(s) or entity, including the Account Owner in connection with transfer or distribution of the Roth IRA Account. The Successor Custodian shall acquire all of the powers and authority conferred by the resigning Custodian. The transfer and delivery of assets to the Successor Custodian shall be a complete discharge and exoneration of any liability for the resigning Custodian unless the Account Owner or Successor Custodian notifies the resigning Custodian within forty-five (45) days from the date of resignation. Custodian may close the Account if it is not funded within ninety (90) days from Account opening.

- 11. Arbitration Agreement.** In the event any legal or equitable claims or disputes arise out of performance of this agreement, or a breach of this Agreement, the parties agree to attempt to resolve the claim or dispute through good faith negotiation. In the event the parties are unable to resolve or settle such claim or dispute through negotiations, the parties agree that the claim or dispute will be settled by binding arbitration. Any arbitration proceedings shall be conducted in Las Vegas, Nevada, in accordance with the Commercial Dispute Resolution Procedures of the American Arbitration Association (AAA) in effect at the time a demand for arbitration is made. The Account Owner expressly waives any right he or she may have to establish or conduct litigation or arbitration in any other forum or location, or before any other body. The Account Owner may only bring claims and disputes in his or her individual capacity and not as a plaintiff or class member. Any and all claims arising out of or relating to this Agreement are required to have an arbitration filed within two (2) years from the date that the Account Owner knew of the facts giving rise to such claim or claims. The arbitrator shall have the authority to award reasonable attorneys' fees and costs, including the costs of arbitration, to the prevailing party.
- 12. Governing Law.** This Agreement and all amendment hereto shall be governed by and construed in accordance with the laws of the State of Nevada and the federal laws of the United States of America, and the obligations hereunder shall be determined in accordance with such laws. If any provision of this Agreement or the application thereof to any person or circumstances shall be determined to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 13. Other Administrative Powers.** Anything in this Agreement to the contrary notwithstanding, the Custodian may choose to request direction from the Account Owner as to any specific action or situation that arises with the IRA Account. If a request for direction is made, the Custodian shall not incur any liability for following the Account Owner's direction or for taking no action if no such direction is furnished to the Custodian. The Custodian shall have the right, at the expense of the Account Owner, to seek a direction or approval of its accounts from a court of competent jurisdiction whenever the Custodian shall, in its sole discretion, deem it appropriate. The Custodian is not required to, but in its sole discretion may, exercise the full power and authority to settle, compound or abandon all claims and demands in favor of or against the IRA Account or Account Owner, including any claim that may be asserted for taxes under present or future laws; to maintain or defend any litigation necessary in its administration of the IRA Account if indemnified to its satisfaction against any expenses and liabilities sustained or anticipated in connection therewith; to retain any fiat subject to any dispute without liability for payment of interest or decline to make payment thereof, until final adjudication of such dispute by a court of competent jurisdiction.
- 14. Digital Currency.** Custodian cannot and does not guarantee the value of digital currency or any other investment. Custodian shall not be responsible for any third-party services. Furthermore, Custodian or TPA cannot cancel or reverse a transaction involving digital currency. Once a transaction request has been made, Account Owner will subsequently not be able to cancel or otherwise modify the transaction request. Account Owner acknowledges and agrees that Custodian shall have no liability for losses you suffer in connection with any digital currency transaction initiated via the TPA Platform under this Agreement unless such losses are the direct result of Custodian's fraud, willful default or gross negligence. Custodian does not ensure that any transaction request you submit or cause to be submitted to a digital currency network via the TPA Platform will be completed by the applicable network. You acknowledge and agree that the transaction requests you authorize Custodian to submit for completion on a digital currency network may not be completed, or may be substantially delayed, by the digital currency network and Custodian is not responsible for any delay or any failure of completion caused by the digital currency network. When you complete a transaction request via the TPA Platform, this authorizes Custodian to submit the transaction request to the digital currency network in accordance with the instructions you provide.
  - a. Third Parties.** Digital Trust as custodian has a contractual agreement with Alternative IRA Services, LLC dba BitcoinIRA ("Bitcoin IRA") to act as a third-party servicer to your cryptocurrency or gold IRA account in conjunction with certain cryptocurrency service providers. You acknowledge Bitcoin IRA may change service providers at any time without notice. Those services performed by Bitcoin IRA include but are not limited to client servicing, hosting of the client platform, administrative functions necessary to open the IRA and facilitate the investment transactions including identity verification. Any issues or errors arising out of the use of the third-party platform are the responsibility of the third-party platform.
  - b. Key Storage.** Custodian shall use commercially reasonable efforts to keep in safe custody on behalf of Account Holder all Custodial Coins received by Custodian. Custodian will use commercially reasonable efforts to keep all Keys to the Custodial Wallet held by Custodian secure and shall maintain at least one (1) backup Key. Custodian shall exercise all commercially reasonable efforts to prevent unauthorized access to or use of the Keys held by Custodian to the Custodial Wallet. Custodian shall not be held responsible for any prohibited transactions or tax liabilities or penalties related to the storage of keys.
  - c. Asset Value Reporting Policy.** To value digital assets in your Roth IRA Account, Custodian will electronically obtain USD equivalent prices from digital currency market data providers or other sources as of the last date of the statement to report on your Roth IRA statement. Custodian does not guarantee the accuracy or timeliness of prices received and the prices are not to be relied upon for any investment decisions for your account.
  - d. Trading, Transactions, and Residuals.**
    - i.** Account Owner acknowledges and accepts the risk of trading, settlement and holding assets such as Digital Assets.
    - ii.** Account Owner acknowledges that Custodian reserves the right to suspend or restrict transaction activity in the asset or account reasonably necessary to comply with Custodian's anti-money laundering programs and policies, any requirements under applicable law, to prevent fraud, prevent suspicious transactions, or for any security reasons. Account Owner acknowledges for digital asset transfers or withdrawals that the vault withdrawal timeframe may take up to forty-eight (48) hours to execute.
    - iii.** Custodian will reflect in Account Owners Account market occurrences such as dividends, rewards, etc. when such activity occurs and after Custodian receives the proper information to reflect such activity.



- iv. Upon liquidation of digital currency, Account Owner may incur negligible mining fees that are charged at an unknown rate by miners of blockchain based products. This fee will be the responsibility of Account Owner. The Digital IRA Platform accounts for an estimation of this which is withheld upon liquidation. The withholding will be greater than the amount charged by the miners, leaving a residual referred to as dust. Account Owner acknowledges Custodian will use dust for payment and apply any residual to Account Owner's account for outstanding Custodial Fees or any cost associated with maintaining the wallet and/or account.
- e. **Transaction Requests and Verification.** For transactions initiated by Account Owner, the Account Owner appoints the Custodian with the authority to request the movement of assets and perform the out of band transaction verification as required by then current policies and procedures (e.g. video ID verification) including movement of assets out of the Cold Wallet Storage for purposes of settling trades executed by the Account Owner. Authority is granted to Custodian, provided Account Owner has appropriately provided direction or instruction in accordance with the Custodian's current policy and procedures via the Bitcoin IRA Platform or other method acceptable to Custodian.
- f. **Acknowledgement of Fork, Airdrop, and Token Support.** Account Owner agrees that all "airdrops" and "forks" will be handled by Custodian pursuant to its current policies and procedures. Account Owner acknowledges that Custodian is under no obligation to support any airdrops or forks, or handle them in any manner. Account Owner acknowledges that Custodian does not own or control the underlying software protocols which govern the operation of Digital Currencies. Digital Asset protocols are subject to changes in protocol rules (referred to as "forks"), and such forks may materially affect the value, function, or name of the Digital Asset. You acknowledge and agree (i) that Custodian is not responsible for operation of the underlying Digital Asset protocols and that Custodian makes no guarantee of their functionality, security, or availability; and (ii) if a fork occurs, Custodian may temporarily suspend the ability to transact in the Digital Asset affected, and Custodian may decide not to support the forked protocol entirely or may enable you to transfer the affected Digital Asset.

Account Owner further acknowledges that Custodian, at its sole discretion, may update the policies and procedures from time to time. Custodian is under no obligation to provide notification to Customer of any modification. Account Owner further acknowledges and agrees that Custodian may, from time to time, offer support for select ERC20 tokens or other tokens, metacoins, colored coins, side chains, or coins which enhance or interoperate with coins supported by Custodian (collectively, "Tokens"). Custodian will notify Account Owner and the general public if the Custodian supports a particular Token. Account Owner further acknowledges and agrees that, upon the occurrence of any event outside the control of Custodian resulting in the migration of any ERC20 token from Ethereum to another protocol, including but not limited to a "mainnet launch," (a "Migration Event") Custodian may immediately cease any and all support for such ERC20 token, and that Custodian will be under no obligation to provide support for any Token related to or resulting from such a Migration Event.

CUSTODIAN WILL HAVE NO RESPONSIBILITY OR LIABILITY IF CLIENT LOSES, BURNS, OR OTHERWISE CANNOT ACCESS OR CONTROL ANY TOKEN THAT CUSTODIAN DOES NOT SUPPORT.

# SEP INDIVIDUAL RETIREMENT ACCOUNT ACCOUNT DISCLOSURE STATEMENT

(Under section 408(k) of the Internal Revenue Code)



(800) 777 - 9878

(800) 867 - 7668

operations@digitaltrust.com

## PURPOSE OF THIS DISCLOSURE STATEMENT

The Internal Revenue Code (Code) requires that Digital Trust, LLC (Custodian) provide individuals establishing a Simplified Employee Pension Individual Retirement Account (SEP IRA) with the information contained in this Disclosures document. This Disclosure document is intended to provide information to help you understand your IRA Account. This Disclosure document cannot cover every rule in the IRS Code and Custodian encourages you to refer to IRA Publications 590-A and 590-B and consult with a tax professional when necessary. Publications 590-A and 590-B will also provide insight to changes for the upcoming tax year.

You should read and complete the SEP IRA Application (Application) which includes the Account Agreement provisions above along with the IRA Account Application, the Fee Schedule and the SEP IRA Custodial Account Disclosures documents together as one which have been presented to the Account Owner prior to executing the Application. The IRS requires your Custodian to provide you, the Account Owner, with this Disclosure document.

## DISCLOSURES

1. **Information.** You can set up a SEP IRA with a bank or other financial institution, life insurance company, mutual fund or stockbroker. The firm that sets up your SEP IRA is your Custodian. Digital Trust, LLC is the only Custodian of this IRA Account you are establishing.
2. **Important Information About Procedures for Opening a New Account.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.
3. **Revocation of SEP IRA.** You have the right to revoke this SEP IRA Account within seven (7) days of the date your SEP IRA Account is established. If you exercise this right you are entitled to a return of the amount contributed to the SEP IRA without penalty, service charge or administrative expenses. Please note, as Custodian, we must report on the appropriate IRS form both the contributions made to the account and the amount returned to you, however, this is not required if funded by a non-reportable transfer. If you do not exercise this right within seven (7) days of the date your SEP IRA Account is established, it is assumed that you will have accepted the terms and conditions of the SEP IRA you have established. If you choose to initiate an Investment Direction prior to the expiration of the seven (7) day period, this will signify you have declined this revocation right. Notice should be provided to the Custodian in writing through first class mail and must be postmarked within seven (7) days of the Account establishment date if you decide to revoke your Account. Revocation Notices can be mailed to: **Digital Trust, LLC, 7336 W. Post Road, Ste 111, Las Vegas, NV 89113**
4. **Contributions.**
  - a. **Compensation.** In order to contribute to an IRA, you must have earned income/compensation. According to the IRS, wages, salaries, tips, professional fees, bonuses, and other amounts you receive for providing personal services are compensation. An amount you receive that is a percentage of profits or sales price is compensation. For IRA purposes, compensation includes any taxable alimony and separate maintenance payments you receive under a decree of divorce or separate maintenance. If you were a member of the U.S. Armed Forces, compensation includes any nontaxable combat pay you received.
  - b. **SEP IRA Account.** Form 5305-SEP (Model SEP) is used by an employer to make an agreement to provide benefits to all eligible employees under a SEP described in section 408(k). Your SEP IRA Account is set up for your employer to make contributions to. Your employer is not required to make contributions to your SEP IRA every year, however, in any year contributions are made to employees SEP IRAs, they must also be made for employees who die or terminate their employment before the contributions are made.
  - c. **Employer Contribution Limits For 2021.** The maximum amount that an employer can contribute to your SEP IRA on an annual basis is generally the smaller of: 1.) 25% of the employee's compensation or 2.) \$58,000,\* whichever is less. Compensation, for this purpose, does not include employer contributions to the SEP or the employee's compensation in excess of \$290,000\*. \*This amount is subject to annual cost-of-living adjustments.

Elective salary deferrals are not permitted in SEP plans. The SEP IRA doesn't allow for catch-up contributions like other IRAs because the employer makes the contributions to the SEP IRA, not the employee. You can still make contributions to other IRAs, however, because you are participating in an employer sponsored plan the amount you can deduct on your tax return may be reduced or nondeductible.

To make a regular contribution to a SEP IRA for a year, the SEP IRA must be established and the contribution deposited no later than the due date of your employers' tax return for the tax year, including extensions. Contributions to your SEP IRA must be made in cash. At the Custodian's sole discretion, in-kind contributions from rollover contributions or transfers may be accepted. If you are self-employed, you can contribute to your own SEP IRA.
  - d. **Age 70½ rule.** Your employer can continue to make contributions to your SEP IRA even after you attain age 70½. However, you will be required to take Required Minimum Distributions (RMDs) once you attain age 72.
  - e. **Multiple SEP IRAs.** If you have more than one SEP IRA, the contribution limit applies to the total contributions made on your behalf to all your SEP IRAs for the year.
  - f. **Tax Year.** Contributions made between January 1 and the tax filing deadline of your employer should include a designation of which tax year the contribution should apply to. If no designation is made, Custodian will report the contribution for the tax year received.
  - g. **Tax Treatment of Contributions.** Employer contributions to your SEP IRA are excluded from your income unless there are contributions in excess of the applicable limit. Employer contributions within these limits will not be included on your Form W-2 and are not deductible on your tax return.

- h. Deducting Contributions.** If you are self-employed, you can deduct the contribution that you make to your own SEP IRA each year. In addition, generally an employer can deduct the contributions made each tax year to the employee's SEP IRAs. If you contribute to your own SEP IRA, you must make a special computation to figure your maximum deduction for these contributions. When figuring the deduction for contributions made to your own SEP IRA, compensation is your net earnings from self-employment which takes into account both the following deductions: a.) the deduction for the deductible part of your self-employment tax b.) the deduction for contributions to your own SEP IRA. The deduction for contributions to your own SEP IRA and your net earnings depend on each other. For this reason, you determine the deduction for contributions to your own SEP IRA indirectly by reducing the contribution rate called for in your plan.
- 5. Excess Contributions.** If your employer contributes more than the allowable limit to your SEP IRA for a tax year, these excess contributions are included in your income for the year and are treated as contributions you made to your SEP IRA. These excess contributions may be withdrawn without penalty by the due date (plus extensions) for filing your tax return (normally April 15) but are includible in your gross income. Withdrawals of those contributions may be taxed as premature withdrawals. In general, if the excess contributions for a year aren't withdrawn by the date your federal tax return for the year is due (including extensions), you will be subject to a 6% excise tax. You must pay the 6% excise tax each year on excess amounts that remain in your SEP IRA at the end of your tax year. To avoid the tax for excess contributions you must withdraw the excess contributions from your SEP IRA by the due date of your individual income tax return (including extensions) and withdraw any interest or income earned on the excess contribution.
- 6. Distributions.**
- a. Distributions Generally.** Distributions from your IRA will be processed by the Custodian upon direction from the Account Owner in a manner that is acceptable to the Custodian. Custodian is not responsible for acting on instructions that were provided in error or that do not provide all the required information. If you direct the Custodian to distribute from your IRA Account before you have reached the age of 59 ½, the IRS describes these as "premature" or "early" distributions. These distributions are subject to a 10% early withdrawal tax which is in addition to the income tax that must be paid on the distribution. There are a number of exceptions to this 10% early withdrawal tax. For example, individuals that are disabled or first-time homebuyers or a qualified reservist are among those not subject to this additional tax. Please consult with a tax advisor for guidance on your distribution situation. Taxable distributions from your IRA are taxed as ordinary income. You can elect to have Federal Tax withheld at the time of distribution. State taxes will be withheld for the required states according to the state's guidelines. The Custodian's distribution form will provide the elections available.
- b. Required Minimum Distributions.** For IRAs (including SEP and SIMPLE IRAs) you must start taking distributions from your IRA by April 1 of the year following the calendar year in which you reach age 72. For each year after your required beginning date, you must withdraw your RMD by December 31st. If you take your initial RMD between January 1st and April 1st, you will have two required distributions for the year as the second RMD is due by December 31st. To avoid having to report two distributions for the same tax year, you can take your first RMD by December 31st of the year you turn 72. If you do not take any distributions, or if the distributions are not large enough to satisfy the requirement, you may have to pay a 50% excise tax on the amount not distributed as required. If you have more than one IRA that is subject to the RMD rule, you can satisfy the requirement by taking the distribution out of one of the IRAs or multiple IRAs as long as the required distribution will be satisfied. For additional information including the amount required to be distributed, please see IRS Publication 590- B. The SEP Individual Retirement Custodial Account Agreement also had additional information on RMDs in Section IV.
- c. Distributions Under Divorce, Levys and Similar Court Directives.** In the event that the Custodian is presented with a Court Order to distribute all or part of your IRA due to divorce, Custodian will transfer the assets into an IRA account of the receiving spouse. The portion or amount transferred will have no tax implications to you if the Court Order is received and acceptable to the Custodian. The Custodian reserves the right to request additional information from you or your former spouse to carry out such orders. In some instances, such as a levy or a court order, the Custodian may make a distribution from the IRA Account without instruction from the Account Owner. In those cases, the distribution may be reportable to the IRS as a taxable event.
- d. Rollovers.** Generally, a rollover is a tax-free distribution to you of cash or other assets from one retirement plan that you contribute to another retirement plan. This rollover must be completed within sixty (60) days from the date you received the payment or distribution. There are several exceptions to this sixty (60) day rule; however, you are required to provide your Custodian with a certification, meeting the IRS requirements, indicating you are eligible for one or more of these exceptions. The contribution to the second retirement plan is called a "rollover contribution." Common rollovers to a SEP IRA come from: a.) A traditional IRA. b.) An employer's qualified retirement plan for its employees. c.) A deferred compensation plan of a state or local government (section 457 plan). d.) A tax-sheltered annuity plan (section 403 plan). NOTE: Rollovers from Traditional IRAs or SEP-IRAs into or out of a SIMPLE IRA can only take place after two (2) years. The 2-year period begins on the first day on which your employer deposits contributions in your SIMPLE IRA. Rollovers between two SIMPLE IRAs are not subject to the two (2) year waiting period. Rollovers from Traditional IRAs, SEP-IRAs and SIMPLE IRAs into Roth IRAs must be included in your income for that year. The SIMPLE IRAs are subject to the two (2) year waiting period. Amounts that must be distributed during a particular year under the RMD rules (discussed in Pub. 590-B) aren't eligible for rollover treatment.
- e. One-rollover-per-year limitation.** You can make only one rollover from an IRA to another (or the same) IRA in any 1-year period regardless of the number of IRAs you own. The limit will apply by aggregating all of an individual's IRAs, including SEP and SIMPLE IRAs as well as traditional and Roth IRAs, effectively treating them as one IRA for purposes of the limit. However, trustee-to-trustee transfers between IRAs aren't limited and rollovers from traditional IRAs to Roth IRAs (conversions) aren't limited. The 1-year period begins on the date you receive the IRA distribution, not on the date you roll it over into an IRA.
- f. Property Rolled Over.** If property is distributed to you from your IRA and you complete the rollover by contributing property to an IRA, your rollover is tax free only if the property you contribute is the same property that was distributed to you. For example: if you received cash from your IRA and roll it over to an eligible account, the rollover contribution into the eligible account must be in cash.
- g. Partial rollovers.** If you withdraw assets from a SEP IRA, you can roll over part of the withdrawal tax free and keep the rest of it. The amount you keep will generally be taxable (except for the part that is a return of nondeductible contributions). The amount you keep may be subject to the 10% additional tax on early distributions as described above.
- 7. Investments.**
- a. Investments-No Duty to Review or Monitor Investments.** The Custodian shall have no duty or responsibility to review any investment held in the IRA Account or any investment under consideration by the Account Owner or any purchase directed by the Account Owner with respect to any issue, including but not limited to, its safety, risk, suitability or whether or not it should be registered as a security with the appropriate government agencies and shall have no liability with respect to its safety, risk, suitability or whether or not it should be registered as a security with the appropriate government agencies. The Custodian shall not be responsible to investigate or perform any due diligence on any investment, investment sponsor or any principal involved with any investment. Further, the Custodian has no duty to monitor any investment held in the IRA

Account. Under this agreement the Custodian provides Custody Services for the assets selected by the Account Owner. Custodian acts on the Investment Directions provided by the Account Owner and has no responsibility for the performance or suitability of the assets selected by the Account Owner. Acting on the Account Owner's Investment Direction in no way implies endorsement by the Custodian of the assets selected by the Account Owner. The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the IRA Account. At its sole discretion, the Custodian can refuse to act as Custodian on any asset selected by the Account Owner.

- b. **IRA Owner Investment Responsibility.** The Account Owner has the full responsibility to review and investigate the assets they direct the Custodian to invest in for their IRA Account. It is the Account Owner's responsibility, not the Custodian's, to select and monitor the investments in the IRA Account. The Account Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the IRA Account and accepts full and sole responsibility for such selection. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the IRA Account and accepts full and sole responsibility for the success or failure of such investments. The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the IRA Account. It is the Account Owner's responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
  - c. **Pledging IRA Assets.** If you use (pledge) a part of your SEP IRA account as security for a loan, that part is treated as a distribution and is included in your gross income. You may have to pay the 10% additional tax on early distributions discussed in item 8.) above and in IRS Publication 590-B.
  - d. **Prohibited Investments.** The IRS Code does not permit IRA funds to be invested in life insurance or collectibles. The IRS considers the following items as collectibles: artwork, rugs, antiques, metals, gems, stamps, coins, alcoholic beverages, and certain other tangible personal property. The IRS has indicated that there are some exceptions as noted here: Roth IRAs can invest in one, one-half, one-quarter, or one-tenth ounce U.S. gold coins, or one-ounce silver coins minted by the Treasury Department. It can also invest in certain platinum coins and certain gold, silver, palladium, and platinum bullion. If you invest your Roth IRA in collectibles, the amount invested is considered distributed in the year invested and you may have to pay a 10% additional tax on early distributions.
  - e. **Prohibited Transactions.** Generally, a prohibited transaction is any improper use of your SEP IRA account by you, your beneficiary, or any disqualified person. Disqualified persons include members of your family (spouse, ancestor, lineal descendant, and any spouse of a lineal descendant). If you or your beneficiary engages in a prohibited transaction in connection with your IRA account at any time during the year, the account stops being an IRA as of the first day of the year in which the prohibited transaction occurs. The IRA Account is treated as distributing all its assets to the Account Owner at their fair market value(s) on the first day of the year in which the prohibited transaction occurs. If the IRA Account ceases to qualify as an IRA because of a prohibited transaction by you or your beneficiary, you may have a taxable gain that is reportable as income. In addition, you or your beneficiary may have to pay other taxes. Some examples of prohibited transactions include buying property within your IRA Account for personal use, using the IRA Account as security for a loan and borrowing money from your IRA. Prohibited transactions are described in Internal Revenue Code (IRC) Section 4975. It is the Account Owner's responsibility and not the Custodian's responsibility to determine if a transaction constitutes a prohibited transaction. The Custodian reserves the right to request a certification from the Account Owner that the direction provided by the Account Owner does not create a prohibited transaction, however, if a certification is not requested that does not indicate a transaction is not prohibited. Custodian reserves the right to take any action necessary, within its discretion, which may include resigning from the IRA Account.
8. **Inherited IRAs/Beneficiaries.** Account Owner's should review and update their IRA Account beneficiaries by providing the Custodian with a completed Beneficiary Designation Form. This is especially important after life changes such as marriage, divorce, death, and birth or adoption of children. If you inherit an IRA, you are called a beneficiary. A beneficiary can be any person or entity the Account Owner chooses to receive the benefits of the IRA after he or she dies. Beneficiaries of the IRA must include in their gross income any taxable distributions they receive.
- a. **Inherited From Spouse.** If you inherit a SEP IRA from your spouse, you generally have the following three choices. You can do one of the following: a.) Treat it as your own IRA by designating yourself as the Account Owner b.) Treat it as your own by rolling it over into your IRA, or to the extent it is taxable, into a Qualified employer plan, Qualified employee annuity plan (section 403(a) plan), Tax-sheltered annuity plan (section 403(b) plan), or Deferred compensation plan of a state or local government (section 457 plan). c.) Treat yourself as the beneficiary rather than treating the IRA as your own. If you make contributions (including rollover contributions) to the inherited IRA or if you don't take the RMD for a year as the beneficiary of the IRA, you will be considered to have chosen to treat the IRA as your own. You will only be considered to have chosen to treat the IRA as your own if: a.) You are the sole beneficiary of the IRA, and b.) You have an unlimited right to withdraw from it. However, if you receive a distribution from your deceased spouse's IRA, you can roll that distribution over into your own IRA within the 60-day time limit, as long as the distribution isn't an RMD, even if you aren't the sole beneficiary of your deceased spouse's IRA. See Publication 590-B for more information on RMDs.
  - b. **Inherited From Someone Other Than Spouse.** If you inherit a SEP IRA from anyone other than your deceased spouse, you cannot treat the inherited IRA as your own. This means that you can't make any contributions to the IRA. It also means you can't roll over any amounts into or out of the inherited IRA. However, you can make a trustee-to-trustee transfer as long as the IRA into which amounts are being moved is set up and maintained in the name of the deceased IRA owner for the benefit of you as beneficiary. See Pub. 590-B for more information. Like the original owner, you generally won't owe tax on the assets in the IRA until you receive distributions from it. You must begin receiving distributions from the IRA under the rules for distributions that apply to beneficiaries. Beneficiaries of an inherited IRA must generally begin receiving required minimum distributions by December 31 of the year following the year of the deceased person's death.
9. **No Tax, Legal or Investment Advice.** In its role as Custodian, Digital Trust, LLC does not provide any tax, legal or investment advice. It is your responsibility as the Account Owner to consult with your investment or tax advisor. The Custodian shall act on the Account Owners directions for transfers, investments and distributions of Fiat when the Account Owner has submitted directions in the manner required by Custodian. The Custodian is not responsible for losses or damages resulting from the delay of acting on a direction if the direction is unclear, incomplete and not in acceptable form to the Custodian. Additionally, the Custodian is not responsible for the performance of the assets selected by the Account Owner. Under this agreement the Custodian provides Custody Services for the assets selected by the Account Owner. Custodian acts on the Investment Directions provided by the Account Owner and has no responsibility for the performance or suitability of the assets selected by the Account Owner.

# SIMPLE INDIVIDUAL RETIREMENT ACCOUNT CUSTODIAL ACCOUNT AGREEMENT



(Under section 408(p) of the Internal Revenue Code)

Form 5305-S (Revised April 2017)

Department of the Treasury – Internal Revenue Service

(800) 777 - 9878

(800) 867 - 7668

operations@digitaltrust.com

## PURPOSE OF THIS FORM

This Custodial Account Agreement outlines the terms and conditions required to meet the Internal Revenue Service (IRS) requirements for opening a SIMPLE Individual Retirement Account (SIMPLE IRA). Form 5305-S is a model custodial account agreement that meets the requirements of sections 408(a) and 408(p). However, only Articles I through VII have been reviewed by the IRS. A SIMPLE individual retirement account (SIMPLE IRA) is established after the form is fully executed by both the individual (participant) and the custodian. This account must be created in the United States for the exclusive benefit of the participant and his or her beneficiaries. Article VIII was prepared by Digital Trust, LLC herein after known as “Custodian” “we” “us” and “our” for the agreement with the Participant hereafter known as the “Account Owner” “client” “you” or “your.”

The Custodian’s action of the opening of the account signifies its execution of the Agreement. The IRA Account Application (Application) includes the following Account Agreement provisions along with the IRA Account Application, the Fee Schedule, and the Custodial Account Disclosures document together as one which have been presented to the Account Owner prior to executing the Application. The IRA account is established by the Custodian in the capacity of a Directed Custodian for the exclusive benefit of the Account Owner who agree to the below terms and conditions.

**Do not file Form 5305-S with the IRS. Instead, keep it with your records.**

For more information on SIMPLE IRAs, including the required disclosures the custodian must give the participant, see Pub. 590-A, Contributions to Individual Retirement Arrangements (IRAs); Pub. 590-B, Distributions from Individual Retirement Arrangements (IRAs); and Pub 560, Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans).

## DEFINITIONS

**Participant.** The participant is the person who establishes the custodial account.

**Custodian.** The custodian must be a bank or savings and loan association, as defined in section 408(n), or any person who has the approval of the IRS to act as custodian.

## TRANSFER SIMPLE IRA

This SIMPLE IRA is a “transfer SIMPLE IRA” if it is not the original recipient of contributions under any SIMPLE IRA plan. The summary description requirements of section 408(l)(2) do not apply to transfer SIMPLE IRAs.

## SPECIFIC INSTRUCTIONS

**Article IV.** Distributions made under this article may be made in a single sum, periodic payment, or a combination of both. The distribution option should be reviewed in the year the participant reaches age 70 1/2 to ensure that the requirements of section 408(a)(6) have been met.

**Article VIII.** Article VIII and any that follow it may incorporate additional provisions that are agreed to by the participant and custodian to complete the agreement. They may include, for example, definitions, investment powers, voting rights, exculpatory provisions, amendment and termination, removal of the custodian, custodian’s fees, state law requirements, beginning date of distributions, accepting only cash, treatment of excess contributions, prohibited transactions with the participant, etc. Attach additional pages if necessary.

## ARTICLE I

The custodian will accept cash contributions made on behalf of the participant by the participant’s employer under the terms of a SIMPLE IRA plan described in section 408(p). In addition, the custodian will accept transfers or rollovers from other SIMPLE IRAs of the participant and, after the 2-year period of participation defined in section 72(t)(6), transfers or rollovers from any eligible retirement plan (as defined in section 402(c)(8)(B)) other than a Roth IRA or a designated Roth account. No other contributions will be accepted by the custodian.

## ARTICLE II

The participant’s interest in the balance in the custodial account is nonforfeitable.

## ARTICLE III

1. No part of the custodial account funds may be invested in life insurance contracts, nor may the assets of the custodial account be commingled with other property except in a common trust fund or common investment fund (within the meaning of section 408(a)(5)).
2. No part of the custodial account funds may be invested in collectibles (within the meaning of section 408(m)) except as otherwise permitted by section 408(m)(3), which provides an exception for certain gold, silver, and platinum coins, coins issued under the laws of any state, and certain bullion.

## ARTICLE IV

1. Notwithstanding any provision of this agreement to the contrary, the distribution of the participant's interest in the custodial account shall be made in accordance with the following requirements and shall otherwise comply with section 408(a)(6) and the regulations thereunder, the provisions of which are herein incorporated by reference.
2. The participant's entire interest in the custodial account must be, or begin to be, distributed not later than the participant's required beginning date, April 1 following the calendar year in which the participant reaches age 70½. By that date, the participant may elect, in a manner acceptable to the custodian, to have the balance in the custodial account distributed in:
  - a. A single sum or
  - b. Payments over a period not longer than the life of the participant or the joint lives of the participant and his or her designated beneficiary.
3. If the participant dies before his or her entire interest is distributed to him or her, the remaining interest will be distributed as follows.
  - a. If the participant dies on or after the required beginning date and:
    - i. The designated beneficiary is the participant's surviving spouse, the remaining interest will be distributed over the surviving spouse's life expectancy as determined each year until such spouse's death, or over the period in paragraph (a)(iii) below if longer. Any interest remaining after the spouse's death will be distributed over such spouse's remaining life expectancy as determined in the year of the spouse's death and reduced by 1 for each subsequent year, or, if distributions are being made over the period in paragraph (a)(iii) below, over such period.
    - ii. The designated beneficiary is not the participant's surviving spouse, the remaining interest will be distributed over the beneficiary's remaining life expectancy as determined in the year following the death of the participant and reduced by 1 for each subsequent year, or over the period in paragraph (a)(iii) below if longer.
    - iii. There is no designated beneficiary, the remaining interest will be distributed over the remaining life expectancy of the participant as determined in the year of the participant's death and reduced by 1 for each subsequent year.
  - b. If the participant dies before the required beginning date, the remaining interest will be distributed in accordance with paragraph (i) below or, if elected or there is no designated beneficiary, in accordance with paragraph (ii) below.
    - i. The remaining interest will be distributed in accordance with paragraphs (a)(i) and (a)(ii) above (but not over the period in paragraph (a)(iii), even if longer), starting by the end of the calendar year following the year of the participant's death. If, however, the designated beneficiary is the participant's surviving spouse, then this distribution is not required to begin before the end of the calendar year in which the participant would have reached age 70½. But, in such case, if the participant's surviving spouse dies before distributions are required to begin, then the remaining interest will be distributed in accordance with paragraph (a)(ii) above (but not over the period in paragraph (a)(iii), even if longer), over such spouse's designated beneficiary's life expectancy, or in accordance with paragraph (ii) below if there is no such designated beneficiary.
    - ii. The remaining interest will be distributed by the end of the calendar year containing the fifth anniversary of the participant's death.
4. If the participant dies before his or her entire interest has been distributed and if the designated beneficiary is not the participant's surviving spouse, no additional contributions may be accepted in the account.
5. The minimum amount that must be distributed each year, beginning with the year containing the participant's required beginning date, is known as the "required minimum distribution" and is determined as follows.
  - a. The required minimum distribution under paragraph 2(b) for any year, beginning with the year the participant reaches age 70½, is the participant's account value at the close of business on December 31 of the preceding year divided by the distribution period in the uniform lifetime table in Regulations section 1.401(a)(9)-9. However, if the participant's designated beneficiary is his or her surviving spouse, the required minimum distribution for a year shall not be more than the participant's account value at the close of business on December 31 of the preceding year divided by the number in the joint and last survivor table in Regulations section 1.401(a)(9)-9. The required minimum distribution for a year under this paragraph (a) is determined using the participant's (or, if applicable, the participant and spouse's) attained age (or ages) in the year.
  - b. The required minimum distribution under paragraphs 3(a) and 3(b)(i) for a year, beginning with the year following the year of the participant's death (or the year the participant would have reached age 70½, if applicable under paragraph 3(b)(i)) is the account value at the close of business on December 31 of the preceding year divided by the life expectancy (in the single life table in Regulations section 1.401(a)(9)-9) of the individual specified in such paragraphs 3(a) and 3(b)(i).
  - c. The required minimum distribution for the year the participant reaches age 70½ can be made as late as April 1 of the following year. The required minimum distribution for any other year must be made by the end of such year.
6. The owner of two or more IRAs (other than Roth IRAs) may satisfy the minimum distribution requirements described above by taking from one IRA the amount required to satisfy the requirement for another in accordance with the regulations under section 408(a)(6).

## ARTICLE V

1. The participant agrees to provide the trustee with all information necessary to prepare any reports required by sections 408(i) and 408(l)(2) and Regulations sections 1.408-5 and 1.408-6.
2. The custodian agrees to submit to the Internal Revenue Service (IRS) and participant the reports prescribed by the IRS.
3. The custodian also agrees to provide the participant's employer the summary description described in section 408(l)(2) unless this SIMPLE IRA is a transfer SIMPLE IRA.

## ARTICLE VI

Notwithstanding any other articles which may be added or incorporated, the provisions of Articles I through III and this sentence will be controlling. Any additional articles inconsistent with sections 408(a) and 408(p) and the related regulations will be invalid.

## ARTICLE VII

This agreement will be amended as necessary to comply with the provisions of the Code and the related regulations. Other amendments may be made with the consent of the persons whose signatures appear below.

## ARTICLE VIII

### 1. Account Owner Responsibilities.

- a. Account Owner.** The Account Owner acknowledges that the Account is a non—interest bearing self-directed account. The custodian acts as a “fiduciary” for this account as defined by the Employee Retirement Income Security Act, as amended (“ERISA”), by the Internal Revenue Code or any other applicable local, state or federal laws only in relation to its custodial services. The Custodian does not, and the Account Owner acknowledges that the Custodian does not assume fiduciary responsibilities for any Account Owner's Investment Decisions associated with the account. . The Account Owner also acknowledges that the Account with the Custodian will be established in the name of the Custodian for the benefit of the Account Owner and Account Owner agrees that all transactions related to the Account must go through the Account held with the Custodian otherwise this could result in tax implications. It is the Account Owner's responsibility (not the Custodian's) to select and monitor the investments in the Account. The Account Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the Roth IRA Account and accepts full and sole responsibility for such selection (“Account Owner's Investment Decisions”). The Custodian provides no investment, legal, or tax advice or recommendations related to your account. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the Roth IRA Account and accepts full and sole responsibility for the success or failure of such investments. Assets in your account are not guaranteed by Digital Trust and are subject to investment risk, including the possible loss of your investment value.
- b. Authorized Agent.** The Account Owner may appoint a third party as their authorized agent for information access to the Custodial Account by notifying the Custodian in a form acceptable to the Custodian. The Custodian shall assume that the authorized agent is at all times qualified to act as agent for the Account Owner and shall recognize the agent as having the authority to obtain information related to the Account until such time as 1.) the Account Owner notifies the Custodian in writing that he has removed the authorized agent, or 2.) the Custodian is notified of the death of the Account Owner. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement. Custodian shall bear no responsibility for any transactions in the Roth IRA Account, or resultant losses or damages to Account Owner, caused by any acts or omissions of Authorized Agents. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement.
- c. Additional Information.** Account Owner agrees and acknowledges that unless where required by law, the Custodian is not responsible for communicating, forwarding or notifying any party, including the Account Owner, with respect to communications or other matters which come to the received by or comes to the attention of the Custodian with respect to assets in the account. It is the Account Owner's responsibility for making arrangements to receive such information or monitor public sources for such information.
- d. Prohibited Transactions.** It is the Account Owner's responsibility to determine if a transaction constitutes a prohibited transaction. Generally, a prohibited transaction is any improper use of your IRA Account by you, your beneficiary, or any disqualified person. Disqualified persons include members of your family (spouse, ancestor, lineal descendant, and any spouse of a lineal descendant). The following are some examples of prohibited transactions with a Roth IRA. 1.) Borrowing money from it. 2.) Selling property to it. 3.) Using it as security for a loan. 4.) Buying property for personal use (present or future) with IRA funds. The Custodian reserves the right to request a certification from the Account Owner that an Investment Direction provided by the Account Owner does not create a prohibited transaction, however, if a certification is not requested that does not indicate a transaction is not prohibited. Custodian reserves the right to take any action necessary, within its discretion, which may include resigning from the IRA Account.
- e. Unrelated Business Income (“UBIT”).** A IRA is subject to tax on unrelated business income if it carries on an unrelated trade or business. An unrelated trade or business means any trade or business regularly carried on by the IRA or by a partnership of which it is a member, and not substantially related to the IRA's exempt purpose or function. If the IRA has \$1,000 or more of unrelated trade or business gross income, the IRA must file a Form 990-T, Exempt Organization Business Income Tax Return and pay the tax due. Account Owner is responsible for monitoring UBTI for their IRA Account which you may hold and prepare, or have prepared, the proper 990-T tax form and forward it to Custodian for filing, along with authorization to pay any tax due from the IRA Account. In order to file the 990-T tax form, the Account Owner must apply for an Employer Identification Number (EIN) for the IRA Account before requesting Custodian to pay any tax owed. This EIN must be used on the 990-T tax form, the Account Owner social security number or Custodians EIN cannot be used.

- f. **Employer Contributions.** If the Account Owner's IRA Account is the type of IRA which may receive contributions from the Account Owner's employer, the Custodian shall not be liable for any expenses, losses, damages, costs or penalties incurred as a result of the failure of the employer of the Account Owner to make any contributions to the IRA Account required under Account Owner's IRA plan. The Custodian is not responsible for monitoring the employer's contributions to your Custodial Account or notifying Account Owner of the employer's contributions. If applicable, the Account Owner is responsible for contacting the employer regarding its contributions and monitoring those contributions.
- g. **Account Owner's Representations.** Account Owner represents and warrants that any information given or any information that will be given in the future with respect to this Account is complete and accurate. Account Owner also agrees that any directions Account Owner or Account Owner's authorized agent give to the Custodian, or any actions Account Owner or Account Owner's authorized agent take will be proper under this Agreement and that the Custodian is entitled to rely upon any such information or directions. The Custodian shall not be responsible for losses of any kind that may result from such directions to the Custodian or from the Account Owner's actions, or the Account Owner's authorized agent's actions, or failures to act of both. Account Owner agrees to reimburse the Custodian for any losses the Custodian may incur as a result of such directions, actions or failures to act.
- h. **Review of Statements.** Custodian shall provide Account Owner with quarterly Account Statements containing the account assets and account activity within your Account. Please review the statement carefully and if you identify any discrepancies please document in writing and provide to Custodian via email within forty-five (45) days of the statement issuance at Operations@digitaltrust.com or via mail at the address listed on the statement. If the notice of discrepancies is not received within the forty-five (45) day time frame, it will signify your approval of the statement and precludes you from making future objections or exceptions regarding the information contained in this statement. Such approval by you shall be full acquittal and discharge of Custodian regarding the transactions and information on such statement. Issuance shall mean (1) the posting of your Roth IRA Account Statement within the online platform or (2) the date of mailing of a paper Roth IRA Account Statement.
- i. **Fair Market Valuations.** The IRS requires the Custodian to report the Fair Market Value ("FMV") of the account on an annual basis. It is the Account Owner's responsibility to ensure that the FMV is accurate. The valuation for investments must be provided to the Custodian on a timely basis by the Account Owner or another party chosen by the Account Owner for this purpose ("Valuation Agent") and identified as such in a written document delivered to the Custodian. It is the Account Owner's responsibility to determine and provide the valuation of Alternative Assets to the Custodian. The Custodian shall have no responsibility for acting on an FMV reported by the Account Owner or Valuation Agent. For Alternative Assets such as investments in limited liability companies, limited partnerships, hedge funds, and other similar entities, the Account Owner directs the Custodian to obtain the FMV of the Account Owner's Alternative Assets from the investment entity itself and hereby appoints each such entity as the Valuation Agent for the Account's investment in the entity itself. Each Valuation Agent shall be required to sign such documents as the Custodian shall deem appropriate or necessary to confirm the understanding and agreement of the Valuation Agent to its obligation to provide such to the Custodian. Failure of the Account Owner or Valuation Agent to provide a timely valuation shall be the sole responsibility of the Valuation Agent or the Account Owner, as the case may be, and the Custodian shall not be required to take any further steps to secure an updated FMV for the Account. The Custodian shall not be responsible for the timeliness or the accuracy of any FMV of any Alternative Asset furnished by the Account Owner or a Valuation Agent. The Custodian shall reflect the latest valuation received on an asset in the Custodial Account's statements on a timely basis, but the Custodian shall have no duty to inform the Account Owner or to follow up with any Valuation Agent with respect to the status of any such additional valuations. The Custodian shall have no duty or responsibility to solicit any valuation from either the Account Owner or the Valuation Agent. If the Custodian does not receive an updated FMV for an Alternative Asset, the Custodian shall be entitled to use the last FMV provided to the Custodian, or if none, the original purchase price for the Alternative Asset in question (such last FMV or original purchase price, as the case may be, shall hereinafter be referred to as the "Last Value").
- j. **Indemnity.** Custodian shall be indemnified by Account Owner against any liabilities, losses, damages, costs and expenses (including but not limited to legal fees) incurred by Custodian arising out of any action taken or omitted to be taken by the Custodian hereunder or pursuant to any Instructions, including but not limited to (i) any taxes or other governmental charges, and any expenses related thereto, which may be imposed or assessed with respect to the asset/investment, and/or (ii) the Custodian or any nominee or agent of the Custodian, appearing as holder or holder of record of the asset/investment or any part thereof, but excluding those liabilities, losses, damages, costs and expenses which arise (whether through act or omission) as the result of fraud, willful default or gross negligence on the part of the Custodian in the performance of its duties under this Agreement.

## 2. Custodian Responsibilities

- a. **Account.** The Custodian shall establish and maintain a separate Account in the name of the Account Owner. All contributions to a Roth IRA shall be in cash except for IRA-to-IRA transfers and rollovers if applicable. The Custodian's acceptance of in-kind asset transfers will be in accordance with the Custodian's current policies and procedures. We recommend that you contact Custodian for additional information. Neither the Account Owner nor a Beneficiary shall assign any portion of the Account Owners Account and the Custodian shall not recognize any such assignment. It is the Account Owner's sole responsibility not the Custodian's to determine the amount of permissible contributions and the contribution timing as permissible by law. It is the Account Owner's responsibility to communicate in writing to the Custodian if a deposit in current year applies to the prior calendar tax year.
- b. **Uninvested Cash Funds.** From time to time you may deposit cash or digital assets with us, or we may receive funds in settlement of trades, that are not subject to a current Direction of Investment (or are awaiting your direction) (collectively referred to as "Uninvested Funds"). Digital Trust may place funds in one or more money markets, demand deposit accounts (savings or checking), including but not limited to Certificates of Deposit (CDs), investment grade bonds, "A" rated or higher life insurance companies (fixed annuities), municipal bonds, United States treasuries, fixed Income annuities with our without life insurance companies, mortgage and real estate backed securities or collateralized investments, and/or Digital or Non Digital yield generating structured investments. Your account is credited with all Uninvested Funds. You agree that if we receive no other instructions, Uninvested Funds from your IRA shall be invested in account(s) of Custodian's choosing using a method designed to maintain liquidity of the Uninvested Funds.
  - i. Specifically, you authorize and direct us to sweep Uninvested Funds automatically into Custodian's designated account(s) until such time as further direction is received from you or your designated representative(s). If FDIC insurance applies to the investments purchased with Uninvested Cash Funds, the insurance will be subject to all applicable laws and regulations related to FDIC insurance limitations.
  - ii. We may adjust the method for investment between the accounts from time to time and we are not required to provide notice or obtain your consent.
  - iii. If we receive monies after hours or that otherwise cannot be immediately swept into an approved interest-bearing investment, such amounts may remain uninvested in our bank account overnight. In that case, we may also earn float on such amounts. In addition, if we issue a check on your behalf in connection with (1) distributions requested by you or (2) fees paid to third party service providers to your account, we debit your account the amount of the check and deposit the funds into a special disbursement account held by us. In that case, we will earn float on the amount of the check from the date it is issued until the date the check is presented and paid.



- iv. Amounts held in our bank account or Digital asset wallets are held in an omnibus account and not segregated from other deposit funds.
  - c. Investments.** Under this agreement the Custodian provides Self Directed Custody Services for the investments/assets selected by the Account Owner. Custodian acts on the Account Owner's Investment Decisions provided by the Account Owner and has no responsibility for any transactions made in accordance with Account Owner's Investment Decisions including, the performance, disclosure of any risks associated with the investment/asset, any due diligence, or suitability of the investments/assets selected by the Account Owner. **Account Owner agrees that Custodian has no responsibility on the outcome of the self-directed investments including but not limited to total loss.**
  - d. Acting on Direction.** The Custodian shall act on the Account Owner's Investment Decisions for transfers, investments and distributions of assets/investments when the Account Owner has submitted directions in the manner required by Custodian. The Custodian will also act on Account Owner's Investment Decisions submitted by your Authorized Agent and any other authority granted by the Account Owner in compliance with Custodian's then current policies and procedures. The Custodian is not responsible for losses or damages resulting from the delay of acting on an Account Owner's Investment Decisions if the direction is unclear, incomplete and not in acceptable form to the Custodian. The Custodian has no responsibility to question any Account Owner's Investment Decisions received in good order from the Account Owner or your Authorized Agent. When the Custodian is directed to invest in assets in accordance with Account Owner's Investment Decisions, including assets that are not publicly traded, the Custodian shall not have any responsibility or liability of the entity or the broker/agent involved does not settle the trade in accordance with the trade executed by the Account Owner.
  - e. Standard of Care/Liability.** Custodian will use commercially reasonable efforts in performing their obligations under this Agreement.
    - i. Subject to the terms of this Agreement, Custodian shall not be responsible for any loss or damage suffered by Account Holder as a result of the Custodian performing such duties unless the same results from an act of fraud, willful default or gross negligence on the part of the Custodian. In such event the liability of the Custodian in connection with the asset/investment so affected by the Custodian's fraud, willful default or gross negligence shall not exceed the market value (as determined by the Custodian in any reasonable commercial manner) of such asset/investment at the time when Account Owner discovers such fraud, willful default or gross negligence.
    - ii. Custodian will be entitled to rely on and may act upon the advice of legal counsel and accountants or other agents with expertise in the relevant area, in relation to matters of law, regulation or market practice, and shall not be liable to Account Owner under this Agreement for any action taken or omitted pursuant to such advice, provided that Custodian has acted in good faith and with commercially reasonable efforts.
    - iii. Custodian shall not, save as stated in Section 8.1 d.) i.) above, be responsible for the title, validity or genuineness of any of the asset/investment (or any evidence of title thereto) received or delivered by it pursuant to this Agreement.
    - iv. Neither Custodian nor its affiliates shall be liable for any consequential, incidental, exemplary, punitive, special or indirect damages, whether or not the likelihood of such damages was known by Custodian or its affiliates.
    - v. Custodian shall not be liable to the Account Owner for any statements, representations, actions or inactions of any salesperson, broker or other third party provider of the investment purchased for this IRA.
    - vi. The Custodian may take any and all other actions which in its judgment may be necessary or appropriate for the proper administration of the assets of the IRA Account. In the performance of its duties and responsibilities under this Agreement the Custodian may employ such agents and vendors as it feels appropriate without notice to the Account Owner.
  - f. Statements and Reports.** Reporting required by Custodian, to be provided to Account Owner and the IRS, will be provided by the Custodian in a format and within the time deadlines required in accordance with IRS rules, regulations and guidelines. According to IRS regulations, Custodian must provide Account Owner with a statement of the fair market value ("FMV") of the IRA Account as of December 31 of each year which must be provided by January 31 of the following year. Additionally, if applicable, Custodian.
  - g. Privacy and Subpoena.** Custodian shall use reasonable measures to maintain and protect the Account Owners personal data. Data will be shared only when necessary to fulfill the activities requested by the Account Owner. Custodian does reserve the right to respond to a subpoena or request from a regulator or law enforcement agency in accordance with the applicable law without your prior approval or notice.
  - h. No Tax, Legal, or Investment Advice.** Custodian is not responsible for providing legal, tax or investment advice. Account Owner should consult with their financial or tax advisor if such advice is required, The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the IRA Account. It is the Account Owner's responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
  - i. Common Ownership.** Digital Trust, Alternative IRA Services, LLC dba BitcoinIRA, Rocket Dollar, Inc., Rocket Dollar Capital, Rocket Dollar Advisor, Inc, WAO Advisory, Inc., and/or Choiceapp.io are companies affiliated by common ownership, and that because these entities are under common ownership, the use of any of the entities may result in an indirect financial benefit to the owners of the entities.
- 2. Fees and Expenses.** Custodian shall be entitled to collect fees for their Custodial Services and the administration of the Account Owner's IRA in accordance with the Fee Schedule and this agreement. Custodian reserves the right to change the Fee Schedule from time to time and will notify Account Owner of such changes. All fees and expenses, including legal or other fees resulting from the administration of your account, will be collected by Custodian according to the payment method selected by Account Owner under this Agreement. If Account Owner has selected to have Custodian collect fees and expenses from the cash in the account, in the event there is not enough cash to cover the fees and expenses, the Account Owner authorizes the Custodian to sell or liquidate a portion of the assets in the account to collect the fees and expenses. If the Account Owner has selected the option to pay the Custodian fees and expenses by selling an asset in the account, the Custodian will sell a portion of the asset with the largest market value to collect such fees. Sales of assets to cover fees will be executed in or around the first week of every month. Sales for expenses will be executed as needed. The Custodian shall not incur any liability from initiating the sale or liquidation of assets to collect the fees and expenses. Custodian reserves the right to send Account Owner's debt to collections agents or resign as custodian for unpaid fees.
- 3. Fee Requirements.** Generally, there are two types of fees associated with retirement accounts: custodial fees and asset fees. Custodial fees are related to the administration of your account and may generally be paid either with funds in the account or with personal funds. Custodial fees are typically assessed by the custodian and may include fees such as account opening fees, document fees, annual account fees, and transaction fees. Asset fees are typically related to expenses and fees that are incurred with the maintenance of investments in your account and must be paid with funds that are in the account. Asset fees can include items such as property taxes, repair bills, HOA fees, storage fees for precious metals, digital asset purchase/sale fees, and brokerage fees. Non-trustee fees that are paid with personal funds may result in a prohibited transaction. Further, the account owner cannot be reimbursed for paying non-trustee fees with personal funds.

**4. Amendments and Agreement.** From time to time the Custodian may amend this agreement for any reason deemed necessary by Custodian. Some amendments may be necessary to comply and abide by new laws and regulations. Any such amendment will be provided by providing a copy of the amendment to Account Owner at your last known mailing or electronic address as shown in our records. Account Owner shall have thirty (30) calendar days to object to the Amendment. Such objection shall include the direction to terminate your Roth IRA Account, termination and other fees will apply to the account closing. If no objection is received by Custodian, Custodian deems that Amendment is accepted and consented to by Account Owner.

**5. Notice, Delivery, and Electronic Signature.**

**a. CONSENT FOR ELECTRONIC DISCLOSURES UNDER THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.**

The Account Application (Application) includes the Account Agreement provisions, the Fee Schedule, and the Custodial Account Disclosure documents together as one which have been presented to the Account Owner prior to executing the Application. By completing this IRA Application online, you agree to be bound by all terms and conditions contained in the Application.

**b. Consent to Electronic Delivery of Documents.** By consenting to the terms and conditions of this Application, you agree to receive the following communications electronically: periodic statements, disclosures, notices (including Amendment changes), agreements, changes to terms and conditions, records, documents, tax statements and forms, privacy notices, and all other information we provide to you. We may deliver these communications to you through your online access, by email, or by using other electronic methods allowed pursuant to applicable laws and regulations. While electronic delivery and email notifications are provided free of charge, you may incur internet access or telephone charges. However, we reserve the right to deliver any communication to you as a paper copy, rather than electronically. Your consent remains in effect until you give us notice that you are withdrawing it and covers all communications, including those related to any product or service offered either now or in the future. Electronic documents will no longer be sent after the account is terminated and all regulatory reporting requirements have been satisfied.

**c. Withdrawal of Consent.** You may contact us in any of the ways described below to withdraw your consent to receive any future communication electronically. If you wish to receive electronic communications after you have withdrawn your consent, please contact Digital Trust at the phone number or address below. Please refer to the Fee Schedule for any fee that may apply for paper copies.

**d. Paper Delivery of Disclosures and Notices.** You have the right to receive a paper copy of any communication sent electronically. To receive a paper copy, you may request it in writing by sending your request to: Digital Trust, 7336 W. Post Road, Suite #111, Las Vegas, Nevada 89113 or calling us at (800) 777-9878. You may have to pay a fee for the paper copy unless charging a fee is prohibited by law.

**e. IMPORTANT.** It is your responsibility to provide and maintain a current email and residential address with us. We may treat an invalid email address or the subsequent malfunction of a previously valid email address as a withdrawal of your consent to receive electronic communication. We will not impose a fee to process the withdrawal of your consent; however, fees may apply to paper copies mailed. Withdrawal of your consent to receive electronic communications will be effective only after we have a reasonable period of time to process your withdrawal. All communications in either electronic or paper format from us to you will be considered "in writing."

**f. How to Update your Records.** It is your responsibility to provide us with true, accurate and complete email address, contact, and other information related to your account. You must promptly notify us of any changes in this information. You can update your information by calling us, or by writing us at the address above.

**g. Equipment and Software Requirements.** In order to view and retain electronic communications that we make available to you, you must have:

- A PC or other device with an Internet browser that has "cookies" enabled and supports 128-bit encryption
- An Internet connection
- An email address
- A PDF viewer (such as Adobe Reader)
- A printer or computer with sufficient electronic storage space

All communications shall be delivered to the last address we have on file for the Account Owner. These notices will be sent through electronic delivery (email) and will be considered delivered the same day as sent. If you have opted out of electronic delivery, communications sent to you through the United States Postal Service are considered delivered five (5) business days after the postmark date. It is the Account Owner's responsibility to notify the Custodian of any email address change or residential address change. Custodian will not be held liable for any losses or damages if the Account Owner has not provided Custodian with the most current address information. The electronically signed copy of this document should be considered equivalent to a printed hard copy form. It is considered a true and complete record of the document, admissible in arbitration and/or administrative hearings or proceedings. Your electronic signature on the Application and other electronic forms such as the Investment Direction are considered valid and the same as if the paper form or Application were signed.

**6. Distributions.** Account Owner will provide full and complete instructions for any distributions out of the Account Owners IRA. Custodian offers no tax or legal advice and Account Owner should consult with their tax or financial advisor to understand the implications of the action requested. Instructions should be submitted to Custodian in a manner acceptable to the Custodian. Custodian will not under any circumstances be responsible for the timing, purpose or propriety of any distribution from the account, nor shall the Custodian incur any liability or responsibility for any tax or penalty imposed on account of any distribution. Custodian may make any payment or distribution required or authorized hereunder by mailing a check or other property or by ACH or Federal wire or other electronic transfer to the payee at the address last furnished to the Custodian. Custodian shall not be liable for any payment made in good faith without actual knowledge of any changed condition or status of any person receiving benefits hereunder.

Custodian may, but shall not be obligated to, pay any estate, inheritance, income, or other tax or assessment attributable to any property or interest held in the IRA Account out of the assets of the IRA Account upon such information or direction as it may require. Before payment of any benefit, Custodian may also require releases or other related documentation from the taxing authority and require indemnification from such payee as may be necessary for the Custodian's protection against tax liability.

**7. Designation of Beneficiaries.** In the event of your death, any account balance will be paid to your beneficiary designation deemed legally valid by the Custodian. In the event that the beneficiary designated is a minor or not of sound mind, the Custodian may at its discretion make beneficiary payments to such person acting as a parent or guardian of said beneficiary.

**a. Validity.** A beneficiary designation is deemed legally valid when the Account Owner has provided a full complete and executed designation clearly providing if the Account Owner is adding to or changing a portion of the then current beneficiary designation form in a format approved by the Custodian. Any valid beneficiary designation shall be effective upon receipt by the Custodian. Upon opening your account, you can designate your beneficiaries, and while still living, you can change your beneficiaries by submitting a fully completed Change of Beneficiary form acceptable to the Custodian.

- b. Beneficiary Designations and Change of Beneficiaries.** In the event of marriage, divorce, death, adoption and the birth of children the Account Owner should evaluate the beneficiaries listed on the Roth IRA account and provide the Custodian with a fully completed Beneficiary Designation Change Form to update the Roth IRA Account. The Custodian reserves the right to reject or not accept a beneficiary designation not made to individuals or entities. If you do not live in a “community property” State, you are free to name any person or entity as your Roth IRA beneficiary, even if you are married. In “community property” States, Account Owners who earn monies contributed to their Roth IRA during a legal marriage will be required to provide a spousal consent to designate a person or entity as beneficiary other than their spouse. (Subject to changes in the law, “community property” States currently include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin.)
- c. Death Distributions.** Custodian will rely on a certified copy of the death certificate or other evidence deemed appropriate by the Custodian that certifies the Account Owner’s death. The Custodian has no responsibility to search for beneficiaries if Account Owner does not provide beneficiary information for the Roth IRA Account. By entering into this Agreement, you authorize Custodian to rely on any representation of facts made by the legal representative of your estate, any beneficiary, or any other person or source deemed appropriate by us, in determining the identity of unnamed beneficiaries. Your estate, and any unnamed beneficiaries further understand and agree that any information or instructions provided by such persons may be reviewed with counsel and Custodian may require further documentation to determine the beneficiaries. Prior to a distribution of assets to a beneficiary or the estate of the Account Owner, Custodian reserves the right to request from the beneficiary or the estate of the Account Owner, indemnification and discharge from any liability.
- d. Distribution to Estate.** Custodian reserves the right to distribute the account to the estate of the Account Owner in the event that there is conflicting or incomplete information in determining the beneficiaries. In the event there are no beneficiaries provided to Custodian or all beneficiaries renounce their rights to receive any benefit from the Account, or in the event that no beneficiaries survive the Account Owner, the IRA will be distributed to your estate.
- 8. Successor Custodian.** In the event that Digital Trust changes its name, reorganizes, is acquired by another organization, or if all or a portion of our entire organization is merged with another organization, that organization will automatically become the trustee or custodian of your Account so long as the organization is authorized to serve as a trustee or custodian and satisfies the requirements of the IRS Code Section 408(a)(2).
- 9. Termination or Resignation.** Account Owner or Custodian may terminate this agreement at any time by giving written notice to the other. We can resign as Custodian at any time effective thirty (30) days after we send written notice of our resignation to you. Upon receipt of that notice, you must make arrangements to transfer your Roth IRA to another Custodian (Successor Custodian) or request a distribution of your Roth IRA. If you do not complete a distribution form or transfer your Roth IRA within thirty (30) days from the date we send the notice to you, we have the right to either a.) transfer your Roth IRA assets to a successor Roth IRA trustee or custodian that we choose or b.) we may distribute your Roth IRA to you in a single lump sum and/or re-register the assets to you in-kind. . In the event of re-registration of the assets, the Custodian’s authority to re-register the assets supersedes any and all conflicting instructions, directions, or authorities with respect to said assets contained in any investment documents. If this Agreement is terminated, we may charge to your Roth IRA a reasonable amount of money that is necessary to cover any costs associated with distributing or transferring your account, including but not limited to fees and expenses incurred and taxes. The Custodian shall not be liable for any taxes, penalties, or losses arising from any delays, omissions, acts, or other action or inaction of any other person(s) or entity, including the Account Owner in connection with transfer or distribution of the Roth IRA Account. The Successor Custodian shall acquire all of the powers and authority conferred by the resigning Custodian. The transfer and delivery of assets to the Successor Custodian shall be a complete discharge and exoneration of any liability for the resigning Custodian unless the Account Owner or Successor Custodian notifies the resigning Custodian within forty-five (45) days from the date of resignation. Custodian may close the Account if it is not funded within ninety (90) days from Account opening.
- 10. Arbitration Agreement.** In the event any legal or equitable claims or disputes arise out of performance of this agreement, or a breach of this Agreement, the parties agree to attempt to resolve the claim or dispute through good faith negotiation. In the event the parties are unable to resolve or settle such claim or dispute through negotiations, the parties agree that the claim or dispute will be settled by binding arbitration. Any arbitration proceedings shall be conducted in Las Vegas, Nevada, in accordance with the Commercial Dispute Resolution Procedures of the American Arbitration Association (AAA) in effect at the time a demand for arbitration is made. The Account Owner expressly waives any right he or she may have to establish or conduct litigation or arbitration in any other forum or location, or before any other body. The Account Owner may only bring claims and disputes in his or her individual capacity and not as a plaintiff or class member. Any and all claims arising out of or relating to this Agreement are required to have an arbitration filed within two (2) years from the date that the Account Owner knew of the facts giving rise to such claim or claims. The arbitrator shall have the authority to award reasonable attorneys’ fees and costs, including the costs of arbitration, to the prevailing party.
- 11. Governing Law.** This Agreement and all amendments hereto shall be governed by and construed in accordance with the laws of the State of Nevada and the federal laws of the United States of America, and the obligations hereunder shall be determined in accordance with such laws. If any provision of this Agreement or the application thereof to any person or circumstances shall be determined to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 12. Other Administrative Powers.** Anything in this Agreement to the contrary notwithstanding, the Custodian may choose to request direction from the Account Owner as to any specific action or situation that arises with the IRA Account. If a request for direction is made, the Custodian shall not incur any liability for following the Account Owner’s direction or for taking no action if no such direction is furnished to the Custodian. The Custodian shall have the right, at the expense of the Account Owner, to seek a direction or approval of its accounts from a court of competent jurisdiction whenever the Custodian shall, in its sole discretion, deem it appropriate. The Custodian is not required to, but in its sole discretion may, exercise the full power and authority to settle, compound or abandon all claims and demands in favor of or against the IRA Account or Account Owner, including any claim that may be asserted for taxes under present or future laws; to maintain or defend any litigation necessary in its administration of the IRA Account if indemnified to its satisfaction against any expenses and liabilities sustained or anticipated in connection therewith; to retain any fiat subject to any dispute without liability for payment of interest or decline to make payment thereof, until final adjudication of such dispute by a court of competent jurisdiction.
- 14. Digital Currency.** Custodian cannot and does not guarantee the value of digital currency. Custodian shall not be responsible for any third-party services. Furthermore, Custodian or TPA cannot cancel or reverse a transaction involving digital currency. Once a transaction request has been made, Account Owner will subsequently not be able to cancel or otherwise modify the transaction request. Account Owner acknowledges and agrees that Custodian shall have no liability for losses you suffer in connection with any digital currency transaction initiated via the TPA Platform under this Agreement unless such losses are the direct result of Custodian’s fraud, willful default or gross negligence. Custodian does not ensure that any transaction request you submit or cause to be submitted to a digital currency network via the TPA Platform will be completed by the

applicable network. You acknowledge and agree that the transaction requests you authorize Custodian to submit for completion on a digital currency network may not be completed, or may be substantially delayed, by the digital currency network and Custodian is not responsible for any delay or any failure of completion caused by the digital currency network. When you complete a transaction request via the TPA Platform, this authorizes Custodian to submit the transaction request to the digital currency network in accordance with the instructions you provide.

- a. Third Parties.** Digital Trust as custodian has a contractual agreement with Alternative IRA Services, LLC dba BitcoinIRA (“Bitcoin IRA”) to act as a third-party servicer to your cryptocurrency or gold IRA account in conjunction with certain cryptocurrency service providers. You acknowledge Bitcoin IRA may change service providers at any time without notice. Those services performed by Bitcoin IRA include but are not limited to client servicing, hosting of the client platform, administrative functions necessary to open the IRA and facilitate the investment transactions including identity verification. Any issues or errors arising out of the use of the third-party platform are the responsibility of the third-party platform.
- b. Key Storage.** Custodian shall use commercially reasonable efforts to keep in safe custody on behalf of Account Holder all Custodial Coins received by Custodian. Custodian will use commercially reasonable efforts to keep all Keys to the Custodial Wallet held by Custodian secure and shall maintain at least one (1) backup Key. Custodian shall exercise all commercially reasonable efforts to prevent unauthorized access to or use of the Keys held by Custodian to the Custodial Wallet. Custodian shall not be held responsible for any prohibited transactions or tax liabilities or penalties related to the storage of keys.
- c. Asset Value Reporting Policy.** To value digital assets in your Roth IRA Account, Custodian will electronically obtain USD equivalent prices from digital currency market data providers or other sources as of the last date of the statement to report on your Roth IRA statement. Custodian does not guarantee the accuracy or timeliness of prices received and the prices are not to be relied upon for any investment decisions for your account.
- d. Trading, Transactions, and Residuals.**
  - i. Account Owner acknowledges and accepts the risk of trading, settlement and holding assets such as Digital Assets.
  - ii. Account Owner acknowledges that Custodian reserves the right to suspend or restrict transaction activity in the asset or account reasonably necessary to comply with Custodian’s anti-money laundering programs and policies, any requirements under applicable law, to prevent fraud, prevent suspicious transactions, or for any security reasons. Account Owner acknowledges for digital asset transfers or withdrawals that the vault withdrawal timeframe may take up to forty-eight (48) hours to execute.
  - iii. Custodian will reflect in Account Owners Account market occurrences such as dividends, rewards, etc. when such activity occurs and after Custodian receives the proper information to reflect such activity.
  - iv. Upon liquidation of digital currency, Account Owner may incur negligible mining fees that are charged at an unknown rate by miners of blockchain based products. This fee will be the responsibility of Account Owner. The Digital IRA Platform accounts for an estimation of this which is withheld upon liquidation. The withholding will be greater than the amount charged by the miners, leaving a residual referred to as *dust*. Account Owner acknowledges Custodian will use *dust* for payment and apply any residual to Account Owner’s account for outstanding Custodial Fees or any cost associated with maintaining the wallet and/or account.
- e. Transaction Requests and Verification.** For transactions initiated by Account Owner, the Account Owner appoints the Custodian with the authority to request the movement of assets and perform the out of band transaction verification as required by then current policies and procedures (e.g. video ID verification) including movement of assets out of the Cold Wallet Storage for purposes of settling trades executed by the Account Owner. Authority is granted to Custodian, provided Account Owner has appropriately provided direction or instruction in accordance with the Custodian’s current policy and procedures via the Bitcoin IRA Platform or other method acceptable to Custodian.
- f. Acknowledgement of Fork, Airdrop, and Token Support.** Account Owner agrees that all “airdrops” and “forks” will be handled by Custodian pursuant to its current policies and procedures. Account Owner acknowledges that Custodian is under no obligation to support any airdrops or forks, or handle them in any manner. Account Owner acknowledges that Custodian does not own or control the underlying software protocols which govern the operation of Digital Currencies. Digital Asset protocols are subject to changes in protocol rules (referred to as “forks”), and such forks may materially affect the value, function, or name of the Digital Asset. You acknowledge and agree (i) that Custodian is not responsible for operation of the underlying Digital Asset protocols and that Custodian makes no guarantee of their functionality, security, or availability; and (ii) if a fork occurs, Custodian may temporarily suspend the ability to transact in the Digital Asset affected, and Custodian may decide not to support the forked protocol entirely or may enable you to transfer the affected Digital Asset.

Account Owner further acknowledges that Custodian, at its sole discretion, may update the policies and procedures from time to time. Custodian is under no obligation to provide notification to Customer of any modification. Account Owner further acknowledges and agrees that Custodian may, from time to time, offer support for select ERC20 tokens or other tokens, metacoins, colored coins, side chains, or coins which enhance or interoperate with coins supported by Custodian (collectively, “Tokens”). Custodian will notify Account Owner and the general public if the Custodian supports a particular Token. Account Owner further acknowledges and agrees that, upon the occurrence of any event outside the control of Custodian resulting in the migration of any ERC20 token from Ethereum to another protocol, including but not limited to a “mainnet launch,” (a “Migration Event”) Custodian may immediately cease any and all support for such ERC20 token, and that Custodian will be under no obligation to provide support for any Token related to or resulting from such a Migration Event.

CUSTODIAN WILL HAVE NO RESPONSIBILITY OR LIABILITY IF CLIENT LOSES, BURNS, OR OTHERWISE CANNOT ACCESS OR CONTROL ANY TOKEN THAT CUSTODIAN DOES NOT SUPPORT.

# SIMPLE INDIVIDUAL RETIREMENT ACCOUNT ACCOUNT DISCLOSURE STATEMENT

(Under section 408(p) of the Internal Revenue Code)



(800) 777 - 9878

(800) 867 - 7668

operations@digitaltrust.com

## PURPOSE OF THIS DISCLOSURE STATEMENT

The Internal Revenue Code (Code) requires that Digital Trust, LLC (Custodian) provide individuals establishing a SIMPLE Individual Retirement Account (SIMPLE IRA) with the information contained in this Disclosures document. This Disclosure document is intended to provide information to help you understand your IRA Account. This Disclosure document cannot cover every rule in the IRS Code and Custodian encourages you to refer to IRA Publications 590-A and 590-B and consult with a tax professional when necessary. Publications 590-A and 590-B will also provide insight to changes for the upcoming tax year.

You should read and complete the SIMPLE IRA Application (Application) which includes the Account Agreement provisions above along with the IRA Account Application, the Fee Schedule and the SIMPLE IRA Custodial Account Disclosures documents together as one which have been presented to the Account Owner prior to executing the Application. The IRS requires your Custodian to provide you, the Account Owner, with this Disclosure document.

## DISCLOSURES

1. **Information.** You can set up a SIMPLE IRA with a bank or other financial institution, life insurance company, mutual fund or stockbroker. The firm that sets up your SIMPLE IRA is your Custodian. Digital Trust, LLC is the only Custodian of this IRA Account you are establishing.
2. **Important Information About Procedures for Opening a New Account.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.
3. **Revocation of SIMPLE IRA.** You have the right to revoke this SIMPLE IRA Account within seven (7) days of the date your SIMPLE IRA Account is established. If you exercise this right you are entitled to a return of the amount contributed to the IRA without penalty, service charge or administrative expenses. Please note, as Custodian, we must report on the appropriate IRS form both the contributions made to the account and the amount returned to you, however, this is not required if funded by a non-reportable transfer. If you do not exercise this right within seven (7) days of the date your SIMPLE IRA Account is established, it is assumed that you will have accepted the terms and conditions of the IRA you have established. If you choose to initiate an Investment Direction prior to the expiration of the seven (7) day period, this will signify you have declined this revocation right. Notice should be provided to the Custodian in writing through first class mail and must be postmarked within seven (7) days of the Account establishment date if you decide to revoke your Account. Revocation Notices can be mailed to: **Digital Trust, LLC, 7336 W. Post Road, Ste 111, Las Vegas, NV 89113**
4. **Contributions.**
  - a. **Compensation.** In order to contribute to an IRA, you must have earned income/compensation. According to the IRS, wages, salaries, tips, professional fees, bonuses, and other amounts you receive for providing personal services are compensation. An amount you receive that is a percentage of profits or sales price is compensation. For IRA purposes, compensation includes any taxable alimony and separate maintenance payments you receive under a decree of divorce or separate maintenance. If you were a member of the U.S. Armed Forces, compensation includes any nontaxable combat pay you received.
  - b. **SIMPLE IRA Account.** Form 5304-SIMPLE or Form 5305-SIMPLE is used by an employer to make an agreement to provide benefits to all eligible employees under a SIMPLE described in section 408(p). FORM 5304-SIMPLE is used if the employer wants to allow each employee to select the financial institution for receiving plan contributions. Form 5305-SIMPLE is used if the employer wants to require that all plan contributions initially go to the same financial institution. Your SIMPLE IRA Account is set up for your employer to make contributions to. Your employer is generally required to make either matching contributions or nonelective contributions to your plan every year.
  - c. **Contribution Limits For 2021.**
    - i. **Salary Reduction Contributions.** The contribution limit is \$13,500 (\$16,500 if you are age 50 or older\*). If you participate in a any other qualified plan during the year and you have a salary reduction contribution for that plan, your SIMPLE contributions count towards the annual overall limit of \$19,500. This contribution limit is subject to an annual cost-of-living adjustment by the IRS from year to year and you should check the IRS site for updated information each year. \* The IRS allows for a "catch up contribution" of \$3,000 only for taxpayers aged 50 or over. However, the catch up contribution you can make for a year cannot exceed the lesser of 1) The catch up contribution limit. 2) The excess of your compensation over the salary reduction contributions that are not catch up contributions.
    - ii. **Employer Matching Contributions.** Employers are generally required to match your salary reduction contributions on a dollar-for-dollar basis up to 3% of your compensation. This only applies if you have elected to make contributions. Employers may choose a lower matching contribution percentage. However, the amount must be at least 1% and the employer must notify you of the lower match within a reasonable period of time before the 60-day election period for the calendar year.
    - iii. **Nonelective Contributions.** Instead of matching contributions, an employer may make nonelective contributions of 2% of your compensation as long as your compensation is at least \$5,000. Only \$290,000 of your compensation can be taken into account to figure the contribution limit.
  - d. **Tax Treatment of Contributions.** Employer contributions to your SIMPLE IRA can be excluded from your gross income. However, salary reduction contributions are subject to social security, Medicare, and FUTA taxes. Matching and nonelective contributions aren't subject to these taxes.
  - e. **Contribution Deadline.** The employer must deposit salary reduction contributions no later than 30 days after the end of the month in which you would have received the funds. Employers must deposit matching contributions or nonelective contributions no later than the due date (including extensions) of the employer's federal income tax return deadline.

## 5. Distributions.

- a. **Distributions Generally.** Distributions from your SIMPLE IRA will be processed by the Custodian upon direction from the Account Owner in a manner that is acceptable to the Custodian. Custodian is not responsible for acting on instructions that were provided in error or that do not provide all the required information. If you direct the Custodian to distribute from your SIMPLE IRA Account before you have reached the age of 59 ½, the IRS describes these as “premature” or “early” distributions. These distributions are subject to a 10% early withdrawal tax which is in addition to the income tax that must be paid on the distribution. There are a number of exceptions to this 10% early withdrawal tax. For example, individuals that are disabled or first-time homebuyers or a qualified reservist are among those not subject to this additional tax. Please consult with a tax advisor for guidance on your distribution situation. Taxable distributions from your IRA are taxed as ordinary income. You can elect to have Federal Tax withheld at the time of distribution. State taxes will be withheld for the required states according to the state's guidelines. The Custodian's distribution form will provide the elections available.
- b. **Required Minimum Distributions.** For IRAs (including SEP and SIMPLE IRAs) you must start taking distributions from your IRA by April 1 of the year following the calendar year in which you reach age 72. For each year after your required beginning date, you must withdraw your RMD by December 31st. If you take your initial RMD between January 1st and April 1st, you will have two required distributions for the year as the second RMD is due by December 31st. To avoid having to report two distributions for the same tax year, you can take your first RMD by December 31st of the year you turn 72. If you do not take any distributions, or if the distributions are not large enough to satisfy the requirement, you may have to pay a 50% excise tax on the amount not distributed as required. If you have more than one IRA that is subject to the RMD rule, you can satisfy the requirement by taking the distribution out of one of the IRAs or multiple IRAs as long as the required distribution will be satisfied. For additional information including the amount required to be distributed, please see IRS Publication 590-B. The SIMPLE Individual Retirement Custodial Account Agreement also had additional information on RMDs in Section IV.
- c. **Distributions Under Divorce, Levys and Similar Court Directives.** In the event that the Custodian is presented with a Court Order to distribute all or part of your IRA due to divorce, Custodian will transfer the assets into an IRA account of the receiving spouse. The portion or amount transferred will have no tax implications to you if the Court Order is received and acceptable to the Custodian. The Custodian reserves the right to request additional information from you or your former spouse to carry out such orders. In some instances, such as a levy or a court order, the Custodian may make a distribution from the IRA Account without instruction from the Account Owner. In those cases, the distribution may be reportable to the IRS as a taxable event.
- d. **Rollovers.** Generally, a rollover is a tax-free distribution to you of cash or other assets from one retirement plan that you contribute to another retirement plan. This rollover must be completed within sixty (60) days from the date you received the payment or distribution. There are several exceptions to this sixty (60) day rule; however, you are required to provide your Custodian with a certification, meeting the IRS requirements, indicating you are eligible for one or more of these exceptions. The contribution to the second retirement plan is called a “rollover contribution.” Common rollovers to a SIMPLE IRA come from: a.) A traditional IRA. b.) An employer's qualified retirement plan for its employees. c.) A deferred compensation plan of a state or local government (section 457 plan). d.) A tax-sheltered annuity plan (section 403 plan). NOTE: Rollovers from Traditional IRAs or SEP-IRAs into or out of a SIMPLE IRA can only take place after two (2) years. The 2-year period begins on the first day on which your employer deposits contributions in your SIMPLE IRA. Rollovers between two SIMPLE IRAs are not subject to the two (2) year waiting period. Rollovers from Traditional IRAs, SEP-IRAs and SIMPLE IRAs into Roth IRAs must be included in your income for that year. The SIMPLE IRAs are subject to the two (2) year waiting period. Amounts that must be distributed during a particular year under the RMD rules (discussed in Pub. 590-B) aren't eligible for rollover treatment.
- e. **One-rollover-per-year limitation.** You can make only one rollover from an IRA to another (or the same) IRA in any 1-year period regardless of the number of IRAs you own. The limit will apply by aggregating all of an individual's IRAs, including SEP and SIMPLE IRAs as well as traditional and Roth IRAs, effectively treating them as one IRA for purposes of the limit. However, trustee-to-trustee transfers between IRAs aren't limited and rollovers from traditional IRAs to Roth IRAs (conversions) aren't limited. The 1-year period begins on the date you receive the IRA distribution, not on the date you roll it over into an IRA.
- f. **Property Rolled Over.** If property is distributed to you from your IRA and you complete the rollover by contributing property to an IRA, your rollover is tax free only if the property you contribute is the same property that was distributed to you. For example: if you received cash from your IRA and roll it over to an eligible account, the rollover contribution into the eligible account must be in cash.
- g. **Partial rollovers.** If you withdraw assets from a SIMPLE IRA, you can roll over part of the withdrawal tax free and keep the rest of it. The amount you keep will generally be taxable (except for the part that is a return of nondeductible contributions). The amount you keep may be subject to the 10% additional tax on early distributions as described above.

## 6. Investments.

- a. **Investments-No Duty to Review or Monitor Investments.** The Custodian shall have no duty or responsibility to review any investment held in the IRA Account or any investment under consideration by the Account Owner or any purchase directed by the Account Owner with respect to any issue, including but not limited to, its safety, risk, suitability or whether or not it should be registered as a security with the appropriate government agencies and shall have no liability with respect to its safety, risk, suitability or whether or not it should be registered as a security with the appropriate government agencies. The Custodian shall not be responsible to investigate or perform any due diligence on any investment, investment sponsor or any principal involved with any investment. Further, the Custodian has no duty to monitor any investment held in the IRA Account. Under this agreement the Custodian provides Custody Services for the assets selected by the Account Owner. Custodian acts on the Investment Directions provided by the Account Owner and has no responsibility for the performance or suitability of the assets selected by the Account Owner. Acting on the Account Owner's Investment Direction in no way implies endorsement by the Custodian of the assets selected by the Account Owner. The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the IRA Account. At its sole discretion, the Custodian can refuse to act as Custodian on any asset selected by the Account Owner.
- b. **IRA Owner Investment Responsibility.** The Account Owner has the full responsibility to review and investigate the assets they direct the Custodian to invest in for their IRA Account. It is the Account Owner's responsibility, not the Custodian's, to select and monitor the investments in the IRA Account. The Account Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the IRA Account and accepts full and sole responsibility for such selection. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the IRA Account and accepts full and sole responsibility for the success or failure of such investments. The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the IRA Account. It is the Account Owner's responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
- c. **Pledging IRA Assets.** If you use (pledge) a part of your SIMPLE IRA account as security for a loan, that part is treated as a distribution and is included in your gross income. You may have to pay the 10% additional tax on early distributions discussed in item 8.) above and in IRS Publication 590-B.

- d. Prohibited Investments.** The IRS Code does not permit IRA funds to be invested in life insurance or collectibles. The IRS considers the following items as collectibles: artwork, rugs, antiques, metals, gems, stamps, coins, alcoholic beverages, and certain other tangible personal property. The IRS has indicated that there are some exceptions as noted here: Roth IRAs can invest in one, one-half, one-quarter, or one-tenth ounce U.S. gold coins, or one-ounce silver coins minted by the Treasury Department. It can also invest in certain platinum coins and certain gold, silver, palladium, and platinum bullion. If you invest your Roth IRA in collectibles, the amount invested is considered distributed in the year invested and you may have to pay a 10% additional tax on early distributions.
- e. Prohibited Transactions.** Generally, a prohibited transaction is any improper use of your SIMPLE IRA account by you, your beneficiary, or any disqualified person. Disqualified persons include members of your family (spouse, ancestor, lineal descendant, and any spouse of a lineal descendant). If you or your beneficiary engages in a prohibited transaction in connection with your IRA account at any time during the year, the account stops being an IRA as of the first day of the year in which the prohibited transaction occurs. The IRA Account is treated as distributing all its assets to the Account Owner at their fair market value(s) on the first day of the year in which the prohibited transaction occurs. If the IRA Account ceases to qualify as an IRA because of a prohibited transaction by you or your beneficiary, you may have a taxable gain that is reportable as income. In addition, you or your beneficiary may have to pay other taxes. Some examples of prohibited transactions include buying property within your IRA Account for personal use, using the IRA Account as security for a loan and borrowing money from your IRA. Prohibited transactions are described in Internal Revenue Code (IRC) Section 4975. It is the Account Owner's responsibility and not the Custodian's responsibility to determine if a transaction constitutes a prohibited transaction. The Custodian reserves the right to request a certification from the Account Owner that the direction provided by the Account Owner does not create a prohibited transaction, however, if a certification is not requested that does not indicate a transaction is not prohibited. Custodian reserves the right to take any action necessary, within its discretion, which may include resigning from the IRA Account.
- 7. Inherited IRAs/Beneficiaries.** Account Owner's should review and update their IRA Account beneficiaries by providing the Custodian with a completed Beneficiary Designation Form. This is especially important after life changes such as marriage, divorce, death, and birth or adoption of children. If you inherit an IRA, you are called a beneficiary. A beneficiary can be any person or entity the Account Owner chooses to receive the benefits of the IRA after he or she dies. Beneficiaries of the IRA must include in their gross income any taxable distributions they receive.
- a. Inherited From Spouse.** If you inherit a SIMPLE IRA from your spouse, you generally have the following three choices. You can do one of the following: a.) Treat it as your own IRA by designating yourself as the Account Owner b.) Treat it as your own by rolling it over into your IRA, or to the extent it is taxable, into a Qualified employer plan, Qualified employee annuity plan (section 403(a) plan), Tax-sheltered annuity plan (section 403(b) plan), or Deferred compensation plan of a state or local government (section 457 plan). c.) Treat yourself as the beneficiary rather than treating the IRA as your own. If you make contributions (including rollover contributions) to the inherited IRA or if you don't take the RMD for a year as the beneficiary of the IRA, you will be considered to have chosen to treat the IRA as your own. You will only be considered to have chosen to treat the IRA as your own if: a.) You are the sole beneficiary of the IRA, and b.) You have an unlimited right to withdraw from it. However, if you receive a distribution from your deceased spouse's IRA, you can roll that distribution over into your own IRA within the 60-day time limit, as long as the distribution isn't an RMD, even if you aren't the sole beneficiary of your deceased spouse's IRA. See Publication 590-B for more information on RMDs.
- b. Inherited From Someone Other Than Spouse.** If you inherit a SIMPLE IRA from anyone other than your deceased spouse, you cannot treat the inherited IRA as your own. This means that you can't make any contributions to the IRA. It also means you can't roll over any amounts into or out of the inherited IRA. However, you can make a trustee-to-trustee transfer as long as the IRA into which amounts are being moved is set up and maintained in the name of the deceased IRA owner for the benefit of you as beneficiary. See Pub. 590-B for more information. Like the original owner, you generally won't owe tax on the assets in the IRA until you receive distributions from it. You must begin receiving distributions from the IRA under the rules for distributions that apply to beneficiaries. Beneficiaries of an inherited IRA must generally begin receiving required minimum distributions by December 31 of the year following the year of the deceased person's death.
- 8. No Tax, Legal or Investment Advice.** In its role as Custodian, Digital Trust, LLC does not provide any tax, legal or investment advice. It is your responsibility as the Account Owner to consult with your investment or tax advisor. The Custodian shall act on the Account Owners directions for transfers, investments and distributions of Fiat when the Account Owner has submitted directions in the manner required by Custodian. The Custodian is not responsible for losses or damages resulting from the delay of acting on a direction if the direction is unclear, incomplete and not in acceptable form to the Custodian. Additionally, the Custodian is not responsible for the performance of the assets selected by the Account Owner. Under this agreement the Custodian provides Custody Services for the assets selected by the Account Owner. Custodian acts on the Investment Directions provided by the Account Owner and has no responsibility for the performance or suitability of the assets selected by the Account Owner.

## PURPOSE OF THIS DISCLOSURE STATEMENT

This custody account agreement (“Agreement”), is made by and between the individual(s) or entity executing the Digital Trust Custodial Account Adoption Agreement (hereinafter referred to, jointly and severally if more than one individual, as “Account Owner”) and Digital Trust (hereinafter referred to as “Custodian”).

Custodian hereby agrees to accept and hold such monies, securities and property (hereinafter referred to as “Property”) as may from time to time be delivered by or for Account Owner to Custodian, or added in the process of investing the Property, in a custody account (“Custodial Account” or “Account”) and to invest such Property, solely at the direction of the Account Owner or any duly appointed investment advisor and subject to the terms below.

## DISCLOSURES

1. **Important Information About Procedures for Opening a New Account.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver’s license or other identifying documents.
2. **Account Owner Responsibilities**
  - a. **Account Owner.** The Account Owner acknowledges that the Account is a non-interest bearing self-directed account. Where applicable, the custodian acts as a “fiduciary” for this account, as defined by the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), by the Internal Revenue Code or any other applicable local, state, or federal laws only in relation to its custodial services. The Custodian does not, and the Account Owner acknowledges that the Custodian does not assume fiduciary responsibilities for any Account Owner’s Investment Decisions associated with the account. The Account Owner also acknowledges that the account with the Custodian will be established in the name of the Custodian for the benefit of the Account Owner and Account Owner agrees that all transactions related to the account must go through the account held with the Custodian otherwise this could result in tax implications. It is the Account Owner’s responsibility (not the Custodian’s), to select and monitor the investments in the account. The Account Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the account and accepts full and sole responsibility for such selection (“Account Owner’s Investment Decisions”). The Custodian provides no investment, legal, or tax advice or recommendations related to your account. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the account and accepts full and sole responsibility for the success or failure of such investments. Assets in your account are not guaranteed by Digital Trust and are subject to investment risk, including the possible loss of your investment value.
  - b. **Authorized Agent.** The Account Owner may appoint a third party as their authorized agent to direct the investment of the account by notifying the Custodian in a form acceptable to the Custodian. The Custodian shall assume that the authorized agent is at all times qualified to act as agent for the Account Owner and shall recognize the agent as having the authority to direct the investment of the account until such time as 1.) the Account Owner notifies the Custodian in writing that he has removed the authorized agent, or 2.) the Custodian is notified of the death of the Account Owner. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement. Custodian shall bear no responsibility for any transactions in the account, or resultant losses or damages to Account Owner, caused by any acts or omissions of Authorized Agents. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement. Custodian and TPA shall bear no responsibility for any transactions in the Account, or resultant losses or damages to Account Owner, caused by any acts or omissions of Authorized Agents.
  - c. **Additional Information.** Account Owner agrees and acknowledges that, unless where required by law, the Custodian is not responsible for communicating, forwarding or notifying any party, including the Account Owner, with respect to communications or other matters which are received by or come to the attention of the Custodian with respect to assets in the account. It is the Account Owner’s responsibility to make arrangements to receive such information or monitor public sources for such information.
  - d. **Account Owner’s Representations.** Account Owner represents and warrants that any information given or any information that will be given in the future with respect to this account is complete and accurate. Account Owner also agrees that any directions Account Owner or Account Owner’s authorized agent give to the custodian, or any actions Account Owner or Account Owner’s authorized agent take will be proper under this Agreement and that the Custodian is entitled to rely upon any such information or directions. The Custodian shall not be responsible for losses of any kind that may result from such directions to the Custodian or from the Account Owner’s actions, or the Account Owner’s authorized agent’s actions, or failures to act of both. Account Owner agrees to reimburse the Custodian for any losses the Custodian may incur as a result of such directions, actions or failures to act.
  - e. **Owner Investment Responsibility.** The Account Owner has the full responsibility to review and investigate the assets they direct the Custodian to invest in for their account. It is the Account Owner’s responsibility, not the Custodian’s, to select and monitor the investments in the account. The Account Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the account and accepts full and sole responsibility for such selection. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the account and accepts full and sole responsibility for the success or failure of such investments. The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the account. It is the Account Owner’s responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
  - f. **Fair Market Valuations.** The valuation for investments must be provided to the Custodian on a timely basis by the Account Owner or another party chosen by the Account Owner for this purpose (“Valuation Agent”) and identified as such in a written document delivered to the Custodian. It is the Account Owner’s responsibility to determine and provide the valuation of Alternative Assets to the Custodian. The Custodian shall have no responsibility for acting on an FMV reported by the Account Owner or Valuation Agent. For



Alternative Assets such as investments in limited liability companies, limited partnerships, hedge funds, and other similar entities, the Account Owner directs the Custodian to obtain the FMV of the Account Owner's Alternative Assets from the investment entity itself and hereby appoints each such entity as the Valuation Agent for the Account's investment in the entity itself. Each Valuation Agent shall be required to sign such documents as the Custodian shall deem appropriate or necessary to confirm the understanding and agreement of the Valuation Agent to its obligation to provide such to the Custodian. Failure of the Account Owner or Valuation Agent to provide a timely valuation shall be the sole responsibility of the Valuation Agent or the Account Owner, as the case may be, and the Custodian shall not be required to take any further steps to secure an updated FMV for the Account. The Custodian shall not be responsible for the timeliness or the accuracy of any FMV of any Alternative Asset furnished by the Account Owner or a Valuation Agent. The Custodian shall reflect the latest valuation received on an asset in the Custodial Account's statements on a timely basis, but the Custodian shall have no duty to inform the Account Owner or to follow up with any Valuation Agent with respect to the status of any such additional valuations. The Custodian shall have no duty or responsibility to solicit any valuation from either the Account Owner or the Valuation Agent. If the Custodian does not receive an updated FMV for an Alternative Asset, the Custodian shall be entitled to use the last FMV provided to the Custodian, or if none, the original purchase price for the Alternative Asset in question (such last FMV or original purchase price, as the case may be, shall hereinafter be referred to as the "Last Value").

- g. Review of Statements.** Custodian, shall provide Account Owner with quarterly Account Statements containing the account assets and account activity within your account. Please review the statement carefully and if you identify any discrepancies please document in writing and provide to Custodian via email within forty-five (45) days of the statement issuance at [Operations@digitaltrust.com](mailto:Operations@digitaltrust.com) or via mail at the address listed on the statement. If the notice of discrepancies is not received within the forty-five (45) day time frame, it will signify your approval of the statement and precludes you from making future objections or exceptions regarding the information contained in this statement. Such approval by you shall be full acquittal and discharge of Custodian regarding the transactions and information on such statement. Issuance shall mean (1) the posting of your Account Statement within the online platform or (2) the date of mailing of a paper Account Statement.
- h. Indemnity.** Custodian shall be indemnified by Account Owner against any liabilities, losses, damages, costs and expenses (including but not limited to legal fees) incurred by Custodian and arising out of any action taken or omitted to be taken by the Custodian hereunder or pursuant to any Instructions, including but not limited to (i) any taxes or other governmental charges, and any expenses related thereto, which may be imposed or assessed with respect to the asset/investment, and/or (ii) the Custodian or any nominee or agent of the Custodian, appearing as holder or holder of record of the asset/investment or any part thereof, but excluding those liabilities, losses, damages, costs and expenses which arise (whether through act or omission) as the result of fraud, willful default or gross negligence on the part of the Custodian in the performance of its duties under this Agreement.

### 3. General Terms

- a. Account.** The Custodian shall establish and maintain a separate Account in the name of the Account Owner. All deposits to the account shall be in cash. The Custodian's acceptance of in-kind assets will be in accordance with the Custodian's current policies and procedures. We recommend that you contact the Custodian or Third Party Administrator (TPA) for additional information. Neither the Account Owner nor a Beneficiary shall assign any portion of the Account Owners Account and the Custodian shall not recognize any such assignment. It is the Account Owner's sole responsibility not the Custodian's to determine the amount of permissible deposits and deposit timing as permissible by law. In addition, it is the Account Owner's not the Custodian's responsibility to determine and maintain records of the deductible portion of any deposit.

If the Account Owner is not an individual, Account Owner hereby warrants that the Account Owner has the power and authority to open and use the Custodial Account, that all necessary actions have been taken to authorize the use of the Custodial Account and that the signed of this Agreement have all proper authority to enter into the Agreement on behalf of the Account Owner. Account Owner also agrees to produce evidence of such authority if requested by Custodian and that the Custodian may act upon the instructions of any person the Custodian reasonably believe has the authority to act for the Account Owner.

- b. Uninvested Cash Funds.** From time to time you may deposit cash or digital assets with us, or we may receive funds in settlement of trades, that are not subject to a current Direction of Investment (or are awaiting your direction) (collectively referred to as "Uninvested Funds"). Digital Trust may place funds in one or more money markets, demand deposit accounts (savings or checking), including but not limited to Certificates of Deposit (CDs), investment grade bonds, "A" rated or higher life insurance companies (fixed annuities), municipal bonds, United States treasuries, fixed income annuities with our without life insurance companies, mortgage and real estate backed securities or collateralized investments, and/or Digital or Non Digital yield generating structured investments. Your account is credited with all Uninvested Funds. You agree that if we receive no other instructions, Uninvested Funds from your account shall be invested in account(s) of Custodian's choosing using a method designed to maintain liquidity of the Uninvested Funds.
- i. Specifically, you authorize and direct us to sweep Uninvested Cash Funds automatically into Custodian's designated account(s) until such time as further direction is received from you or your designated representative(s). If FDIC insurance applies to the investments purchased with Uninvested Cash Funds, the insurance will be subject to all applicable laws and regulations related to FDIC insurance limitations.
  - ii. We may adjust the method for investment between the accounts from time to time and we are not required to provide notice or obtain your consent.
  - iii. If we receive monies after hours or that otherwise cannot be immediately swept into an approved interest-bearing investment, such amounts may remain uninvested in our bank account overnight. In that case, we may also earn float on such amounts. In addition, if we issue a check on your behalf in connection with (1) distributions requested by you or (2) fees paid to third party service providers to your account, we debit your account the amount of the check and deposit the funds into a special disbursement account held by us. In that case, we will earn float on the amount of the check from the date it is issued until the date the check is presented and paid.
  - iv. Amounts held in our bank account or Digital Asset wallets are held in an omnibus account and are not segregated from other deposit funds.
- c. Investments—No Duty to Review or Monitor Investments.** The Custodian shall have no duty or responsibility to review any investment held in the Account or any investment under consideration by the Account Owner or any purchase directed by the Account Owner with respect to any issue, including but not limited to, its safety, risk, suitability or whether or not it should be registered as a security with

the appropriate government agencies and shall have no liability with respect to its safety, risk, suitability or whether or not it should be registered as a security with the appropriate government agencies. The Custodian shall not be responsible to investigate or perform any due diligence on any investment, investment sponsor or any principal involved with any investment. Further, the Custodian has no duty to monitor any investment held in the Account. Under this agreement the Custodian provides Self Directed Custody Services for the assets/investments selected by the Account Owner. Custodian acts on the Account Owner's Investment Decisions provided by the Account Owner and has no responsibility for any transactions made in accordance with Account Owner's Investment Decisions, including the performance, disclosure of any risks associated with the asset/investment, any due diligence, or suitability of the assets/investments selected by the Account Owner. **Account Owner agrees that Custodian has no responsibility on the outcome of self-directed investments including but not limited to total loss.**

- d. Acting on Direction.** The Custodian shall act on the Account Owner's Investment Decisions for transfers, investments and distributions of assets/ investments when the Account Owner has submitted directions in the manner required by Custodian. Custodian may also act on Account Owner's Investment Decisions submitted by your Authorized Agent and any other authority granted by the Account Owner in compliance with Custodian's then current policies and procedures. The Custodian is not responsible for losses or damages resulting from the delay of acting on an Account Owner's Investment Decision if the direction is unclear, incomplete and not in acceptable form to the Custodian. The Custodian has no responsibility to question any Account Owner's Investment Decisions received in good order from the Account Owner or your Authorized Agent. When the Custodian is directed to invest in assets in accordance with Account Owner's Investment Decisions, including assets that are not publicly traded, the Custodian shall not have any responsibility or liability of the entity or the broker/agent involved does not settle the trade in accordance with the trade executed by the account owner.
- e. Standard of Care/Liability.** Custodian will use commercially reasonable efforts in performing their obligations under this Agreement.
- i. Subject to the terms of this Agreement, Custodian shall not be responsible for any loss or damage suffered by Account Holder as a result of the Custodian performing such duties unless the same results from an act of fraud, willful default or gross negligence on the part of the Custodian. In such event the liability of the Custodian in connection with the asset/investment so affected by the Custodian's fraud, willful default or gross negligence shall not exceed the market value (as determined by the Custodian in any reasonable commercial manner) of such asset/investment at the time when Account Owner discovers such fraud, willful default or gross negligence.
  - ii. Custodian will be entitled to rely on and may act upon the advice of legal counsel and accountants or other agents with expertise in the relevant area, in relation to matters of law, regulation or market practice, and shall not be liable to Account Owner under this Agreement for any action taken or omitted pursuant to such advice, provided that Custodian has acted in good faith and with commercially reasonable efforts.
  - iii. Custodian shall not, save as stated above, be responsible for the title, validity or genuineness of any asset/investment (or any evidence of title thereto) received or delivered by it pursuant to this Agreement.
  - iv. Neither Custodian nor its affiliates shall be liable for any consequential, incidental, exemplary, punitive, special or indirect damages, whether or not the likelihood of such damages was known by Custodian or its affiliates.
  - v. Custodian shall not be liable to the Account Owner for any statements, representations, actions or inactions of any salesperson, broker or other third party provider of the investment purchased for this account.
  - vi. The Custodian may take any and all other actions which in its judgment may be necessary or appropriate for the proper administration of the assets of the Account. In the performance of its duties and responsibilities under this Agreement the Custodian may employ such agents and vendors as it feels appropriate without notice to the Account Owner.
- f. Statements and Reports.** It is the Account Owner's responsibility to prepare and file all required income tax returns. Custodian will provide to Account Owner at least once each year all information regarding the transactions executed under this Agreement that may reasonably be required for the preparation of Account Owner's income tax returns/ Account Owner is responsible for the payment of any and all accountant and attorney fees incurred in the preparation of Account Owner's tax return or resulting from the operation of this Agreement.
- g. Privacy and Subpoena.** Custodian shall use reasonable measures to maintain and protect the Account Owners personal data. Data will be shared only when necessary to fulfill the activities requested by the Account Owner. Custodian does reserve the right to respond to a subpoena or request from a regulator or law enforcement agency in accordance with the applicable law without your prior approval or notice.
- h. No Tax, Legal or Investment Advice.** Custodian is not responsible for providing legal, tax or investment advice. Account Owner should consult with their financial or tax advisor if such advice is required, The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the account. It is the Account Owner's responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
- i. Common Ownership.** Digital Trust, Alternative IRA Services, LLC dba BitcoinIRA, Rocket Dollar, Inc., Rocket Dollar Capital, Rocket Dollar Advisor, Inc, WAO Advisory, Inc., and/or Choiceapp.io are companies affiliated by common ownership, and that because these entities are under common ownership, the use of any of the entities may result in an indirect financial benefit to the owners of the entities.
- 4. Fees and Expenses.** Custodian shall be entitled to collect fees for their Custodial Services and the administration of the Account Owner's account in accordance with the Fee Schedule and this agreement. Custodian reserves the right to change the Fee Schedule from time to time and will notify Account Owner of such changes. All fees and expenses, including legal or other fees resulting from the administration of your account, will be collected by Custodian according to the payment method selected by Account Owner under this Agreement. If Account Owner has selected to have Custodian collect fees and expenses from the cash in the account, in the event there is not enough cash to cover the fees and expenses, the Account Owner authorizes the Custodian to sell or liquidate a portion of the assets in the account to collect the fees and expenses. If the Account Owner has selected the option to pay the Custodian fees and expenses by selling an asset in the account, the Custodian will sell a portion of the asset with the largest market value to collect such fees. Sales of assets to cover fees will be executed in or around the first week of every month. Sales for expenses will be executed as needed. The Custodian shall not incur any liability from initiating the sale or liquidation of assets to collect the fees and expenses. Custodian reserves the right to send Account Owner's debt to collections agents or resign as custodian for unpaid fees.
- 5. Amendments to Agreement.** From time to time the Custodian may amend this agreement for any reason deemed necessary by Custodian. Some amendments may be necessary to comply and abide by new laws and regulations. Any such amendment will be provided by providing

a copy of the amendment to Account Owner at your last known mailing or electronic address as shown in our records. Account Owner shall have thirty (30) calendar days to object to the Amendment. Such objection shall include the direction to terminate your account, termination and other fees will apply to the account closing. If no objection is received by Custodian, Custodian deems that Amendment is accepted and consented to by Account Owner

## 6. Notice, Delivery and Electronic Signature

- a. CONSENT FOR ELECTRONIC DISCLOSURES UNDER THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** The Account Application (Application) includes the Account Agreement provisions, the Fee Schedule and the Custodial Account Disclosures documents together as one which have been presented to the Account Owner prior to executing the Application. By completing this application online, you agree to be bound by all terms and conditions contained in the Application.
- b. Consent to Electronic Delivery of Statements and Other Communications.** By consenting to the terms and conditions of this Application, you agree to receive the following communications electronically: periodic statements, disclosures, notices (including Amendment changes), agreements, changes to terms and conditions, records, documents, tax statements, Privacy Notice, and all other information we provide to you. We may deliver these communications to you through your online access, by email or by using other electronic methods allowed pursuant to applicable laws and regulations. While electronic delivery and email notifications are provided free of charge, you may incur internet access and telephone charges. However, we reserve the right to deliver any communication to you as a paper copy, rather than electronically. Your consent remains in effect until you give us notice that you are withdrawing it and covers all communications, including those related to any product or service offered either now or in the future. Electronic documents will no longer be sent after the account is terminated and all regulatory reporting requirements have been satisfied.
- c. Withdrawal of Consent.** You may contact us in any of the ways described below to withdraw your consent to receive any future communication electronically. If you wish to receive electronic communications after you have withdrawn your consent, please contact Digital Trust at the phone number or address below. Please refer to the Fee Schedule for any fee that may apply for paper copies.
- d. Paper Delivery of Disclosures and Notices.** You have the right to receive a paper copy of any communication sent electronically. To receive a paper copy, you may request it in writing by sending your request to Digital Trust, 7336 W. Post Road, Suite #111, Las Vegas, Nevada 89113 or calling us at (800) 777-9878. You may have to pay a fee for the paper copy unless charging a fee is prohibited by law.
- e. IMPORTANT.** It is your responsibility to provide and maintain a current email and residential address with us. We may treat an invalid email address or the subsequent malfunction of a previously valid email address as a withdrawal of your consent to receive electronic communication. We will not impose a fee to process the withdrawal of your consent; however, fees may apply to paper copies mailed. Withdrawal of your consent to receive electronic communications will be effective only after we have a reasonable period of time to process your withdrawal. All communications in either electronic or paper format from us to you will be considered “in writing.”
- f. How to Update Your Records.** It is your responsibility to provide us with true, accurate and complete email address, contact, and other information related to your account. You must promptly notify us of any changes in this information. You can update your information via TPA's platform, by calling us, or by writing us at the address above.
- g. Equipment and Software Requirements.** In order to view and retain electronic communications that we make available to you, you must have:
- A PC or other device with an Internet browser that has “cookies” enabled and supports 128-bit encryption
  - An Internet connection
  - An email address
  - A PDF viewer (such as Adobe Reader)
  - A printer or computer with sufficient electronic storage space

All communications shall be delivered to the last address we have on file for the Account Owner. These notices will be sent through electronic delivery (email) and will be considered delivered the same day as sent. If you have opted out of electronic delivery, communications sent to you through the United States Postal Service are considered delivered 5 business days after the postmark date. It is the Account Owner's responsibility to notify the Custodian of any email address change or residential address change. Custodian will not be held liable for any losses or damages if the Account Owner has not provided Custodian with the most current address information. The electronically signed copy of this document should be considered equivalent to a printed hard copy form. It is considered a true and complete record of the document, admissible in arbitration and/or administrative hearings or proceedings. Your electronic signature on the Application and other electronic forms such as the Investment Direction are considered valid and the same as if the paper form or Application were physically signed.

- 7. Withdrawals/Distributions.** Account Owner will provide full and complete instructions for any Distributions out of the Account. Custodian offers no tax or legal advice and Account Owner should consult with their tax or financial advisor to understand the implications of the action requested. Instructions should be submitted to Custodian in a manner acceptable to the Custodian. Custodian will not under any circumstances be responsible for the timing, purpose or propriety of any distribution from the account, nor shall the Custodian incur any liability or responsibility for any tax or penalty imposed on account of any distribution or failure to make a required distribution. Custodian may make any payment or distribution required or authorized hereunder by mailing a check or other property or by ACH or Federal wire or other electronic transfer to the payee at the address last furnished to the Custodian. Custodian shall not be liable for any payment made in good faith without actual knowledge of any changed condition or status of any person receiving benefits hereunder.

Custodian may, but shall not be obligated to, pay any estate, inheritance, income, or other tax or assessment attributable to any property or interest held in the account out of the assets of the account upon such information or direction as it may require. Before payment of any benefit, Custodian may also require releases or other related documentation from the taxing authority and require indemnification from such payee as may be necessary for the Custodian's protection against tax liability.

- 8. Successor Custodian.** In the event that Digital Trust changes its name, reorganizes, is acquired by another organization, or if all or a portion of our entire organization is purchased by another organization, that organization will automatically become the trustee or custodian of your Account so long as the organization is authorized to serve as a trustee or custodian and satisfies the requirements of the IRS Code Section 408(a)(2).
- 9. Termination or Resignation.** Account Owner or Custodian may terminate this agreement at any time by giving written notice to the other. We can resign as Custodian at any time effective 30 days after we send written notice of our resignation to you. Upon receipt of that notice, you must make arrangements to transfer your account to another Custodian (Successor Custodian) or request a distribution of your

account. If you do not complete a distribution form or transfer your account within 30 days from the date we send the notice to you, we have the right to either a) transfer your assets to a successor trustee or custodian that we choose or b) we may distribute your Account to you in a single lump sum and/or re-register the assets to you in-kind. In the event of re-registration of the assets, the Custodian's authority to re-register the assets supersedes any and all conflicting instructions, directions, or authorities with respect to said assets contained in any investment documents. If this agreement is terminated, we may charge you a reasonable amount of money that is necessary to cover any costs associated with distributing or transferring your account, including but not limited to fees and expenses incurred and taxes. The Custodian shall not be liable for any taxes, penalties, or losses arising from any delays, omissions, acts, or other action or inaction of any other person(s) or entity, including the Account Owner in connection with transfer or distribution of the account. The Successor Custodian shall acquire all of the powers and authority conferred by the resigning Custodian. The transfer and delivery of assets to the Successor Custodian shall be a complete discharge and exoneration of any liability for the resigning Custodian unless the Account Owner or Successor Custodian notifies the resigning Custodian within forty-five (45) days from the date of resignation. Custodian may close the Account if it is not funded within ninety (90) days from Account opening.

- 10. Designation of Beneficiaries.** In the event of your death, any account balance will be paid to your beneficiary designation deemed legally valid by the Custodian. In the event that the beneficiary designated is a minor or not of sound mind, the Custodian may at its discretion make beneficiary payments to such person acting as a parent or guardian of said beneficiary.
- a. Validity.** A beneficiary designation is deemed legally valid when the Account Owner has provided a full complete and executed designation clearly providing if the Account Owner is adding to or changing a portion of the then current beneficiary designation form in a format approved by the Custodian. Any valid beneficiary designation shall be effective upon receipt by the Custodian. Upon opening your account, you can designate your beneficiaries, and while still living, you can change your beneficiaries by submitting a fully completed Change of Beneficiary form acceptable to the Custodian.
  - b. Beneficiary Designations and Change of Beneficiary.** In the event of marriage, divorce, death, adoption and the birth of children the Account Owner should evaluate the beneficiaries listed on the account and provide the Custodian with a fully completed Change of Beneficiary form to update the account. The Custodian reserves the right to reject or not accept a beneficiary designation not made to individuals or entities. If you do not live in a "community property" State, you are free to name any person or entity as your beneficiary, even if you are married. In "community property" States, Account Owners who earn monies contributed to their account during a legal marriage will be required to provide a spousal consent to designate a person or entity as beneficiary other than their spouse. (Subject to changes in law, "community property" States currently include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.)
  - c. Death Distributions.** Custodian will rely on a certified copy of the death certificate or other evidence deemed appropriate by the Custodian that certifies the Account Owner's death. The Custodian has no responsibility to search for beneficiaries if Account Owner does not provide beneficiary information for the account. By entering into this Agreement, you authorize Custodian to rely on any representation of facts made by the legal representative of your estate, any beneficiary, or any other person or source deemed appropriate by us, in determining the identity of unnamed beneficiaries. Your estate, and any unnamed beneficiaries further understand and agree that any information or instructions provided by such persons may be reviewed with counsel and Custodian may require further documentation to determine the beneficiaries. Prior to a distribution of assets to a beneficiary or the estate of the Account Owner, Custodian reserves the right to request from the beneficiary or the estate of the Account Owner, indemnification and discharge from any liability.
  - d. Distribution to Estate.** Custodian reserves the right to distribute the account to the estate of the Account Owner in the event that there is conflicting or incomplete information in determining the beneficiaries. In the event that there are no beneficiaries provided to Custodian or all beneficiaries renounce their rights to receive any benefit from the Account, or in the event that no beneficiaries survive the Account Owner, the account will be distributed to your estate.
- 11. Arbitration Agreement.** In the event any legal or equitable claims or disputes arise out of performance of this agreement, or a breach of this Agreement, the parties agree to attempt to resolve the claim or dispute through good faith negotiation. In the event the parties are unable to resolve or settle such claim or dispute through negotiations, the parties agree that the claim or dispute will be settled by binding arbitration. Any arbitration proceedings shall be conducted in Las Vegas, Nevada, in accordance with the Commercial Dispute Resolution Procedures of the American Arbitration Association (AAA) in effect at the time a demand for arbitration is made. The Account Owner expressly waives any right he or she may have to establish or conduct litigation or arbitration in any other forum or location, or before any other body. The Account Owner may only bring claims and disputes in his or her individual capacity and not as a plaintiff or class member. Any and all claims arising out of or relating to this Agreement are required to have an arbitration filed within two (2) years from the date that the Account Owner knew of the facts giving rise to such claim or claims. The arbitrator shall have the authority to award reasonable attorneys' fees and costs, including the costs of arbitration, to the prevailing party.
- 12. Governing Law.** This Agreement and all amendment hereto shall be governed by and construed in accordance with the laws of the State of Nevada and the federal laws of the United States of America, and the obligations hereunder shall be determined in accordance with such laws. If any provision of this Agreement or the application thereof to any person or circumstances shall be determined to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 13. Other Administrative Powers.** Anything in this Agreement to the contrary notwithstanding, the Custodian may choose to request direction from the Account Owner as to any specific action or situation that arises with the account. If a request for direction is made, the Custodian shall not incur any liability for following the Account Owner's direction or for taking no action if no such direction is furnished to the Custodian. The Custodian shall have the right, at the expense of the Account Owner, to seek a direction or approval of its accounts from a court of competent jurisdiction whenever the Custodian shall, in its sole discretion, deem it appropriate. The Custodian is not required to, but in its sole discretion may, exercise the full power and authority to settle, compound or abandon all claims and demands in favor of or against the account or Account Owner, including any claim that may be asserted for taxes under present or future laws; to maintain or defend any litigation necessary in its administration of the account if indemnified to its satisfaction against any expenses and liabilities sustained or anticipated in connection therewith; to retain any fiat subject to any dispute without liability for payment of interest or decline to make payment thereof, until final adjudication of such dispute by a court of competent jurisdiction.
- 14. Third Party Actions.** The Custodian shall not be liable to the Account Owner for (i) any statements, representations, actions or inactions of the Advisor or any broker or other salesperson or principal of any investment purchased for the Custodial Account and (ii) the use of account information provided to the Advisor or other third party as authorized or directed by the Account Owner.

**15. Digital Currency.** Custodian cannot and does not guarantee the value of digital currency or any other investment. Custodian shall not be responsible for any third-party services. Furthermore, Custodian or TPA cannot cancel or reverse a transaction involving digital currency. Once a transaction request has been made, Account Owner will subsequently not be able to cancel or otherwise modify the transaction request. Account Owner acknowledges and agrees that Custodian shall have no liability for losses you suffer in connection with any digital currency transaction initiated via the TPA Platform under this Agreement unless such losses are the direct result of Custodian's fraud, willful default or gross negligence. Custodian does not ensure that any transaction request you submit or cause to be submitted to a digital currency network via the TPA Platform will be completed by the applicable network. You acknowledge and agree that the transaction requests you authorize Custodian to submit for completion on a digital currency network may not be completed, or may be substantially delayed, by the digital currency network and Custodian is not responsible for any delay or any failure of completion caused by the digital currency network. When you complete a transaction request via the TPA Platform, this authorizes Custodian to submit the transaction request to the digital currency network in accordance with the instructions you provide.

- a. Third Parties.** Digital Trust as custodian has a contractual agreement with Alternative IRA Services, LLC dba BitcoinIRA ("Bitcoin IRA") to act as a third-party servicer to your cryptocurrency or gold IRA account in conjunction with certain cryptocurrency service providers. You acknowledge Bitcoin IRA may change service providers at any time without notice. Those services performed by Bitcoin IRA include but are not limited to client servicing, hosting of the client platform, administrative functions necessary to open the IRA and facilitate the investment transactions including identity verification. Any issues or errors arising out of the use of the third-party platform are the responsibility of the third-party platform.
- b. Key Storage.** Custodian shall use commercially reasonable efforts to keep in safe custody on behalf of Account Holder all Custodial Coins received by Custodian. Custodian will use commercially reasonable efforts to keep all Keys to the Custodial Wallet held by Custodian secure and shall maintain at least one (1) backup Key. Custodian shall exercise all commercially reasonable efforts to prevent unauthorized access to or use of the Keys held by Custodian to the Custodial Wallet. Custodian shall not be held responsible for any prohibited transactions or tax liabilities or penalties related to the storage of keys.
- c. Asset Value Reporting Policy.** To value digital assets in your account, Custodian will electronically obtain USD equivalent prices from digital currency market data providers or other sources as of the last date of the statement to report on your account statement. Custodian does not guarantee the accuracy or timeliness of prices received and the prices are not to be relied upon for any investment decisions for your account.
- d. Trading, Transactions, and Residuals.**
  - i. Account Owner acknowledges and accepts the risk of trading, settlement and holding assets such as Digital Assets.
  - ii. Account Owner acknowledges that Custodian reserves the right to suspend or restrict transaction activity in the asset or account reasonably necessary to comply with Custodian's anti-money laundering programs and policies, any requirements under applicable law, to prevent fraud, prevent suspicious transactions, or for any security reasons. Account Owner acknowledges for digital asset transfers or withdrawals that the vault withdrawal timeframe may take up to forty-eight (48) hours to execute.
  - iii. Custodian will reflect in Account Owners Account market occurrences such as dividends, rewards, etc. when such activity occurs and after Custodian receives the proper information to reflect such activity.
  - iv. Upon liquidation of digital currency, Account Owner may incur negligible mining fees that are charged at an unknown rate by miners of blockchain based products. This fee will be the responsibility of Account Owner. The Bitcoin IRA Platform accounts for an estimation of this which is withheld upon liquidation. The withholding will be greater than the amount charged by the miners, leaving a residual referred to as *dust*. Account Owner acknowledges Custodian will use dust for payment and apply any residual to Account Owner's account for outstanding Custodial Fees or any cost associated with maintaining the wallet and/or account.
- e. Transaction Requests and Verification.** For transactions initiated by Account Owner, the Account Owner appoints the Custodian with the authority to request the movement of assets and perform the out of band transaction verification as required by then current policies and procedures (e.g. video ID verification) including movement of assets out of the Cold Wallet Storage for purposes of settling trades executed by the Account Owner. Authority is granted to Custodian, provided Account Owner has appropriately provided direction or instruction in accordance with the Custodian's current policy and procedures via the Bitcoin IRA Platform or other method acceptable to Custodian.
- f. Acknowledgement of Fork, Airdrop, and Token Support.** Account Owner agrees that all "airdrops" and "forks" will be handled by Custodian pursuant to its current policies and procedures. Account Owner acknowledges that Custodian is under no obligation to support any airdrops or forks, or handle them in any manner. Account Owner acknowledges that Custodian does not own or control the underlying software protocols which govern the operation of Digital Currencies. Digital Asset protocols are subject to changes in protocol rules (referred to as "forks"), and such forks may materially affect the value, function, or name of the Digital Asset. You acknowledge and agree (i) that Custodian is not responsible for operation of the underlying Digital Asset protocols and that Custodian makes no guarantee of their functionality, security, or availability; and (ii) if a fork occurs, Custodian may temporarily suspend the ability to transact in the Digital Asset affected, and Custodian may decide not to support the forked protocol entirely or may enable you to transfer the affected Digital Asset.

Account Owner further acknowledges that Custodian, at its sole discretion, may update the policies and procedures from time to time. Custodian is under no obligation to provide notification to Customer of any modification. Account Owner further acknowledges and agrees that Custodian may, from time to time, offer support for select ERC20 tokens or other tokens, metacoins, colored coins, side chains, or coins which enhance or interoperate with coins supported by Custodian (collectively, "Tokens"). Custodian will notify Account Owner and the general public if the Custodian supports a particular Token. Account Owner further acknowledges and agrees that, upon the occurrence of any event outside the control of Custodian resulting in the migration of any ERC20 token from Ethereum to another protocol, including but not limited to a "mainnet launch," (a "Migration Event") Custodian may immediately cease any and all support for such ERC20 token, and that Custodian will be under no obligation to provide support for any Token related to or resulting from such a Migration Event.

CUSTODIAN WILL HAVE NO RESPONSIBILITY OR LIABILITY IF CLIENT LOSES, BURNS, OR OTHERWISE CANNOT ACCESS OR CONTROL ANY TOKEN THAT CUSTODIAN DOES NOT SUPPORT.

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PRE-APPROVED DEFINED CONTRIBUTION PLAN

DOCUMENT #01

ARTICLE I  
PURPOSE

- 1.01 **Purpose:** The Employer whose name and signature appear on the Adoption Agreement hereby adopts a defined contribution plan in the form of this Pre-Approved Defined Contribution Plan, as modified by the information provided and selections made in the Adoption Agreement.
- 1.02 **Exclusive Benefit:** The corpus or income of the trust may not be diverted to or used for other than the exclusive benefit of the Participants and their Beneficiaries.

ARTICLE II  
ELIGIBILITY AND PARTICIPATION

- 2.01 **Service:** Service will be computed on the basis designated by the Employer in the Adoption Agreement or specified in Section 11.01. Except where specifically excluded under this Article II, all of an Employee's Years of Service will be taken into account for purposes of eligibility, including (a) Years of Service for employment with an employer required to be aggregated with the Employer under section 414(b), (c), (m), or (o) of the Code; (b) Years of Service for an employee required under section 414(n) or 414(o) of the Code to be considered an employee of any employer aggregated with the Employer under section 414(b), (c), or (m) of the Code; (c) Years of Service with the predecessor Employer, if the Adoption Agreement allows and the Employer so specifies; and (d) Years of Service with the predecessor employer during the time a qualified plan was maintained, if the Adoption Agreement allows and the Employer so specifies. If the Employer maintains the Plan of a predecessor Employer, Service with such Employer will be treated as Service for the Employer.
- 2.02 **Eligibility Computation Periods:**
- (a) Hours of Service Method - If the Employer has specified in the Adoption Agreement that service will be credited on the basis of hours, days, weeks, semi-monthly payroll periods, or months, the initial eligibility computation period is the 12-consecutive month period beginning on the date the Employee first performs an Hour of Service for the Employer ("employment commencement date"). Pursuant to the Employer's election in the Adoption Agreement, the succeeding 12-consecutive month periods shall commence with either:
- (1) The first anniversary of the Employee's employment commencement date; or
- (2) The first Plan Year which commences prior to the first anniversary of the Employee's employment commencement date regardless of whether the Employee is entitled to be credited with 1,000 Hours of Service (or any lesser number specified by the Employer in the Adoption Agreement) during the initial eligibility computation period. An employee who is credited with 1,000 Hours of Service (or such lesser number specified by the Employer in the Adoption Agreement) in both the initial eligibility computation period and the first Plan Year which commences prior to the first anniversary of the Employee's initial eligibility computation period will be credited with two Years of Service for purposes of eligibility to participate.
- (b) Elapsed Time Method - If the Employer has specified in the Adoption Agreement (or if the Adoption Agreement default is) that service will be credited under the elapsed time method, an Employee will receive credit for the aggregate of all time periods commencing with the Employee's first day of employment or reemployment and ending on the date a Break in Service begins. The first day of employment or reemployment is the first day an Employee performs an Hour of Service. An Employee shall also receive credit for any Period of Severance of less than twelve consecutive months. Fractional periods of a year will be expressed in terms of days. For purposes of this paragraph, Hour of Service shall mean each hour for which an Employee is paid or entitled to payment for the performance of duties for the Employer.
- 2.03 **Use of Computation Periods:** Years of Service and Breaks in Service shall be measured on the same eligibility computation period.
- 2.04 **Eligibility Break in Service:** In the case of any Participant who has a 1-year Break in Service, years of eligibility service before such break will not be taken into account until the Employee has completed a Year of Service after returning to employment. Pursuant to the Employer's election in the Adoption Agreement, such Year of Service will be measured by the 12-consecutive month period beginning on an Employee's reemployment commencement date and, if necessary, either: (a) subsequent 12-consecutive month periods beginning on anniversaries of the reemployment commencement date; or (b) Plan Years beginning with the Plan Year which includes the first anniversary of the reemployment commencement date. The reemployment commencement date is the first day on which the Employee is credited with an Hour of Service for the performance of duties after the first eligibility computation period in which the Employee incurs a one year Break in Service. If a Participant completes a Year of Service in accordance with this provision, his or her participation will be reinstated as of the reemployment commencement date. This paragraph shall only apply if the Employer has adopted a nonstandardized plan by completing Adoption Agreement #01002.
- 2.05 **Entry into Plan:** Each Employee who is a member of an eligible class of employees specified in the Adoption Agreement or Section 11.01 will participate on the Entry Date selected by the Employer in the Adoption Agreement after such Employee has met the minimum age and service requirements, if any, in the Adoption Agreement.
- 2.06 **Participation upon Return to Eligible Class:** In the event a Participant is no longer a member of an eligible class of employees and becomes ineligible to participate but has not incurred a Break in Service, such Employee will participate immediately upon returning to an eligible class of employees. If such Participant incurs a Break in Service, eligibility will be determined under the Break in Service rules of the Plan.
- In the event an Employee who is not a member of an eligible class of employees becomes a member of an eligible class, such Employee will participate immediately if such Employee has satisfied the minimum age and service requirements and would have otherwise previously become a Participant.
- 2.07 **Participation during an Authorized Leave of Absence:** All contributions on behalf of the Participant shall be suspended, but membership in the

Plan shall be deemed to be continuous, unless otherwise terminated, for the period of any Authorized Leave of Absence, provided that the Employee returns to work for the Employer upon completion of such Authorized Leave of Absence.

## 2.08 Eligibility upon Reemployment:

- (a) A former Participant will become a Participant immediately upon returning to the employ of the Employer if such former Participant had a nonforfeitable right to all or a portion of his accrued benefit attributable to Employer Contributions at the time of termination from service.
- (b) For a former Participant who did not have a nonforfeitable right to any portion of his accrued benefit attributable to Employer Contributions or for a former Employee (other than an Employee required to complete more than one Year of Service in order to become eligible to participate in the Plan) who had not yet become a Participant at the time of termination from service, the Participant's Years of Service prior to the Break(s) in Service will be disregarded if the number of consecutive 1-year Breaks in Service equal or exceed the greater of five (5) or the aggregate number of Years of Service before such Breaks in Service.
- (c) If an Employee is required to complete more than one Year of Service for in order to become eligible to participate in the Plan, and such an Employee incurs a 1-year Break in Service before satisfying the Plan's eligibility requirements, service prior to such 1-year Break in Service shall not be taken into account in the determination of the Employee's eligibility to participate in the Plan upon reemployment.
- (d) A former Participant who's Years of Service before termination from service cannot be disregarded pursuant to Section 2.08(b) shall participate immediately upon reemployment.
- (e) A former Employee who had met the eligibility requirements specified in the Adoption Agreement before termination from service but who had not become a Participant and who's Years of Service before termination from service cannot be disregarded pursuant to Section 2.08(b) will become a Participant as of the later of:
  - (1) His date of reemployment; or
  - (2) The Entry Date next following his date of termination from service.
- (f) A former Employee (including a former Participant) who's Years of Service before termination from service can be disregarded pursuant to Section 2.08(b) will be treated as a new Employee for eligibility purposes and will be eligible to participate once he has met the requirements under the Plan following his most recent date of employment.
- (g) If the plan includes a 401(k) arrangement, and if any Participant becomes a former Participant due to termination of employment or an eligible Employee who has met the eligibility requirements of Section 2.05 terminates employment, and is reemployed by the Employer after a 1-Year Break in Service has occurred, the former Participant or the eligible Employee who has met the eligibility requirements of Section 2.05 shall become a Participant in the 401(k) plan as of the date of reemployment.

2.09 **Multiple Employer Plans:** If elected by the Employer in the Adoption Agreement, the Plan may also be adopted, by other employers that are not aggregated with the Employer under §414(b),(c), (m), or (o) of the Code. Such employers shall adopt the Plan by executing a separate Participation Agreement. In this case, the adopting Employer and each Participating Employer acknowledge that the Plan is a multiple employer plan subject to the rules of §413(c) and the regulations thereunder, specific annual reporting requirements, and different procedures for obtaining determination letters from the Internal Revenue Service regarding the qualified status of the plan.

For purposes of plan participation and vesting, the adopting Employer and all Participating Employers shall be considered a single employer. An Employee's service includes all service with the adopting Employer or any Participating Employer (or with any employer aggregated with the adopting or Participating Employer under §414(b), (c), (m), or (o)). An Employee who discontinues service with a Participating Employer but then resumes service with another Participating Employer shall not be considered to have severed employment.

Except to the extent that the Participation Agreement allows, and the Participating Employer makes, separate elections with respect to its employees, the Participating Employer shall be bound by the terms of the Plan and Trust, including amendments thereto and any elections made by the adopting Employer.

The limitation under the Plan relating to the requirements of §§415, 402(g), and 414(v) of the Code shall be applied to the plan as a whole. The requirements of §§410(b), 401(a)(4), 401(k)(3)(A)(ii), 401(m)(2)(A), 414(q), and 416 shall be applied separately to each Participating Employer. For purposes of determining a Participant's Required Beginning Date for minimum required distributions, a Participant shall be considered a 5% owner in a year in which the Participant is both a 5% owner and an Employee of a Participating Employer.

A participating Employer may terminate their participation in this Multiple Employer Plan at any time by notifying the Plan Sponsor. Such termination of participation shall not constitute a termination of the Plan but rather a transfer to another plan as a restatement. The determination of whether or not there is a termination, within the meaning of section 411(d)(3), of a section 413(c) plan is made solely by reference to the rules of sections 411(d)(3) and 413(c)(3).

## ARTICLE III EMPLOYER CONTRIBUTIONS

3.01 **Employer Profit-Sharing Contributions:** If the Adoption Agreement provides that the Plan is a profit-sharing plan:

- (a) Employer Contributions shall be an amount, if any, determined annually in the sole discretion of the Employer.
- (b) Unless otherwise elected by the Employer in the Adoption Agreement, all Employer Contributions shall be made out of current or accumulated net profits of the Employer.
- (c) Employer Contributions will be allocated pursuant to Section 3.03 (if the Plan is not integrated with social security) or Section 3.04 (if the Plan is integrated with social security).

3.02 **Employer Money Purchase Contributions:** If the Adoption Agreement provides that the Plan is a money purchase plan, the Employer Contribution for each Participant shall be an amount computed using the dollar amount or other formula specified in the Adoption Agreement. If the Plan is integrated with social security, then Section 3.05 below shall also be applicable. However, such amount computed with respect to any Participant shall not exceed the lesser of the dollar limit set forth in section 415(c)(1)(A) of the Code or the compensation limit of section 415(c)(1), as adjusted in accordance with section 415(d) of the Code, as in effect on the last day of the Limitation Year.

3.03 **Allocation of Employer Profit-Sharing Contributions - Non-integrated:** If selected in the Adoption Agreement, Employer Contributions for the Plan Year plus any forfeitures shall be allocated to the Participant's Accounts in the ratio that each Participant's Compensation for the Plan Year bears to the total Compensation of all Participants for that year.

3.04 **Allocation of Employer Profit-Sharing Contributions - Integrated:**

(a) Top-Heavy Allocation - For years in which the Employer maintains a Top-Heavy Plan, and subject to the Overall Permitted Disparity Limits, Employer Contributions for the Plan Year plus any forfeitures, if elected by the Employer in the Adoption Agreement, will be allocated to Participants' accounts in the following manner:

**STEP 1:** Contributions and forfeitures will be allocated to each Participant's account in the ratio that each Participant's total Compensation bears to all Participants' total Compensation, but not in excess of 3% of each Participant's Compensation.

**STEP 2:** Any contributions and forfeitures remaining after the allocation in Step One will be allocated to each Participant's account in the ratio that each Participant's Compensation for the Plan Year in excess of the Integration Level bears to the excess Compensation of all Participants, but not in excess of 3% of each Participant's Compensation. For purposes of this Step Two, in the case of any Participant who has exceeded the cumulative permitted disparity limit described below, such Participant's total Compensation for the Plan Year will be taken into account.

**STEP 3:** Any contributions and forfeitures remaining after the allocation in Step Two will be allocated to each Participant's account in the ratio that the sum of each Participant's total Compensation and Compensation in excess of the Integration Level bears to the sum of all Participants' total Compensation and Compensation in excess of the Integration Level, but not in excess of the Excess Contribution Percentage which may not exceed the Profit-Sharing Maximum Disparity Rate. For purposes of this Step Three, in the case of any Participant who has exceeded the cumulative permitted disparity limit described below, two times such Participant's total Compensation for the Plan Year will be taken into account.

**STEP 4:** Any remaining Employer Contributions or forfeitures will be allocated to each Participant's account in the ratio that each Participant's Compensation for the Plan Year bears to the total Compensation of all Participants for that year.

(b) Non-Top-Heavy Allocation - For years in which the Employer does not maintain a Top-Heavy Plan, and subject to the Overall Permitted Disparity Limits, Employer Contributions for the Plan Year plus any forfeitures, if elected by the Employer in the Adoption Agreement, will be allocated to Participants' accounts in the following manner:

**STEP 1:** Contributions and forfeitures will be allocated to each Participant's account in the ratio that the sum of each Participant's total Compensation and Compensation in excess of the Integration Level bears to the sum of all Participants' total Compensation and Compensation in excess of the Integration Level, but not in excess of the Excess Contribution Percentage which may not exceed the Profit-Sharing Maximum Disparity Rate. For purposes of this Step 1, in the case of any Participant who has exceeded the cumulative permitted disparity limit described below, two times such Participant's total Compensation for the Plan Year will be taken into account.

**STEP 2:** Any remaining Employer Contributions or forfeitures will be allocated to each Participant's account in the ratio that each Participant's Compensation for the Plan Year bears to the total Compensation of all Participants for that year.

(c) The Integration Level shall be equal to the Taxable Wage Base or such lesser amount elected by the Employer in the Adoption Agreement. The Taxable Wage Base is the contribution and benefit base in effect under section 230 of the Social Security Act as of the beginning of the Plan Year.

(d) Compensation shall mean Compensation as defined in Section 14.39 of the Plan.

(e) The Profit-Sharing Maximum Disparity Rate shall be the lesser of:

- (1) 2.7% for years in which the Plan is Top-Heavy and 5.7% for years in which the Plan is not Top-Heavy; or
- (2) The applicable percentage determined in accordance with the table below:

<i>If the Integration Level is more than</i>	<i>But not more than</i>	<i>For Top-Heavy Years the applicable percentage is:</i>	<i>For Non-Top-Heavy Years the applicable percentage is:</i>
\$0	X*	2.7%	5.7%
X* of TWB	80% of TWB	1.3%	4.3%
80% of TWB	Y**	2.4%	5.4%

\*X = the greater of \$10,000 or 20% of the TWB

\*\*Y = any amount more than 80% of the TWB but less than 100% of the TWB.

If the Integration Level used is equal to the Taxable Wage Base (TWB), the applicable percentage is 2.7% for years in which the Plan is Top-Heavy and 5.7% for years in which the Plan is not Top-Heavy.

(f) Excess Contribution Percentage is the percentage of compensation contributed for each Participant on such Participant's Compensation in excess of the Integration Level.

(g) Overall Permitted Disparity Limits:

- (1) Annual Overall Permitted Disparity Limit: Notwithstanding the preceding paragraphs, for any Plan Year this Plan benefits any Participant who benefits under another qualified plan or simplified employee pension, as defined in section 408(k) of the Code, maintained by the Employer that provides for permitted disparity (or imputes disparity) Employer Contributions and forfeitures will be

allocated to the account of each Participant who either completes more than 500 hours (or such lesser number as provided in the Adoption Agreement; or for a Plan where the Elapsed Time Method is being used, a completion of 3 consecutive calendar months is required.) of service during the Plan Year or who is employed on the last day of the Plan Year in the ratio that such Participant's total Compensation bears to the total Compensation of all Participants.

- (2) Cumulative Permitted Disparity Limit: The Cumulative Permitted Disparity Limit for a Participant is 35 total cumulative permitted disparity years. Total cumulative permitted years means the number of years credited to the Participant for allocation or accrual purposes under this Plan, any other qualified plan or simplified employee pension plan (whether or not terminated) ever maintained by the employer. For purposes of determining the Participant's Cumulative Permitted Disparity Limit, all years ending in the same calendar year are treated as the same year. If the participant has not benefited under a defined benefit or target benefit plan for any year beginning on or after January 1, 1994, the Participant has no cumulative disparity limit.

**3.05 Employer Money Purchase Contribution - Integrated:**

- (a) Top-Heavy Plans - For years in which the Employer maintains a Top-Heavy Plan, the Employer will contribute an amount equal to the Base Contribution Percentage specified in the Adoption Agreement (but not less than 3%) of each Participant's Compensation (as defined in Section 14.39 of the Plan) for the Plan Year, up to the Integration Level, plus the Excess Contribution Percentage specified in the Adoption Agreement (not less than 3% and not to exceed the Base Contribution Percentage by more than the lesser of: (1) the Base Contribution Percentage, or (2) the Money Purchase Maximum Disparity Rate) of such Participant's Compensation in excess of the Integration Level.
- (b) Non-Top-Heavy Plans - For years in which the Employer does not maintain a Top-Heavy Plan, the Employer will contribute an amount equal to the Base Contribution Percentage selected in the Adoption Agreement of each Participant's Compensation (as defined in Section 14.39 of the Plan) for the Plan Year, up to the Integration Level plus the Excess Contribution Percentage specified in the Adoption Agreement (not to exceed the Base Contribution Percentage by more than the lesser of: (1) the Base Contribution Percentage, or (2) the Money Purchase Disparity Rate) of such Participant's Compensation in excess of the Integration Level.
- (c) The Integration Level shall be equal to the Taxable Wage Base or such lesser amount elected by the Employer in the Adoption Agreement. The Taxable Wage Base is the maximum amount of earnings which may be considered wages for a year under section 3121(a)(1) of the Code in effect as of the beginning of the Plan Year.
- (d) The Money Purchase Maximum Disparity Rate is equal to the lesser of:

- (1) 5.7%, or  
 (2) The applicable percentage determined in accordance with the table below.

<i>If the Integration Level is more than</i>	<i>But not more than</i>	<i>the applicable percentage is:</i>
\$0	X*	5.7%
X* of TWB	80% of TWB	4.3%
80% of TWB	Y**	5.4%

\*X = the greater of \$10,000 or 20% of the TWB

\*\*Y = any amount more than 80% of the TWB but less than 100% of the TWB.

If the Integration Level used is equal to the Taxable Wage Base (TWB), the applicable percentage is 5.7%.

- (e) Overall Permitted Disparity Limit:
- (1) Annual Overall Permitted Disparity Limit: Notwithstanding the preceding paragraph, for any Plan Year this Plan benefits any Participant who benefits under another qualified plan or simplified employee pension, as defined in section 408(k) of the Code, maintained by the Employer that provides for permitted disparity (or imputes disparity), the Employer will contribute for each Participant who either completes more than 500 hours of service during the Plan Year or is employed on the last day of the Plan Year an amount equal to the excess contribution percentage multiplied by the Participant's total Compensation.
- (2) Cumulative Permitted Disparity Limit: The Cumulative Permitted Disparity Limit for a Participant is 35 total cumulative permitted disparity years. Total cumulative permitted years means the number of years credited to the Participant for allocation or accrual purposes under this Plan, any other qualified plan or simplified employee pension plan (whether or not terminated) ever maintained by the Employer. For purposes of determining the Participant's Cumulative Permitted Disparity Limit, all years ending in the same calendar year are treated as the same year. If the Participant has not benefited under a defined benefit or target benefit plan for any year beginning on or after January 1, 1994, the Participant has no cumulative disparity limit.

The allocation of the Employer Money Purchase contributions under this Section 3.05 may include forfeitures, if elected by the Employer in the Adoption Agreement.

**3.06 Cross-Testing Allocation Formulas:** (This Section applies to Non-Standardized Plans only.)

- (a) Participant Group Allocation method. If the Employer has elected the Participant Group Allocation method in the Adoption Agreement, then for purposes of determining the amount of Employer Contributions to be allocated to Employees' accounts, each eligible Employee of the Employer will be included in a Participant Allocation Group as defined in the Adoption Agreement .

The Employer will specify in written instructions to the Plan Administrator or the Trustee, by no later than the due date of the Employer's tax return for the year to which the Employer's Contribution relates, the portion of such contribution to be allocated to each separate Participant Allocation Group.

- (b) Age-Weighted Allocation Formula: If the Age Weighted Allocation method is elected in the Adoption Agreement, the total Employer contribution will be allocated to each eligible Employee such that the equivalent benefit accrual rate for each Participant is identical. The

equivalent benefit accrual rate is the annual annuity commencing at the Participant's testing age, expressed as a percentage of the Participant's Compensation as defined in section 14.39 of the Plan which is provided from the allocation of Employer contributions and forfeitures for the Plan Year, using standardized actuarial assumptions that satisfy section 1.401(a)(4)-12 of the Income Tax Regulations. The Employee's testing age is the later of Normal Retirement Age, or the Employee's current age.

(c) An Employee's individual allocation will satisfy the following additional allocation rules.

- (1) Minimum Allocation Gateway: Any allocation of contributions under either the Participant Group Allocation Method or the Age Weighted Allocation Formula must satisfy the minimum allocation gateway:

Each eligible NHCE must have an allocation rate that is not less than the lesser of 5%, or one-third of the allocation rate of the HCE with the highest allocation rate. An allocation rate is the amount of contributions allocated to an Employee for a year, expressed as a percentage of Compensation, as defined in section 14.39 of the Plan.

- (2) Employer Contributions designated for a particular Allocation Group will be allocated only to Participants in that Allocation Group. The allocation for each Participant in the Allocation Group is determined by multiplying the Contribution to be allocated by the following fraction:

$$\frac{\text{Participant's Compensation}}{\text{The Compensation of all Participants in the Allocation Group}}$$

- (3) Employer Contributions not designated for a particular Allocation Group will be allocated to all Participants. The allocation for each Participant is determined by multiplying the Contribution to be allocated under this paragraph by the following fraction:

$$\frac{\text{Participant's Compensation}}{\text{The Compensation of all Participants}}$$

- (4) Forfeitures allocated as Employer Contributions shall be allocated in accordance with Section 3.06(c)(3) above.

- (d) Operation of IRC §415 Limits. If any amount designated for an Allocation Group cannot be allocated to a particular Participant within the Allocation Group because of the limits applied by IRC §415, the excess amount shall be allocated to the remaining Participant(s) within the Allocation Group, using the same allocation fraction except that the Participant or Participants who have reached the IRC §415 limit are disregarded in the denominator of the fraction. If all Participants within the Allocation Group have reached the IRC §415 limit, and there remains an unallocated portion of the Contribution designated for the Allocation Group, the unallocated portion will be allocated in accordance with Section 3.06(c)(3) above, unless other provisions of the Plan require disposition of the excess amount in another manner.

**3.07 Timing of Employer Contributions:** For purposes of this Article III, any Employer Contributions to the Plan for a given Plan Year made after the close of the Plan Year but by the due date of the Employer's federal income tax return, including extensions, will be considered to have been made on the last Valuation Date of such Plan Year. All contributions must be made in cash unless otherwise permitted by the Code and the regulations thereunder and agreed to by the Trustee or Custodian.

**3.08 Correction of Allocations:**

- (a) In the event that the Plan Administrator learns that allocations have not been made on behalf of an Employee for whom an allocation should have been made pursuant to the terms of this Plan, the Participant's account for such Employee shall be restored to its proper balance as soon as is reasonably possible. Restoration may be accomplished by allocating to the account amounts necessary to restore the account from the following sources:

- (1) First, from forfeitures for the Plan Year in which the account is restored;
- (2) Next, from Employer Contributions for the Plan Year in which the account is restored.
- (3) Finally, from additional Employer Contributions.

- (b) In the event that the Plan Administrator learns that contributions or allocations have been made on behalf of an Employee for whom allocations should not have been made pursuant to the terms of the Plan; and if such contributions were made pursuant to a mistake of fact, such contributions shall be returned to the Employer within one year of the contributions. Earnings attributable to the mistaken contribution shall not be returned to the Employer, but losses attributable to the mistaken contribution shall reduce the amount to be returned to the Employer.

- (c) In the event that the Plan Administrator learns that contributions or allocations have been made on behalf of an Employee for whom allocations should not have been made pursuant to the terms of the Plan; and such contribution is not a mistake of fact, the Employer may forfeit the allocation.

Notwithstanding the above, if the Employee Plans Compliance Resolution System (EPCRS) under Revenue Procedure 2019-19 outlines an alternative method of correction, such method must be followed.

**3.09 Special Nondiscrimination Allocation:**

With respect only to nonstandardized plans and notwithstanding any provision of the Plan or Adoption Agreement to the contrary, for Plan Years beginning after December 31, 1989, if the Plan would otherwise fail to satisfy the requirements of section 410(b)(1) (A) and (B) of the Code and the regulations thereunder because the Plan fails to satisfy the ratio percentage tests described in section 410(b)(1) of the Code as of the last day of any such Plan Year, an additional contribution shall be made by the Employer and shall be allocated to the Employer Accounts of affected Participants subject to the following provisions. The ratio percentage test is satisfied if on the last day of the Plan Year, taking into account all employees or former employees who were employed by the Employer on any day during the Plan Year, either the Plan benefits at least 70 percent of Employees who are not Highly Compensated Employees or the Plan benefits a percentage of Employees who are not Highly Compensated Employees which is at least 70 percent of the percentage of Highly Compensated Employees, benefiting under the Plan.

- (a) The Participants eligible to share in the allocation of the Employer's contribution shall be expanded to include the minimum number of

Participants who are not otherwise eligible to the extent necessary to satisfy the applicable test under the relevant section of the Code. The specific Participants who shall become eligible are those Participants who are actively employed on the last day of the Plan Year who have completed the greatest number of Hours of Service and earned the greatest amount of compensation during the Plan Year.

- (b) If the applicable test is still not satisfied, the Participants eligible to share in the allocation shall be further expanded to include the minimum number of Participants who are not employed on the last day of the Plan Year as are necessary to satisfy the applicable test. The specific Participants who shall become eligible are those Participants who have completed the greatest number of Hours of Service during the Plan Year.
  - (c) A Participant's accrued benefit shall not be reduced by any reallocation of amounts that have previously been allocated. To the extent necessary, the Employer shall make an additional contribution equal to the amount such affected Participants would have received if they had originally shared in the allocations without regard to the deductibility of the contribution. Any adjustment to the allocations pursuant to this paragraph shall be considered a retroactive amendment adopted by the last day of the Plan Year.
- 3.10 **Uniform Points Allocation Formula:** With respect only to nonstandardized plans and if elected in the Adoption Agreement, the Employer shall allocate contributions and forfeitures, pursuant to the Uniform Points Allocation Formula selected.

3.11 **Contribution Allocation for Davis Bacon Act Plans:** If so elected in the Adoption Agreement, the following special rules shall apply:

- (a) Prevailing Wage Employee shall mean any person employed by the Employer who is working on a public construction project that is subject to the Davis-Bacon Act (40 U.S.C. section 276(a) et. seq.) or any similar federal, state, local or municipal statute that requires the Employer to pay its employees on that project at wage rates not less than those determined to be prevailing wage rates in the geographical area where that project is located.
- (b) Notwithstanding any provision of the Plan to the contrary, each year that a Prevailing Wage Employee is eligible to share in contributions, the Employer will contribute to the Plan an amount equal to the balance of the prevailing wage and fringe benefit payment for health and welfare as set forth on the Secretary of Labor's Register of Wage Determinations under the Davis-Bacon Act or any similar federal, state, local or municipal statute that requires the Employer to pay its Employees on that project at wage rates not less than those determined to be prevailing wage rates in the geographical area where that project is located, as in effect for the particular contract under which the Prevailing Wage Employee is performing services after deducting the amount of wages, if so permitted under such statute, and the cost of providing health and welfare and/or fringe benefits including any differential payments. The annual amount of such contribution shall be an amount contributed for each hour a Participant works which corresponds to the Participant's job classification and the construction project where the work was performed. The total contributions for any Participant for any Plan Year will not exceed 25% of that Participant's Compensation for that Plan Year. Such allocation shall be described in the Adoption Agreement.
- (c) Only immediate eligibility is permitted in the program. Prevailing Wage contributions are immediately fully vested.

#### **ARTICLE IV EMPLOYEE CONTRIBUTIONS**

4.01 **Rollover and Transfer Contributions:** If so elected in the Adoption Agreement, the Plan may accept rollover and/or transfer contributions. Such Rollover and/or transfer may be made by an Employee who has not become a Participant under the Plan, if elected by the Employer in the Adoption Agreement. The Plan Administrator may require written documentation that such rollover and/or transfer would qualify as an allowable transfer or rollover contribution by the Participant. Such rollover and transfer contributions shall be made without regard to the limitations specified in Section 14.45 of the Plan.

4.02 **Employee Nondeductible Contributions/After-Tax Contributions:**

- (a) If elected in the Adoption Agreement, this Plan will accept Employee Nondeductible Contributions and/or Employee Mandatory Contributions. Employee Nondeductible Contributions for Plan Years beginning after December 31, 1986, together with any matching contributions as defined in section 401(m) of the Code, will be limited so as to meet the nondiscrimination test of section 401(m).
- (b) If this Plan accepts Employee Nondeductible Contributions for any Plan Year, one of the following provisions must be adopted uniformly by the Plan Administrator for such Plan Years:
  - (1) A separate account or separate accounting will be maintained by the Trustee for the Employee Nondeductible and/or Mandatory Contributions of each Participant; or
  - (2) The account balance derived from Employee Nondeductible and/or Mandatory Contributions is the Employee's total account balance multiplied by a fraction, the numerator of which is the total amount of Employee Nondeductible Contributions less withdrawals and the denominator of which is the sum of the numerator and the total contributions made by the Employer on behalf of the Employee less withdrawals. For this purpose, contributions include contributed amounts used to provide ancillary benefits and withdrawals include only amounts distributed to the Employee and do not reflect the cost of any death benefits.

Employee Nondeductible and/or Mandatory Contributions and earnings thereon will be nonforfeitable at all times. The amount and any limitations for Employee Nondeductible and/or Mandatory Contributions shall be disclosed prior to the Employee's Entry Date.

4.03 **Deductible Voluntary Employee Contributions:** The Plan Administrator will not accept deductible employee contributions which are made for a taxable year beginning after December 31, 1986. Contributions made prior to that date will be maintained in a separate account which will be nonforfeitable at all times. The account will share in the gains and losses under the Plan in the same manner as described in the Trust/Custodial Agreement. No part of the deductible voluntary contribution account will be used to purchase life insurance. Subject to Article IX, Joint and Survivor Annuity requirements (if applicable), the Participant may withdraw any part of the deductible voluntary contribution account by making a written application to the Plan Administrator.

#### **ARTICLE V VESTING AND FORFEITURES**

5.01 **Vested Account Balances:**

- (a) A Participant's accounts consisting of Employee Nondeductible Contributions, rollover/transfer contributions, and deductible employee



contributions, as adjusted for any earnings and losses, shall be fully vested and nonforfeitable at all times.

- (b) A Participant's vested interest in his or her Employer Contribution Account shall be determined according to the vesting schedule specified in the Adoption Agreement or in Section 11.01. Notwithstanding any such vesting schedule, a Participant's Employer Contribution Account shall be fully vested at Disability, Death and at Normal or Early Retirement Age.

**5.02 Vesting at Termination:**

- (a) When a Participant's employment is terminated for any reason, the vested interest in his or her Participant's accounts shall be determined pursuant to Section 5.01. The Participant's vested interest in such accounts will become distributable in accordance with Article X. Any unvested amount will become a "Forfeiture", and will be allocated pursuant to Section 5.07.
- (b) If a Participant terminates employment and elects to receive less than his or her entire vested interest in the Plan (pursuant to Section 5.04(b)) derived from Employer contributions, the part of the nonvested portion that will be a Forfeiture is the total nonvested portion multiplied by a fraction, the numerator of which is the amount of the distribution attributable to Employer Contributions and the denominator of which is the total value of the vested interest on the Participant's Employer Contribution Account.

**5.03 Computation of Vested Account Balance:**

- (a) Service will be computed on the basis designated by the Employer in the Adoption Agreement or specified in Section 11.01. Except where specifically excluded under this Article V, all of the Employee's Year of Service will be taken into account for purposes of vesting, including (1) Years of service for employment with an employer required to be aggregated with the Employer under section 414(b), (c), (m), or (o) of the Code; (2) Years of Service for an employee required under section 414(n) or 414(o) of the Code to be considered any employee of any employer aggregated with the Employer under section 414(b), (c), or (m) of the Code; (3) Years of Service with the predecessor Employer, if the Adoption Agreement allows and the Employer so specifies; and (4) Years of Service with the predecessor employer during the time a qualified plan was maintained, if the Adoption Agreement allows and the Employer so specifies.
- (b) The Employer shall designate in the Adoption Agreement the period described in either (1) or (2) below as the Vesting Computation Period:
  - (1) For purposes of computing the Employee's nonforfeitable right to the account balance derived from Employer Contributions, Years of Service and Breaks in Service will be measured by the Plan Year.
  - (2) For purposes of determining Years of Service and Breaks in Service for purposes of computing an Employee's nonforfeitable right to the account balance derived from Employer Contributions, the 12-consecutive month period will commence on the date the Employee first performs an Hour of Service and each subsequent 12-consecutive month period will commence on the anniversary of such date.
- (c) In the case of a Participant who has incurred a 1-year Break in Service, Years of Service before such break will not be taken into account until the Participant has completed a Year of Service after such Break in Service.

**5.04 Distributions and Deemed Distributions:**

- (a) If an Employee terminates service, and the value of the Employee's vested account balance derived from Employer and Employee Contributions is not greater than \$5,000 (or such lesser amount as selected by the Employer in the Adoption Agreement), the Employee will receive a distribution of the value of the entire vested portion of such account balance and the nonvested portion will be treated as a forfeiture. If an Employee would have received a distribution under the preceding sentence but for the fact that the Employee's vested account balance exceeded \$5,000 (or such lesser amount as selected by the Employer in the Adoption Agreement) when the Employee terminated service and if at a later time such account balance is reduced such that it is not greater than \$5,000 (or such lesser amount as selected by the Employer in the Adoption Agreement), the Employee will receive a distribution of such account balance and the nonvested portion will be treated as a forfeiture. For purposes of this Section, if the value of an Employee's vested account balance is zero, the Employee shall be deemed to have received a distribution of such vested account balance. A Participant's vested account balance shall not include: (1) accumulated deductible employee contributions within the meaning of section 72(o)(5)(B) of the Code for Plan Years beginning prior to January 1, 1989, and (2) if elected by the Employer in the Adoption Agreement, the portion of the amount balance that is attributable to rollover contributions (and earnings allocable thereto) within the meaning of §402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16) of the Code.
- (b) If an Employee terminates service, and elects, in accordance with the requirements of Section 10.03, to receive the value of the Employee's vested account balance, the nonvested portion will be treated as a forfeiture. If the Employee elects to have distributed less than the entire vested portion of the account balance derived from Employer Contributions, the part of the nonvested portion that will be treated as a forfeiture is the total nonvested portion multiplied by a fraction, the numerator of which is the amount of the distribution attributable to Employer Contributions and the denominator of which is the total value of the vested Employer derived account balance.
- (c) If forfeitures are delayed pursuant to Section 5.07(d) of the Plan, and a distribution is made at a time when a Participant has a nonforfeitable right to less than 100 percent of the account balance derived from Employer Contributions and the Participant may increase the nonforfeitable percentage in the account:
  - (1) A separate account will be established for the Participant's interest in the Plan as of the time of the distribution, and
  - (2) At any relevant time the Participant's nonforfeitable portion of the separate account will be equal to an amount ("X") determined by the formula:  
$$X = P(AB + (R \times D)) - (R \times D)$$

For purposes of applying the formula: P is the nonforfeitable percentage at the relevant time, AB is the account balance at the relevant time, D is the amount of the distribution, and R is the ratio of the account balance at the relevant time to the account balance after distribution.

**5.05 Buyback Provisions:**

- (a) If a former Participant is reemployed by the Employer before the former Participant incurs five consecutive 1-year Breaks in Service, and such former Participant has received a distribution of all or any portion of the vested amount in his account derived from Employer Contributions prior to his reemployment, any forfeited amounts shall be restored to the amount on the date of distribution if he repays the full amount distributed to him, other than his Employee Nondeductible Contributions and his rollover and transfer contributions, before the earlier of 5 years after the first date on which the Participant is subsequently reemployed by the Employer, or the date the Participant incurs five consecutive 1-year Breaks in Service after the date of the distribution.
- (b) If a former Participant is reemployed by the Employer before the former Participant incurs five consecutive 1-year Breaks in Service, and

such former Participant was deemed to have received a distribution of the entire vested amount in his account prior to his reemployment, he shall be deemed to have repaid the amount of the deemed distribution, and any amounts forfeited on the date of deemed distribution shall be restored.

5.06 **Vesting for Pre-Break and Post-Break Account:** In the case of a Participant who has 5 or more consecutive 1-year Breaks in Service, all service after such Breaks in Service will be disregarded for the purpose of vesting the employer-derived account balance that accrued before such Breaks in Service. Such Participant's pre-break service will count in vesting the post-break employer-derived account balance only if either:

- (a) Such Participant has any nonforfeitable interest in the account balance attributable to Employer Contributions at the time of separation from service; or
- (b) Upon returning to service, the number of consecutive 1-year Breaks in Service is less than the number of Years of Service. Separate accounts will be maintained for the Participant's pre-break and post-break employer derived account balance. Both accounts will share in the earnings and losses of the fund.

5.07 **Treatment and Allocations of Forfeitures:**

- (a) Pursuant to the Employer's election in the Adoption Agreement, forfeitures under this Plan shall be treated as follows:
  - (1) Any forfeitures will be allocated to Participants in the manner described in Article III;
  - (2) Any forfeitures occurring will reduce Employer Contributions for the next Plan Year; or
  - (3) If the Employer has adopted a Profit-Sharing Plan which contains a cash or deferred arrangement, any forfeitures occurring will reduce Employer Matching Contributions and any remainder allocated in addition to Employer Contributions.
  - (4) If elected by the Employer in the Adoption Agreement, forfeitures occurring in a Plan Year for which an integrated allocation formula is maintained may be allocated based on a ratio of the Participant's Compensation to the total Compensation of the Plan's Participants.
- (b) Notwithstanding the Employer's election in the Adoption Agreement, before allocations are made pursuant to 5.07(a) above, forfeitures may first be used to restore Participant's accounts pursuant to Sections 5.05 and 5.07(d) of the Plan; next to reduce administrative expenses; and the remainder allocated pursuant to (1), (2), (3) or (4) above.
- (c) If the Plan provides for an integrated contribution formula, forfeitures will be allocated in accordance with the allocation formula under the Plan.
- (d) Forfeitures arising because a Participant incurs 5 consecutive 1-year Breaks in Service shall be allocated as of the last day of the Plan Year in which the 5th such one year Break in Service occurs. Forfeitures arising under Section 5.04 because of a total or partial distribution of a Participant's vested benefit, shall be allocated pursuant to the Employer's election in the Adoption Agreement as of the last day of the Plan Year which is concurrent with or next follows the:
  - (1) Employee's termination of employment;
  - (2) Employee having incurred a 1-year Break in Service;
  - (3) Employee having incurred 2 consecutive 1-year Breaks in Service; or
  - (4) Employee having incurred 5 consecutive 1-year Breaks in Service.
- (e) Effective for Plan Years beginning after the adoption of the 2010 Cumulative List (Notice 2010-90) restatement, Forfeitures cannot be used as Qualified Nonelective Contributions, Qualified Matching Contributions, Elective Deferrals, or ADP Test Safe Harbor Contributions.

5.08 **Forfeitures - Withdrawal of Employee Contributions:** No Forfeitures will occur solely as a result of an Employee's withdrawal of Employee Contributions.

5.09 **Missing Participants:** If a benefit is forfeited because the Participant or Beneficiary cannot be found, such benefit will be reinstated if a claim is made by the Participant or Beneficiary.

## ARTICLE VI LIMITATIONS ON ALLOCATIONS

6.01 **No Participation in Another Qualified Plan.** If the Participant does not participate in, and has never participated in another qualified plan maintained by the Employer, or a welfare benefit fund, as defined in section 419(e) of the Code maintained by the Employer, or an individual medical account, as defined in section 415(l)(2) of the Code, maintained by the Employer, or a simplified employee pension, as defined in section 408(k) of the Code, maintained by the Employer, which provides an Annual Addition as defined in Section 14.38 of the Plan, the amount of Annual Additions which may be credited to the Participant's account for any Limitation Year will not exceed the lesser of the Maximum Permissible Amount or any other limitation contained in this Plan. If the Employer Contribution that would otherwise be contributed or allocated to the Participant's account would cause the Annual Additions for the Limitation Year to exceed the Maximum Permissible Amount, the amount contributed or allocated will be reduced so that the Annual Additions for the Limitation Year will equal the Maximum Permissible Amount.

6.02 **Participation in Another Pre-Approved Plan:** This Section applies if, in addition to this Plan, the Participant is covered under another qualified Pre-Approved Defined Contribution Plan maintained by the Employer, a welfare benefit fund maintained by the Employer, an individual medical account maintained by the Employer, or a simplified employee pension maintained by the Employer, that provides an Annual Addition as defined in Section 14.38 of the Plan, during any Limitation Year. The Annual Additions which may be credited to a Participant's account under this Plan for any such Limitation Year will not exceed the Maximum Permissible Amount reduced by the Annual Additions credited to a Participant's account under the other qualified Pre-Approved defined contribution plans, welfare benefit funds, individual medical account, and simplified employee pensions for the same Limitation Year. If the Annual Additions with respect to the Participant under other qualified Pre-Approved defined contribution plans and welfare benefit funds, individual medical accounts, and simplified employee pensions maintained by the Employer are less than the Maximum Permissible Amount and the Employer Contribution that would otherwise be contributed or allocated to the Participant's account under this Plan would cause the Annual Additions for the Limitation Year to exceed this limitation, the amount contributed or allocated will be reduced so that the Annual Additions under all such plans and funds for the Limitation Year will equal the Maximum Permissible Amount. If the

Annual Additions with respect to the Participant under such other qualified Pre-Approved defined contribution plans, welfare benefit funds, individual medical accounts, and simplified employee pensions in the aggregate are equal to or greater than the Maximum Permissible Amount, no amount will be contributed or allocated to the Participant's account under this Plan for the Limitation Year.

- 6.03 **Participation in Another Defined Contribution Plan Which is Not a Pre-Approved Plan:** If the Participant is covered under another qualified defined contribution plan maintained by the Employer which is not a Pre-Approved Plan, Annual Additions which may be credited to the Participant's account under this Plan for any Limitation Year will be limited in accordance with this section as though the other plan were a Pre-Approved Plan unless the Employer provides other limitations in the "Overriding Language for Multiple Plans" Section of the Adoption Agreement.
- 6.04 **Restorative payments.** Annual additions for purposes of Code section 415 shall not include restorative payments. A restorative payment is a payment made to restore losses to a Plan resulting from actions by a fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under ERISA or under other applicable federal or state law, where participants who are similarly situated are treated similarly with respect to the payments. Generally, payments are restorative payments only if the payments are made in order to restore some or all of the plan's losses due to an action (or a failure to act) that creates a reasonable risk of liability for such a breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). This includes payments to a plan made pursuant to a Department of Labor order, the Department of Labor's Voluntary Fiduciary Correction Program, or a court-approved settlement, to restore losses to a qualified defined contribution plan on account of the breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). Payments made to the Plan to make up for losses due merely to market fluctuations and other payments that are not made on account of a reasonable risk of liability for breach of a fiduciary duty under ERISA are not restorative payments and generally constitute contributions that are considered annual additions.
- 6.05 **Date of tax-exempt Employer contributions.** Notwithstanding anything in the Plan to the contrary, in the case of an Employer that is exempt from Federal income tax (including a governmental employer), Employer contributions are treated as credited to a participant's account for a particular limitation year only if the contributions are actually made to the plan no later than the 15th day of the tenth calendar month following the end of the calendar year or fiscal year (as applicable, depending on the basis on which the employer keeps its books) with or within which the particular limitation year ends.
- 6.06 **Change of limitation year.** The limitation year may only be changed by a Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's limitation year, then the Plan is treated as if the Plan had been amended to change its limitation year.
- 6.07 **Excess Annual Additions.** Notwithstanding any provision of the Plan to the contrary, if the annual additions (within the meaning of Code section 415) are exceeded for any participant, then the Plan may only correct such excess in accordance with the Employee Plans Compliance Resolution System (EPCRS) as set forth in Revenue Procedure 2013-12 or any superseding guidance, including, but not limited to, the preamble of the final section 415 regulations.

## ARTICLE VII ADMINISTRATION OF PLAN

- 7.01 **Responsibilities of Employer:** The Employer shall have the following responsibilities with respect to administration of the Plan:
- (a) The Employer shall appoint a Plan Administrator to administer the Plan. In absence of such an appointment, the Employer shall serve as Plan Administrator. The Employer may remove and reappoint a Plan Administrator from time to time.
  - (b) The Employer may in its discretion appoint an Investment Manager to manage all or a designated portion of the assets of the Plan. In such event, the Trustee shall follow the directive of the Investment Manager in investing the assets of the Plan managed by the Investment Manager.
  - (c) The Employer shall, formally or informally, review the performance from time to time of persons appointed by it or to which duties have been delegated by it, such as the Trustee, and Plan Administrator.
  - (d) The Employer shall supply the Plan Administrator in a timely manner with all information necessary for it to fulfill its responsibilities under the Plan. The Plan Administrator may rely upon such information and shall have no duty to verify it.
- 7.02 **Rights and Responsibilities of Plan Administrator:** The Plan Administrator shall administer the Plan according to its terms for the exclusive benefit of Participants, former Participants, and their Beneficiaries.
- (a) The Plan Administrator's responsibilities shall include but not be limited to the following:
    - (1) Determining all questions relating to the eligibility of Employees to participate or remain Participants hereunder.
    - (2) Computing, certifying and directing the Trustee with respect to the amount and form of benefits to which a Participant may be entitled hereunder.
    - (3) Authorizing and directing the Trustee with respect to disbursements from the Trust Fund.
    - (4) Maintaining all necessary records for administration of the Plan.
    - (5) Interpreting the provisions of the Plan and preparing and publishing rules and regulations for the Plan which are not inconsistent with its terms and provisions.
    - (6) Complying with any reporting, disclosure and notice requirements of the Code and ERISA.
  - (b) In order to fulfill its responsibilities, the Plan Administrator shall have all powers necessary or appropriate to accomplish his duties under the Plan, including the power to determine all questions arising in connection with the administration, interpretation and application of the Plan. Any such determination shall be conclusive and binding upon all persons. However, all discretionary acts, interpretations and constructions shall be done in a nondiscriminatory manner based upon uniform principles consistently applied. No action shall be taken which would be inconsistent with the intent that the Plan remains qualified under section 401(a) of the Code. The Plan Administrator is specifically authorized to employ or retain suitable employees, agents, and counsel as may be necessary or advisable to fulfill its responsibilities hereunder, and to pay their reasonable compensation, which shall be reimbursed from the Trust Fund if not paid by the Employer within thirty days after the Plan Administrator advises the Employer of the amount owed.
  - (c) The Plan Administrator shall serve as the designated agent for legal process under the Plan.

7.03 **Benefit Claims Procedure:**

- (a) Any claim for benefits under the Plan shall be made in writing to the Plan Administrator. If such claim for benefits is wholly or partially denied, the Plan Administrator shall, within thirty (30) days after receipt of the claim, notify the Participant or Beneficiary of the denial of the claim. Such notice of denial shall:
  - (1) Be in writing;
  - (2) Be written in a manner calculated to be understood by the Participant or Beneficiary, and
  - (3) Contain:
    - (A) The specific reason or reasons for denial of the claim,
    - (B) A specific reference to the pertinent Plan provisions upon which the denial is based,
    - (C) A description of any additional material or information necessary to perfect the claim, along with an explanation of why such material or information is necessary, and
    - (D) An explanation of the claim review procedure in accordance with the provisions of this Article.
- (b) Within sixty (60) days after the receipt by the Participant or Beneficiary of a written notice of denial of the claim, or such later time as shall be deemed reasonable taking into account the nature of the benefit subject to the claim and any other attendant circumstances, the Participant or Beneficiary may file a written request with the Plan Administrator that it conduct a full and fair review of the denial of the claim for benefits.
- (c) The Plan Administrator shall deliver to the Participant or Beneficiary a written decision on the claim within thirty (30) days after the receipt of the aforementioned request for review, except that if there are special circumstances (such as the need to hold a hearing, if necessary) which require an extension of time for processing, the aforementioned thirty (30) day period shall be extended to sixty (60) days. Such decisions shall:
  - (1) Be written in a manner calculated to be understood by the Participant or Beneficiary,
  - (2) Include the specific reason or reasons for the decision, and
  - (3) Contain a specific reference to the pertinent Plan provisions upon which the decision is based.
- (d) The decision of the Plan Administrator shall be final and binding on all parties, unless determined by a court of competent jurisdiction to be arbitrary and capricious.

**ARTICLE VIII  
TOP HEAVY PROVISIONS**

8.01 **In General:** If the Plan is or becomes Top-Heavy in any Plan Year beginning after December 31, 1983, the provisions of this Article will supersede any conflicting provisions in the Plan or Adoption Agreement.

8.02 **Minimum Allocation:**

- (a) Except as provided in (c) and (d) below, the Employer Contributions and Forfeitures allocated on behalf of any Participant who is not a Key Employee (or on behalf of all Participants, if elected in the Adoption Agreement) shall not be less than the lesser of three percent of such Participant's Compensation or in the case where the Employer has no defined benefit plan which designates this plan to satisfy section 401 of the Code, the largest percentage of employer contributions and forfeitures, as a percentage of Key Employee's Compensation, as limited by section 401(a)(17) of the Code, allocated on behalf of any Key Employee for that year. The minimum allocation is determined without regard to any Social Security contribution. This minimum allocation shall be made even though, under other plan provisions, the Participant would not otherwise be entitled to receive an allocation, or would have received a lesser allocation for the year because of (1) the Participant's failure to complete 1,000 hours of service (or any equivalent provided in the Plan), or (2) the Participant's failure to make mandatory employee contributions to the plan, or (iii) Compensation less than a stated amount.
- (b) For purposes of computing the minimum allocation, Compensation shall mean Compensation as defined in Section 14.39 as limited by section 401(a)(17) of the Code.
- (c) The provisions in (a) above shall not apply to any Participant who was not employed by the Employer on the last day of the Plan Year.
- (d) The provision in (a) above shall not apply to any Participant to the extent the Participant is covered under any other plan or plans of the Employer and the Employer has provided in the Adoption Agreement that the minimum allocation or benefit requirement applicable to Top Heavy plans will be met in the other plan or plans, and the Participant receives the minimum allocation or benefit under such plan or plans.
- (e) Effective January 1, 2002, Matching Contributions on behalf of keys and non-key Employees may be used to satisfy the Top-Heavy Minimum Contribution requirement. Elective Deferrals by Key Employees are also used to satisfy the Top-Heavy Minimum Contribution requirement. A QNEC is treated as a contribution for purposes of the Top-Heavy Minimum Contribution requirement. A QNEC is an employer contribution which can be used to satisfy the actual deferral percentage (ADP) or average contribution percentage (ACP) tests, but is not a matching contribution
- (f) Effective for Plan Years after 12/31/2007, the term "Top-Heavy plan" shall not include a plan which consists solely of a cash or deferred arrangement which meets the requirements of section 401(k)(12) or 401(k)(13), and matching contributions with respect to which the requirements of section 401(m)(11) or 401(m)(12) are met.
- (g) Effective for Plan Years after 12/31/2007, a plan excluded under provision (f) above would be treated as a Top-Heavy plan because it is a member of an aggregation group which is a Top-Heavy group, contributions under the plan may be taken into account in determining whether any other plan in the group meets the requirements listed in provision (a) above.

8.03 **Nonforfeitable of Minimum Allocation:** The minimum allocation required (to the extent required to be nonforfeitable under section 416(b)) may not be forfeited under section 411(a)(3)(B) or 411(a)(3)(D).

8.04 **Minimum Vesting Schedules:** For any Plan Year in which this Plan is Top-Heavy, one of the minimum vesting schedules as elected by the Employer in the Adoption Agreement will automatically apply to the Plan. The minimum vesting schedule applies to all benefits within the meaning of section 411(a)(7) of the Code except those attributable to Employee Nondeductible Contributions, including benefits accrued before the effective

date of section 416 and benefits accrued before the Plan became Top-Heavy. Further, no decrease in a Participant's nonforfeitable percentage may occur in the event the plan's status as Top-Heavy changes for any Plan Year. However, this Section does not apply to the account balances of any Employee who does not have an Hour of Service after the Plan has initially become Top-Heavy and such Employee's account balance attributable to Employer Contributions and Forfeitures will be determined without regard to this Section.

## ARTICLE IX JOINT AND SURVIVOR ANNUITY REQUIREMENTS

- 9.01 **Applicability:** The provisions of this Article shall apply to any Participant who is credited with at least one hour of service with the Employer on or after August 23, 1984, and such other Participants as provided in Section 9.06.
- 9.02 **Qualified Joint and Survivor Annuity:** Unless an optional form of benefit is selected pursuant to a qualified election within the 180-day period (90-day period for Plan years beginning before January 1, 2007) ending on the annuity starting date, a married Participant's vested account balance will be paid in the form of a qualified joint and survivor annuity and an unmarried Participant's vested account balance will be paid in the form of a life annuity. The Participant may elect to have such annuity distributed upon attainment of the earliest retirement age under the Plan.
- 9.03 **Qualified Optional Survivor Annuity:** For Plan Years beginning after December 31, 2007, if a married participant elects to waive the qualified joint and survivor annuity, the participant may elect the qualified optional survivor annuity at any time during the applicable election period.
- 9.04 **Qualified Preretirement Survivor Annuity:** Unless an optional form of benefit has been selected within the election period pursuant to a qualified election, if a Participant dies before the annuity starting date then the Participant's vested account balance shall be applied toward the purchase of an annuity for the life of the surviving spouse. The surviving spouse may elect to have such annuity distributed within a reasonable period after the Participant's death. The surviving spouse shall have the right to revoke the annuity payment option if another form of benefit is elected by such surviving spouse.
- 9.05 **Notice Requirements:**

- (a) In the case of a Qualified Joint and Survivor Annuity, the Plan Administrator shall no less than 30 days and no more than 180 days (90 days for notices given in Plan Years beginning before January 1, 2007) prior to the Annuity Starting Date provide each Participant a written explanation of:
- (1) The terms and conditions of a Qualified Joint and Survivor Annuity and the Qualified Optional Survivor Annuity;
  - (2) The Participant's right to make and the effect of an election to waive the Qualified Joint and Survivor Annuity form of benefit;
  - (3) The rights of a Participant's spouse; and
  - (4) The right to make, and the effect of, a revocation of a previous election to waive the Qualified Joint and Survivor Annuity. The written explanation shall comply with the requirements of section 1.417(a)(3)-1 of the Income Tax Regulations.

The Annuity Starting Date for a distribution in a form other than a Qualified Joint and Survivor Annuity may be less than 30 days after receipt of the written explanation described in the preceding paragraph provided: (i) the Participant has been provided with information that clearly indicates that the Participant has at least 30 days to consider whether to waive the Qualified Joint and Survivor Annuity and elect (with spousal consent) to a form of distribution other than a Qualified Joint and Survivor Annuity; (ii) the Participant is permitted to revoke any affirmative distribution election at least until the Annuity Starting Date or, if later, at any time prior to the expiration of the 7-day period that begins the day after the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant; and (iii) the Annuity Starting Date is a date after the date that the written explanation was provided to the Participant.

- (b) In the case of a Qualified Preretirement Survivor Annuity as described in Section 9.04 of this Article, the Plan Administrator shall provide each Participant within the applicable period for such Participant a written explanation of the Qualified Preretirement Survivor Annuity in such terms and in such manner as would be comparable to the explanation provided for meeting the requirements of Section 9.05(a) applicable to a Qualified Joint and Survivor Annuity. The written explanation shall comply with the requirements of section 1.417(a)(3)-1 of the Income Tax Regulations.

The applicable period for a Participant is whichever of the following periods ends last:

- (1) The period beginning with the first day of the Plan Year in which the Participant attains age 32 and ending with the close of the Plan Year preceding the Plan Year in which the Participant attains age 35;
- (2) A reasonable period ending after the individual becomes a Participant;
- (3) A reasonable period ending after Section 9.045(c) ceases to apply to the Participant;
- (4) A reasonable period ending after this Article first applies to the Participant.

Notwithstanding the foregoing, notice must be provided within a reasonable period ending after separation from service in the case of a Participant who separates from service before attaining age 35.

For purposes of applying the preceding paragraph, a reasonable period ending after the enumerated events described in 9.05(b)(2), (3) and (4) is the end of the two-year period beginning one year prior to the date the applicable event occurs, and ending one year after that date. In the case of a Participant who separates from service before the Plan Year in which age 35 is attained, notice shall be provided within the two-year Period beginning one year prior to separation and ending one year after separation. If such Participant thereafter returns to employment with the Employer, the applicable period for such Participant shall be redetermined.

- (c) Notwithstanding the other requirements of this Section 9.05, the respective notices prescribed by this Section need not be given to a Participant if (1) the Plan "fully subsidizes" the costs of a Qualified Joint and Survivor Annuity or Qualified Preretirement Survivor Annuity, and (2) the Plan does not allow the Participant to waive the Qualified Joint and Survivor Annuity or Qualified Preretirement Survivor Annuity and does not allow a married Participant to designate a nonspouse Beneficiary. For purposes of this Section 9.05(c), a plan fully subsidizes the costs of a benefit if no increase in cost, or decrease in benefits to the Participant may result from the Participant's failure to elect another benefit.

**9.06 Safe Harbor Rules:**

- (a) This Section shall apply to a Participant in a Profit-Sharing Plan, and to any distribution, made on or after the first day of the first Plan Year beginning after December 31, 1988, from or under a separate account attributable solely to accumulated deductible employee contributions, as defined in section 72(o)(5)(B) of the Code, and maintained on behalf of a Participant in a money purchase pension plan (including a target benefit plan), if the following conditions are satisfied: (1) the Participant does not or cannot elect payments in the form of a life annuity; and (2) on the death of a Participant, the Participant's vested account balance will be paid to the Participant's surviving spouse, but if there is no surviving spouse, or if the surviving spouse has consented in a manner conforming to a qualified election, then to the Participant's Designated Beneficiary. The surviving spouse may elect to have distribution of the vested account balance commence within the 90-day period following the date of the Participant's death. The account balance shall be adjusted for gains or losses occurring after the Participant's death in accordance with the provisions of the Plan governing the adjustment of account balances for other types of distributions. If the plan provides for a separate accounting of the participant's benefits, these requirements need only apply to the separate account. This Section 9.06 shall not be operative with respect to a Participant in a Profit-Sharing Plan if the Plan is a direct or indirect transferee of a defined benefit plan, money purchase plan, target benefit plan, stock bonus, or profit-sharing plan which is subject to the survivor annuity requirements of sections 401(a)(11) and 417 of the Code. If this Section 9.06 is operative, then the provisions of this Article, other than Section 9.06, shall be inoperative.
- (b) The Participant may waive the spousal death benefit described in this Section at any time provided that no such waiver shall be effective unless it satisfies the conditions of Section 14.50 of the Plan (other than the notification requirement referred to therein) that would apply to the Participant's waiver of the Qualified Preretirement Survivor Annuity.
- (c) For purposes of this Section 9.06, "vested account balance" shall mean, in the case of a money purchase pension plan or a target benefit plan, the Participant's separate account balance attributable solely to accumulated deductible employee contributions within the meaning of section 72(o)(5)(B) of the Code. In the case of a profit-sharing plan, "vested account balance" shall have the same meaning as provided in Section 14.54 of the Plan.
- (d) If the Employer's Profit-Sharing Plan satisfies the requirements contained in section 9.06(a) above, with respect to a Participant in this Plan, such Plan is not required to provide a Qualified Joint and Survivor Annuity for such Participant. Such Plan may replace the Qualified Joint and Survivor Annuity with a payment of a single-sum distribution form of payment that is otherwise identical to such annuity in accordance with the requirements under Treasury Regulations 1.411(d)-4, Q&A 2(e).

**9.07 Transitional Rules:**

- (a) Any living Participant not receiving benefits on August 23, 1984, who would otherwise not receive the benefits prescribed by the previous Sections of this Article must be given the opportunity to elect to have the prior Sections of this Article apply if such Participant is credited with at least one hour of service under this Plan or a predecessor plan in a Plan Year beginning on or after January 1, 1976, and such Participant had at least 10 years of vesting service when he or she separated from service.
- (b) Any living Participant not receiving benefits on August 23, 1984, who was credited with at least one hour of service under this Plan or a predecessor Plan on or after September 2, 1974, and who is not otherwise credited with any service in a Plan Year beginning on or after January 1, 1976, must be given the opportunity to have his or her benefits paid in accordance with Section 9.07(d) of this Article.
- (c) The respective opportunities to elect (as described in Sections 9.07(a) and (b) above) must be afforded to the appropriate Participants during the period commencing on August 23, 1984, and ending on the date benefits would otherwise commence to said Participants.
- (d) Any Participant who has elected pursuant to Section 9.07(b) of this Article and any Participant who does not elect under Section 9.07(a) or who meets the requirements of Section 9.07(a) except that such Participant does not have at least 10 years of vesting service when he or she separates from service, shall have his or her benefits distributed in accordance with all of the following requirements if benefits would have been payable in the form of a life annuity:

(1) Automatic Joint and Survivor Annuity - If benefits in the form of a life annuity become payable to a married Participant who:

- (A) Begins to receive payments under the Plan on or after Normal Retirement Age; or
- (B) Dies on or after Normal Retirement Age while still working for the Employer; or
- (C) Begins to receive payments on or after the qualified early retirement age; or
- (D) Separates from service on or after attaining Normal Retirement Age (or the qualified early retirement age) and after satisfying the eligibility requirements for the payment of benefits under the Plan and thereafter dies before beginning to receive such benefits;

then such benefits will be received under this Plan in the form of a Qualified Joint and Survivor Annuity, unless the Participant has elected otherwise during the election period. The election period must begin at least 6 months before the Participant attains qualified early retirement age and end not more than 90 days before the commencement of benefits. Any election hereunder will be in writing and may be changed by the Participant at any time.

(2) Election of early survivor annuity - A Participant who is employed after attaining the qualified early retirement age will be given the opportunity to elect, during the election period, to have a survivor annuity payable on death. If the Participant elects the survivor annuity, payments under such annuity must not be less than the payments which would have been made to the spouse under the Qualified Joint and Survivor Annuity if the Participant had retired on the day before his or her death. Any election under this provision will be in writing and may be changed by the Participant at any time. The election period begins on the later of (A) the 90th day before the Participant attains the qualified early retirement age, or (B) the date on which participation begins, and ends on the date the Participant terminates employment.

(3) For purposes of this Section 9.07(d):

- (A) Qualified Early Retirement Age is the latest of:
  - (i) The earliest date, under the Plan, on which the Participant may elect to receive retirement benefits,
  - (ii) The first day of the 120th month beginning before the Participant reaches Normal Retirement Age, or
  - (iii) The date the Participant begins participation.

- (B) Qualified Joint and Survivor Annuity is an annuity for the life of the Participant with a survivor annuity for the life of the spouse as described in Section 14.51 of the Plan.

**ARTICLE X**  
**PAYMENT OF BENEFITS**

**10.01 Distributable Events:**

- (a) The vested amount of a Participant's account shall become payable to a Participant or his Beneficiary pursuant to this Article X as follows:
- (1) Upon actual retirement on or after the Participant's Normal Retirement Age.
  - (2) Upon the death of the Participant.
  - (3) Upon the Disability of the Participant.
  - (4) Upon the termination of the Participant's employment prior to retirement, death or Disability.
  - (5) If the Plan is a profit-sharing plan and if so elected by the Employer in the Adoption Agreement or specified in Section 11.01, the vested amount in a Participant's account may also be distributed under the in-service distribution rules of Section 10.04.
- (b) Distributions on account of any of the distributable events described above are subject to the restrictions in Section 10.03 below.

**10.02 Commencement of Benefits:** Notwithstanding any other provisions of this Plan or the Adoption Agreement, unless the Participant elects otherwise, distribution of benefits will begin no later than the 60th day after the latest of the close of the Plan Year in which:

- (a) The Participant attains the age of 65 (or normal retirement age, if earlier);
- (b) Occurs the 10th anniversary of the year in which the Participant commenced participation in the Plan; or
- (c) The Participant terminates service with the Employer.

Notwithstanding the foregoing, the failure of a Participant and spouse (if required) to consent to a distribution while a benefit is immediately distributable, within the meaning of Section 10.03 of the Plan, shall be deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy this Section.

**10.03 Restrictions on Immediate Distributions:**

- (a) **General Rule:**  
If payment in the form of a Qualified Joint and Survivor Annuity is required with respect to a Participant and either the value of a Participant's vested account balance derived from Employer and Employee Contributions exceeds \$5,000 or there are remaining payments to be made with respect to a particular distribution option that previously commenced, and the account balance is immediately distributable, the Participant must consent to any distribution of such account balance.

If payment in the form of a Qualified Joint and Survivor Annuity is not required with respect to a Participant and the value of a Participant's vested account balance derived from Employer and Employee Contributions exceeds \$5,000, and the account balance is immediately distributable, the Participant must consent to any distribution of such account balance.

The consent of the participant and the participant's spouse shall be obtained in writing within the 180-day period (90-day period for Plan Years beginning before January 1, 2007) ending on the annuity starting date. The annuity starting date is the first day of the first period for which an amount is paid as an annuity or any other form. The plan administrator shall notify the participant and the participant's spouse of the right to defer any distribution until the participant's account balance is no longer immediately distributable and, for Plan years beginning after December 31, 2006, the consequences of failing to defer any distribution. Such notification shall include a general description of the material features, and an explanation of the relative values of, the optional forms of benefit available under the plan in a manner that would satisfy the notice requirements of § 417(a) (3), and a description of the consequences of failing to defer a distribution, and shall be provided no less than 30 days and no more than 180 days (90-day period for Plan Years beginning before January 1, 2007) prior to the annuity starting date. However, distribution may commence less than 30 days after the notice described in the preceding sentence is given, provided the distribution is one to which § 401(a) (11) and 417 of the Internal Revenue Code do not apply, the plan administrator clearly informs the participant that the participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and the participant, after receiving the notice, affirmatively elects a distribution.

- (b) Notwithstanding the foregoing, only the Participant needs to consent to the commencement of a distribution in the form of a Qualified Joint and Survivor Annuity while the account balance is immediately distributable. (Furthermore, if payment in the form of a Qualified Joint and Survivor Annuity is not required with respect to the Participant pursuant to Section 9.05 of the Plan, only the Participant needs to consent to the distribution of an account balance that is immediately distributable.) Neither the consent of the Participant nor the Participant's spouse shall be required to satisfy section 401(a)(9) or section 415 of the Code. In addition, upon termination of this Plan if the Plan does not offer an annuity option (purchased from a commercial provider) and if the Employer or any entity within the same controlled group as the Employer does not maintain another defined contribution plan (other than an employee stock ownership plan as defined in section 4975(e)(7) of the Code), the Participant's account balance may, without the Participant's consent, be distributed to the Participant. However, if any entity within the same controlled group as the Employer maintains another defined contribution plan (other than an employee stock ownership plan as defined in section 4975(e)(7) of the Code) then the Participant's account balance will be transferred, without the Participant's consent, to the other plan if the Participant does not consent to an immediate distribution.
- (c) An account balance is immediately distributable if any part of the account balance could be distributed to the Participant (or surviving spouse) before the Participant attains (or would have attained if not deceased) the later of normal retirement age or age 62.
- (d) For purposes of determining the applicability of the foregoing consent requirements to distributions made before the first day of the first Plan Year beginning after December 31, 1988, the Participant's Vested Account Balance shall not include amounts attributable to accumulated deductible employee contributions within the meaning of section 72(o)(5)(B) of the Code.
- (e) Transitional Rules for Cash Out Limits.

- (1) In general. This Section provides transitional rules with regard to the cash out limits for distributions made prior to October 17, 2000.
- (2) Distributions subject to section 417 of the Code. If payment in the form of a Qualified Joint and Survivor Annuity is required with regard to a Participant, the rule in this section 10.03(e)(2) is substituted for the rule in the first sentence of section 10.03(a). If the value of a Participant's vested account balance derived from Employer and Employee Contributions exceeds (or at the time of any prior distribution (A) in Plan Years beginning before August 6, 1997, exceeded \$3,500 or (B) in Plan Years beginning after August 5, 1997, exceeded) \$5,000, and the account balance is immediately distributable, the Participant and the Participant's spouse (or where either the Participant or the spouse has died, the survivor) must consent to any distribution of such account balance.
- (3) Distributions not subject to section 417 of the Code. If payment in the form of a Qualified Joint and Survivor Annuity is not required with respect to a Participant, the rule in this section 10.03(e) is substituted for the rule in the second sentence of section 10.03(a).

If the value of a Participant's vested account balance derived from Employer and Employee Contributions:

- (A) for Plan Years beginning before August 6, 1997, exceeds \$3,500 (or exceeded \$3,500 at the time of any prior distribution),
- (B) for Plan Years beginning after August 5, 1997, and for a distribution made prior to March 22, 1999, exceeds \$5,000 (or exceeded \$5,000 at the time of any prior distribution),
- (C) and for Plan Years beginning after August 5, 1997 and for a distribution made after March 21, 1999, that either exceeds \$5,000 or is a remaining payment under a selected optional form of payment that exceeded \$5,000 at the time the selected payment began, and the account balance is immediately distributable, the Participant and the Participant's spouse (or where either the Participant or the spouse has died, the survivor) must consent to any distribution of such account balance.

**10.04 In-Service Distributions:** If the Employer elects in the Adoption Agreement, distribution of up to 100% of the Participant's vested account balance, without regard to Elective Deferrals, may be made to a Participant who is still employed by the Employer under one of the following methods:

- (a) After the Participant has been a Participant under this Plan for a period of 5 years, he may request up to 100% of the vested amount in his account; or
- (b) The Participant may withdraw any vested amounts which have been on deposit for a period of at least 24 months; or
- (c) If the Employer checks both the 24 month rule and the 60 month rule, then Participants who have completed 5 years of Plan participation may withdraw up to 100% of their vested account balance. Participants who have not completed 5 years of Plan participation may only withdraw vested amounts which have been on deposit for a period of 24 months.
- (d) The Participant may withdraw amounts necessary to meet a hardship. Hardship shall be determined by the Plan Administrator on a reasonably equivalent basis and shall include but not be limited to:
  - (1) Expenses incurred or necessary for medical care, described in Code § 213(d), of the employee, the employee's spouse, dependents or primary beneficiary under the Plan;
  - (2) The purchase (excluding mortgage payments) of a principal residence for the employee;
  - (3) Payment of tuition and related educational fees for up to the next 12 months of post-secondary education for the employee, the employee's spouse, children, dependents or primary beneficiary under the Plan;
  - (4) Payments necessary to prevent the eviction of the employee from, or a foreclosure on the mortgage of, the employee's principal residence;
  - (5) Payments for funeral or burial expenses for the employee's deceased parent, spouse, child, dependent or primary beneficiary under the Plan;
  - (6) Expenses to repair damage to the employee's principal residence that would qualify for a casualty loss deduction under Code § 165 (determined without regard to whether the loss exceeds 10 percent of adjusted gross income).

Hardship distributions from Elective Deferrals are described in Section 15.19 of the Plan.

- (e) After the Participant has attained the age selected in the Adoption Agreement.
- (f) If the Plan is a Money Purchase Pension Plan, a Participant's benefit may not be distributed before the Participant attains age 62, or, if earlier, the Participant separates from employment, attains the Normal Retirement Age under the Plan, dies, or becomes disabled, or upon termination of the Plan.

Note: Elective Deferrals, Qualified Nonelective Contributions, and Qualified Matching Contributions, and income allocable to each, are not permitted to be part of an in-service distribution unless the participant has attained age 59 ½ or there is a hardship, in the case of elective deferrals.

**10.05 Early Retirement with Age and Service Requirement:** If a Participant separates from service before satisfying the age requirement for early retirement, but has satisfied the service requirement, the Participant will be entitled to elect an early retirement benefit upon satisfaction of such age requirement.

**10.06 Optional Forms of Benefits:**

- (a) The following optional forms of benefits which have been selected by the Employer in the Adoption Agreement are available under this Plan:
  - (1) A single sum;
  - (2) Installments over a period not to exceed the life expectancy of the Participant, or if applicable, the joint and last survivor expectancies of the Participant and the Participant's Designated Beneficiary;
  - (3) Over the life of the Participant or the joint lives of the Participant and Designated Beneficiary;
  - (4) A joint and survivor annuity; or
  - (5) Any combination of (1) through (4) above, including ad hoc payments.
- (b) Notwithstanding Section 10.06(a) above, or any other provision of this Plan, or the selections in the Adoption Agreement, if this Plan is a restatement of a prior plan of the Employer or includes assets which were transferred from another qualified plan, any optional forms of benefits which were permitted under the previous plan cannot be reduced, eliminated or made subject to employer discretion unless specifically permitted under Treasury Regulations, and will therefore be available under this Plan.



- (c) Notwithstanding any provision of this Plan to the contrary, to the extent that any optional form of benefit under this Plan permits a distribution prior to the employee's retirement, death, disability, or severance from employment, and prior to plan termination, the optional form of benefit is not available with respect to benefits attributable to assets (including the post-transfer earnings thereon) and liabilities that are transferred, within the meaning of section 414(l) of the Internal Revenue Code, to this Plan from a Money Purchase Pension Plan qualified under section 401(a) of the Code (other than any portion of those assets and liabilities attributable to voluntary employee contributions).

This 10.06(c) is effective for Plan Years beginning on or after December 12, 1994.

#### 10.07 Minimum Required Distributions:

(a) General Rules:

- (1) Subject to Article IX, Joint and Survivor Annuity Requirements, the requirements of this Article shall apply to any distribution of a Participant's interest and will take precedence over any inconsistent provisions of this Plan. Unless otherwise specified, the provisions of this Article apply to calendar years beginning after December 31, 2002.
- (2) All distributions required under this Article shall be determined and made in accordance with the Income Tax Regulations under section 401(a)(9), including the minimum distribution incidental benefit requirement of section 401(a)(9)(G) of the Code.
- (3) Limits on Distribution Periods: As of the first Distribution Calendar Year, distributions to a Participant, if not made in a single-sum, may only be made over one of the following periods (or a combination thereof):
  - (A) The life of the Participant,
  - (B) The joint lives of the Participant and a Designated Beneficiary,
  - (C) A period certain not extending beyond the life expectancy of the Participant, or
  - (D) A period certain not extending beyond the joint and last survivor expectancy of the Participant and a Designated Beneficiary.

(b) Time and Manner of Distribution

- (1) Required Beginning Date. The participant's entire interest will be distributed, or begin to be distributed, to the participant no later than the participant's required beginning date.
- (2) Death of Participant Before Distributions Begin. If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
  - (A) If the participant's surviving spouse is the participant's sole designated beneficiary, then, except as provided in the adoption agreement, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age 70½, if later.
  - (B) If the participant's surviving spouse is not the participant's sole designated beneficiary, then, except as provided in the adoption agreement, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.
  - (C) If there is no designated beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.
  - (D) If the participant's surviving spouse is the participant's sole designated beneficiary and the surviving spouse dies after the participant but before distributions to the surviving spouse are required to begin, this Section 10.07(b)(2), other than Section 10.07(b)(2)(A), will apply as if the surviving spouse were the participant. For purposes of this Section 10.07(b)(2) and Section 10.07(d), unless Section 10.07(b)(2)(D) applies, distributions are considered to begin on the participant's required beginning date. If Section 10.07(b)(2)(D) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 10.07(b)(2)(A). If distributions under an annuity purchased from an insurance company irrevocably commence to the participant before the participant's required beginning date (or to the participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 10.07(b)(2)(A), the date distributions are considered to begin is the date distributions actually commence.
- (3) Forms of Distribution. Unless the participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single-sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections (c) and (d) of this article. If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of § 401(a)(9) of the Code and the regulations.

(c) Required Minimum Distributions During Participant's Lifetime.

- (1) Amount of Required Minimum Distribution for Each Distribution Calendar Year. During the participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:
  - (A) the quotient obtained by dividing the participant's account balance by the distribution period in the Uniform Lifetime Table set forth in § 1.401(a)(9)-9, Q&A-2, of the regulations, using the participant's age as of the participant's birthday in the distribution calendar year; or
  - (B) if the participant's sole designated beneficiary for the distribution calendar year is the participant's spouse, the quotient obtained by dividing the participant's account balance by the number in the Joint and Last Survivor Table set forth in § 1.401(a)(9)-9, Q&A-3, of the regulations, using the participant's and spouse's attained ages as of the participant's and spouse's birthdays in the distribution calendar year.
- (2) Lifetime Required Minimum Distributions Continue through Year of Participant's Death. Required minimum distributions will be determined under this Section 10.07(c)(2) beginning with the first distribution calendar year and continuing up to, and including, the distribution calendar year that includes the participant's date of death.

(d) Required Minimum Distributions After Participant's Death.

- (1) Death On or After Date Distributions Begin.

- (A) Participant Survived by Designated Beneficiary. If the participant dies on or after the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the participant's death is the quotient obtained by dividing the participant's account balance by the longer of the remaining life expectancy of the participant or the remaining life expectancy of the participant's designated beneficiary, determined as follows:
    - (i) The participant's remaining life expectancy is calculated using the age of the participant in the year of death, reduced by one for each subsequent year.
    - (ii) If the participant's surviving spouse is the participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
    - (iii) If the participant's surviving spouse is not the participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the participant's death, reduced by one for each subsequent year.
  - (B) No Designated Beneficiary. If the participant dies on or after the date distributions begin and there is no designated beneficiary as of the September 30 of the year after the year of the participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the participant's death is the quotient obtained by dividing the participant's account balance by the participant's remaining life expectancy calculated using the age of the participant in the year of death, reduced by one for each subsequent year.
- (2) Death before Date Distributions Begin.
- (A) Participant Survived by Designated Beneficiary. Except as provided in the adoption agreement, if the participant dies before the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the participant's death is the quotient obtained by dividing the participant's account balance by the remaining life expectancy of the participant's designated beneficiary, determined as provided in Section 10.07(d)(1).
  - (B) No Designated Beneficiary. If the participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the participant's death, distribution of the participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death.
  - (C) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the participant dies before the date distributions begin, the participant's surviving spouse is the participant's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 10.07(b)(2)(A), this Section 10.07(d)(2) will apply as if the surviving spouse were the participant.
- (e) TEFRA Section 242(b)(2) Elections
- (1) Notwithstanding the other requirements of this article and subject to the requirements of Article IX, Joint and Survivor Annuity Requirements, distribution on behalf of any employee, including a 5-percent owner, who has made a designation under § 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (a "section 242(b)(2) election") may be made in accordance with all of the following requirements (regardless of when such distribution commences):
    - (A) The distribution by the plan is one which would not have disqualified such plan under § 401(a)(9) of the Internal Revenue Code as in effect prior to amendment by the Deficit Reduction Act of 1984.
    - (B) The distribution is in accordance with a method of distribution designated by the employee whose interest in the plan is being distributed or, if the employee is deceased, by a beneficiary of such employee.
    - (C) Such designation was in writing, was signed by the employee or the beneficiary, and was made before January 1, 1984.
    - (D) The employee had accrued a benefit under the plan as of December 31, 1983.
    - (E) The method of distribution designated by the employee or the beneficiary specifies the time at which distribution will commence, the period over which distributions will be made, and in the case of any distribution upon the employee's death, the beneficiaries of the employee listed in order of priority.
  - (2) A distribution upon death will not be covered by this transitional rule unless the information in the designation contains the required information described above with respect to the distributions to be made upon the death of the employee.
  - (3) For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the employee, or the beneficiary, to whom such distribution is being made, will be presumed to have designated the method of distribution under which the distribution is being made if the method of distribution was specified in writing and the distribution satisfies the requirements in subsections 10.07(e)(1)(A) and (E).
  - (4) If a designation is revoked, any subsequent distribution must satisfy the requirements of § 401(a)(9) of the Code and the regulations thereunder. If a designation is revoked subsequent to the date distributions are required to begin, the plan must distribute by the end of the calendar year following the calendar year in which the revocation occurs the total amount not yet distributed which would have been required to have been distributed to satisfy § 401(a)(9) of the Code and the regulations thereunder, but for the section 242(b)(2) election. For calendar years beginning after December 31, 1988, such distributions must meet the minimum distribution incidental benefit requirements. Any changes in the designation will be considered to be a revocation of the designation. However, the mere substitution or addition of another beneficiary (one not named in the designation) under the designation will not be considered to be a revocation of the designation, so long as such substitution or addition does not alter the period over which distributions are to be made under the designation, directly or indirectly (for example, by altering the relevant measuring life).
  - (5) In the case in which an amount is transferred or rolled over from one plan to another plan, the rules in § 1.401(a)(9)-8, Q&A-14 and Q&A-15, shall apply.
- (f) Transition Rules
- (1) For plans in existence before 2003, Required Minimum Distributions before 2003 were made pursuant to Section 10.07(e), if applicable, and Sections 10.07(f)(2) through 10.07(f)(4) below.
  - (2) 2000 and Before. Required minimum distributions for calendar years after 1984 and before 2001 were made in accordance with § 401(a)(9) and the proposed regulations thereunder published in the Federal Register on July 27, 1987 (the "1987 Proposed Regulations").
  - (3) 2001. Required minimum distributions for calendar year 2001 were made in accordance with § 401(a)(9) and the 1987 Proposed

Regulations, unless the adoption agreement provides that Required Minimum Distributions for 2001 were made pursuant to the proposed regulations under § 401(a)(9) published in the Federal Register on January 17, 2001 (the "2001 Proposed Regulations"). If distributions were made in 2001 under the 1987 Proposed Regulations prior to the date in 2001 the plan began operating under the 2001 Proposed Regulations, the special transition rule in Announcement 2001-82, 2001-2 C.B. 123, applied.

- (4) 2002. Required minimum distributions for calendar year 2002 were made in accordance with § 401(a)(9) and the 1987 Proposed Regulations unless either (A) or (B) below applies.
  - (A) The adoption agreement provides that Required Minimum Distributions for 2002 were made pursuant to the 2001 Proposed Regulations.
  - (B) The adoption agreement provides that Required Minimum Distributions for 2002 were made pursuant to the Final and Temporary regulations under § 401(a)(9) published in the Federal Register on April 17, 2002, (the "2002 Final and Temporary Regulations") which are described in sections 10.07(b) through 10.07(e) of this article. If distributions were made in 2002 under either the 1987 Proposed Regulations or the 2001 Proposed Regulations prior to the date in 2002 the plan began operating under the 2002 Final and Temporary Regulations, the special transition rule in Section 1.2 of the model amendment in Rev. Proc. 2002-29, 2002-1 C.B. 1176, applied.
- (g) Workers Retiree and Employer Recovery Act of 2008 (WRERA) Amendments
  - (1) **Adoption and Effective Date of Amendment:** This Amendment of the Plan is adopted to reflect certain provisions of the Workers Retiree and Employer Recovery Act of 2008 ("WRERA"). This Amendment is intended as good faith compliance with the requirements of WRERA and is to be construed in accordance with WRERA and guidance issued thereunder. Except as otherwise provided, this WRERA Amendment shall be effective as 1/1/2009. Since the amendments have been adopted by the Document Provider on a unilateral basis, these provisions shall be deemed to be automatically adopted by the Employer as written herein including the effective date and no signature shall be required by the Employer to adopt such amendments, unless the Employer selects an option other than the defaulted election. If the Employer wishes to change a default election, such Employer must provide an addendum to this Amendment indicating their election(s) and sign such Addendum.
  - (2) **Supersession of Inconsistent Provisions:** This Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
  - (3) **Suspension of Required Minimum Distribution for 2009 Calendar Year:** Notwithstanding section 8.07 of the Plan, a Participant or Beneficiary who would have been required to receive Required Minimum Distributions for 2009 but for the enactment of section 401(a)(9)(H) of the Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (a) equal to the 2009 RMDs or (b) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or Life Expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's Designated Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will not receive those distributions for 2009 unless the Participant or Beneficiary chooses to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the distributions described in the preceding sentence. In addition, notwithstanding section 10.07(a) of the Plan, and solely for purposes of applying the direct rollover provisions of the Plan, the following will also be treated as eligible rollover distributions in 2009: (a) 2009 RMDs and (b) Extended 2009 RMDs, both as defined above. The first RMD for those Participants will be their 2010 RMD, which must be made by December 31, 2010. The 2009 RMD relief also applies to the five-year rule applicable to beneficiaries when a Participant dies before his Required Beginning Date and the death occurred before January 1, 2009.
  - (4) **Rollovers of RMDs:** Plans are permitted to allow Participants and Beneficiaries to make direct rollovers to other plans or IRAs of amounts that would have been 2009 RMDs. However, those distributions are not subject to the 402(f) notice requirements and will not be subject to the 20% mandatory federal income tax withholding. Therefore the portion that would otherwise be the 2009 RMD is paid as a cash distribution, that portion is subject to 10% federal income tax withholding, unless the participant elects out of withholding. If a plan does not allow participants and beneficiaries to make direct rollovers of amounts that would otherwise be RMDs for 2009, these individuals will still be able to indirectly roll over the portion that would be considered an RMD within 60 days after receipt of the payment.
  - (5) **No Election by Participant or Beneficiaries:** In the event that an affected Participant or Beneficiary does not make an election to suspend or continue the applicable 2009 RMD, then the default provision shall be decided by the Employer and shall be to discontinue the 2009 RMDs.

#### 10.08 Designation of Beneficiary:

- (a) Each Participant may, by written notice filed with the Plan Administrator, designate a Beneficiary(ies) to receive the Participant's benefit at the Participant's death. Such designation may be changed or revised from time to time by written instrument filed with the Plan Administrator. If no designation has been made, or if no Beneficiary is living at the time of a Participant's death, his Beneficiary shall be:
  - (1) His surviving spouse; but if he has no surviving spouse,
  - (2) His surviving children, in equal shares; but if he has no surviving children,
  - (3) His estate.
- (b) A Beneficiary designation shall be effective only to the extent that the Plan is not required to:
  - (1) Pay the vested amount in the Participant's account in the form of an annuity pursuant to Sections 9.02 and 9.03, or
  - (2) Pay the vested amount in the Participant's account to the surviving spouse in accordance with Section 9.06.
- (c) If permitted by the Trustee, a Participant's Beneficiary may name a death Beneficiary. Such death Beneficiary shall be entitled to receive benefits under the Plan after the Participant's Beneficiary's death.

#### 10.09 Distribution under a Qualified Domestic Relations Order:

- (a) Distributions of all or any part of a Participant's account pursuant to the provisions of a qualified domestic relations order as defined in section 414(p) of the Code is specifically authorized.
- (b) The earliest retirement age shall be the earlier of:

- (1) The earliest date benefits are payable under the Plan to the Participant, including in-service distributions under Section 10.04; or
  - (2) The later of the date the Participant attains age 50 or the date on which the Participant could obtain a distribution from the Plan if the Participant had separated from service.
- (c) The alternate payee may receive a payment of benefits under this Plan in any optional form of benefit available based on the selections in the Adoption Agreement, other than a Joint and Survivor Annuity.
  - (d) The alternate payee may receive a payment of a benefit under this Plan prior to the earliest retirement age as defined in Section 10.09(b) if the QDRO specifically provides for such earlier payment. If the present value of the payment exceeds \$3,500, the alternate payee must consent in writing to such distribution.
  - (e) Upon receipt of an order which appears to be a domestic relations order, the Plan Administrator will promptly notify the Participant and each alternate payee of the receipt of the order and provide them with a copy of the procedures established by the Plan for determining whether the order is a QDRO. While the determination is being made, a separate accounting will be made with respect to any amounts which would be payable under the order while the determination is being made. If the Plan Administrator or a court determines that the order is a QDRO within 18 months after receipt, the Plan Administrator will begin making payments, including the separately-accounted for amounts, pursuant to the order when required or as soon as administratively practical. If the Plan Administrator or court determines that the order is not a QDRO, or if no determination is made within 18 months after receipt, then the separately accounted for amounts will be either restored to the Participant's account or distributed to the Participant, as if the order did not exist. If the order is subsequently determined to be a QDRO, such determination shall be applied prospectively to payments made after the determination.

10.10 **Conflicts With Annuity Contracts:** In the event of any conflict between the terms of this Plan and the terms of any insurance contract purchased hereunder, the Plan provisions shall control.

10.11 **Nontransferability of Annuities:** Any annuity contract distributed herefrom must be nontransferable.

10.12 **Direct Rollovers After December 31, 2001:**

- (a) This Article applies to distributions made after December 31, 2001. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this part, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution that is equal to at least \$500 paid directly to an eligible retirement plan specified by the distributee in a direct rollover. If an eligible rollover distribution is less than \$500, a distributee may not make the election described in the preceding sentence to rollover a portion of the eligible rollover distribution.

(b) **Definitions:**

- (1) **In- Plan Roth Rollovers:** If elected by the Employer in the Adoption Agreement, an eligible rollover distribution, from a participant's account under the plan other than a designated Roth account may be transferred to the participant's designated Roth account under the plan. The plan will maintain such records as are necessary for the proper reporting of in-plan Roth rollovers.
- (2) **Eligible Rollover Distribution:** An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or joint life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under §401(a)(9) of the Internal Revenue Code; any hardship distribution; the portion of any other distribution(s) that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any other distribution(s) that is reasonably expected to total less than \$200 during a year. For purposes of the \$200 rule, a distribution from a designated Roth account and a distribution from other accounts under the plan are treated as made under separate plans.

A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to (1) an individual retirement account or annuity described in §408(a) or (b) of the Code (a "traditional IRA") or a Roth individual retirement account or annuity described in section 408A of the Code (a "Roth IRA"); or to a qualified defined contribution plan described in §401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

- (3) **Eligible Retirement Plan:** An eligible retirement plan is an eligible plan under §457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, a traditional IRA, a Roth IRA, an annuity contract described in §403(a) of the Code, an annuity contract described in § 403(b) of the Code, or a qualified plan described in § 401(a) of the Code, that accepts the distributee's eligible rollover distribution. The definition of eligible retirement plan shall also apply in the case of distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in §414(p) of the Code.

If any portion of an eligible rollover distribution is attributable to payments or distributions from a designated Roth account, and eligible retirement plan with respect to such portion shall include only another designated Roth account of the individual form whose account the payments or distributions were made, or a Roth IRA of such individual.

- (4) **Distributee:** A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order as defined in §414(p) of the Code, are distributed with regard to the interest of the spouse or former spouse. A distributee includes the employee's or former employee's nonspouse designated beneficiary, in which case, the distribution can only be transferred to a traditional or Roth IRA established on behalf of the nonspouse designated beneficiary for the purpose of receiving the distribution.
- (5) **Direct rollover:** A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

- (c) Automatic Rollover: Effective March 28, 2005, in the event of a mandatory distribution greater than \$1,000 in accordance with the provisions of Section 5.04, if the participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the participant in a direct rollover or to receive the distribution directly in accordance with Section 10.03, then the plan administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the plan administrator. For purposes of determining whether a mandatory distribution is greater than \$1,000, the portion of the participant's distribution attributable to any rollover contribution is included.
- (d) Rollovers from other plans: If provided by the Employer in the Adoption Agreement, the Plan will accept Participant rollover contributions and/or direct rollovers of distributions made after December 31, 2001, from the types of plans specified in the Adoption Agreement, beginning on the effective date specified in the Adoption Agreement.

#### 10.13 Distribution of Employee Contributions:

- (a) **Rollover Contributions:** A Participant may at any time, withdrawal all or any part of his/her Rollover Account, unless otherwise elected by the Employer in the Adoption Agreement.
- (b) **Nondeductible Voluntary Contributions:** A Participant may withdrawal all or any part of his/her Nondeductible Voluntary Contribution Account.
- (c) **Transfer Distributions:** Any amounts transferred to this Plan by a Participant or the Employer will remain subject to the same distribution rights as was in effect under the previous plan immediately prior to such transfer. The Plan Administration shall be responsible to determine when and how such monies may be distributed and for maintaining a separate account or separate accounting.

#### 10.14 Nonspouse Beneficiary Direct Rollover:

- (a) Effective for distributions made after December 31, 2006, if a direct trustee-to-trustee transfer of any portion of a distribution from an eligible retirement plan is made to an individual retirement plan described in section 408(a) or (b) of the Code (an "IRA") that is established for the purpose of receiving the distribution on behalf of a Designated Beneficiary who is a nonspouse beneficiary, the transfer is treated as a direct rollover of an eligible rollover distribution for purposes of section 402(c) of the Code.

The IRA of the nonspouse beneficiary is treated as an inherited IRA within the meaning of section 408(d)(3)(C) of the Code.

- (b) This qualified plan shall offer a direct rollover of a distribution to a nonspouse beneficiary who is a Designated Beneficiary within the meaning of section 401(a)(9)(E) of the Code, provided that the distributed amount satisfies all the requirements to be an eligible rollover distribution other than the requirement that the distribution be made to the participant or the participant's spouse. The direct rollover must be made to an IRA established on behalf of the Designated Beneficiary that will be treated as an inherited IRA pursuant to the provisions of section 402(c)(11) of the Code. If a nonspouse beneficiary elects a direct rollover, the amount directly rolled over is not includible in gross income in the year of the distribution.
- (c) Section 402(c)(11) of the Code provides that a direct rollover of a distribution by a nonspouse beneficiary is a rollover of an eligible rollover distribution only for purposes of section 402(c) of the Code. Therefore, the distribution is not subject to the direct rollover requirements of section 401(a)(31) of the Code, the notice requirements of section 402(f) of the Code, or the mandatory withholding requirements of section 3405(c) of the Code. If an amount distributed from a plan is received by a nonspouse beneficiary, the distribution is not eligible for rollover.
- (d) This qualified plan may make a direct rollover to an IRA on behalf of a trust where the trust is the named beneficiary of a decedent, provided the beneficiaries of the trust meet the requirements to be designated beneficiaries within the meaning of section 401(a)(9)(E) of the Code. In such a case, the beneficiaries of the trust are treated as having been designated as beneficiaries of the decedent for purposes of determining the distribution period under section 401(a)(9) of the Code, if the trust meets the requirements set forth in Treasury Regulation section 1.401(a)(9)-4, Q&A-5.
- (e) Determination of Required Minimum Distributions:

*General rule.* If the Employee dies before his or her Required Beginning Date, the Required Minimum Distributions for purposes of determining the amount eligible for rollover with respect to a nonspouse beneficiary are determined under either the 5-year rule described in section 401(a)(9)(B)(ii) of the Code or the life expectancy rule described in section 401(a)(9)(B)(iii) of the Code. Under either rule, no amount is a required minimum distribution for the year in which the Employee dies. The rule in Q&A-7(b) of Treasury Regulation section 1.402(c)-2 (relating to distributions before an Employee has attained age 70½) does not apply to nonspouse beneficiaries.

*Five-year rule.* Under the 5-year rule described in section 401(a)(9)(B)(ii) of the Code, no amount is required to be distributed until the fifth calendar year following the year of the Employee's death. In that year, the entire amount to which the beneficiary is entitled under the plan must be distributed. Thus, if the 5-year rule applies with respect to a nonspouse beneficiary who is a designated beneficiary within the meaning of section 401(a)(9)(E) of the Code, for the first 4 years after the year the Employee dies, no amount payable to the beneficiary is ineligible for direct rollover as a required minimum distribution. Accordingly, the beneficiary is permitted to directly roll over the beneficiary's entire benefit until the end of the fourth year (but, the 5-year rule must also apply to the IRA to which the direct rollover contribution is made). On or after January 1 of the fifth year following the year in which the Employee died, no amount payable to the beneficiary is eligible for direct rollover.

*Life expectancy rule. (1) General rule.* If the life expectancy rule described in section 401(a)(9)(B)(iii) of the Code applies, in the year following the year of death and each subsequent year, there is a required minimum distribution. The amount not eligible for rollover includes all undistributed Required Minimum Distributions for the year in which the direct rollover occurs and any prior year (even if the excise tax under section 4974 of the Code has been paid with respect to the failure in the prior years).

*(2) Special rule.* If, under paragraph (b) or (c) of Q&A-4 of Treasury Regulation section 1.401(a)(9)-3, the 5-year rule applies, the nonspouse Designated Beneficiary may determine the required minimum distribution under the plan using the life expectancy rule in the case of a distribution made prior to the end of the year following the year of death. However, in order to use this rule, the Required Minimum Distributions under the IRA to which the direct rollover is made must be determined under the life expectancy rule using the same Designated Beneficiary.

- (f) If an Employee dies on or after his or her Required Beginning Date, within the meaning of section 401(a)(9)(C) of the Code, for the year of the Employee's death, the required minimum distribution not eligible for rollover is the same as the amount that would have applied if the Employee were still alive and elected the direct rollover. For the year after the year of the Employee's death and subsequent years, see Q&A-5 of Treasury Regulation section 1.401(a)(9)-5 to determine the applicable distribution period to use in calculating the required minimum distribution. As in the case of death before the Employee's Required Beginning Date, the amount not eligible for rollover includes all undistributed Required Minimum Distributions for the year in which the direct rollover occurs and any prior year, including years before the Employee's death.
- (g) Under section 402(c)(11) of the Code, an IRA established to receive a direct rollover on behalf of a nonspouse Designated Beneficiary is treated as an inherited IRA within the meaning of section 408(d)(3)(C) of the Code. The required minimum distribution requirements set forth in section 401(a)(9)(B) of the Code and the regulations thereunder apply to the inherited IRA. The rules for determining the Required Minimum Distributions under the Plan with respect to the nonspouse beneficiary also apply under the IRA. Thus, if the Employee dies before his or her Required Beginning Date and the 5-year rule in section 401(a)(9)(B)(ii) of the Code applied to the nonspouse Designated Beneficiary under the Plan making the direct rollover, the 5-year rule applies for purposes of determining Required Minimum Distributions under the IRA unless the special rule described in section 10.14(e) applies. If the life expectancy rule applied to the nonspouse Designated Beneficiary under the Plan, the required minimum distribution under the IRA must be determined using the same applicable distribution period as would have been used under the plan if the direct rollover had not occurred. Similarly, if the Employee dies on or after his or her Required Beginning Date, the required minimum distribution under the IRA for any year after the year of death must be determined using the same applicable distribution period as would have been used under the Plan if the direct rollover had not occurred.
- (h) Effective for Plan Years beginning after December 31, 2009, plans are required to provide a direct rollover option for non-spouse beneficiaries and must provide a 402(f) notice pursuant to the Workers Retiree and Employer Recovery Act of 2008.

10.15 **Qualified Rollover Contributions:** For distributions made from this Plan after December 31, 2007, the following provisions shall apply: Participants must be given the option to directly rollover to a Roth IRA as a qualified rollover contribution pursuant to section 408A(e) of the Code. Pursuant to section 402(c)(11) of the Code, for distributions that occur prior to January 1, 2010, a plan may, but is not required to permit Qualified Rollover Contributions by nonspouse Beneficiaries and a rollover by a nonspouse Beneficiary must be made in a Direct Rollover to a Roth IRA. A surviving spouse Beneficiary who makes a rollover to a Roth IRA from this Plan may elect either to treat the Roth IRA as his or her own or establish the Roth IRA in the name of the decedent with the surviving spouse as the Beneficiary.

#### ARTICLE XI MISCELLANEOUS PLAN PROVISIONS

- 11.01 **Plan Defaults under the Adoption Agreements:** If the Employer adopts any of the Sponsor's Profit Sharing, Money Purchase, or EZ-K Profit-Sharing Plans (#01001 or #01002), the applicable defaults attached to the adoption agreement shall apply with respect to such Plans.
- 11.02 **USERRA – Military Service Credit:** Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with §414(u) of the Internal Revenue Code. In addition, the survivors of any participant who dies or becomes disabled on or after January 1, 2007, while performing qualified military service, are entitled to any additional benefits (other than contributions relating to the period of qualified military service, but including vesting service credit for such period and any ancillary life insurance or other survivor benefits) that would have been provided under the plan had the participant resumed employment on the day preceding the participant's death or becomes disabled and then terminated employment on account of death.
- 11.03 **Conflicting Trust Provisions:** In the event of any conflict between the terms of this plan and any conflicting provision contained in any associated trust or any document that is incorporated by reference, the terms of the plan will govern.

#### ARTICLE XII AMENDMENT AND TERMINATION OF PLAN

- 12.01 **Amendment by Provider:** The Provider may amend any part of the Plan. However, for purposes of reliance on an opinion or determination letter, the provider will no longer have the authority to amend the plan on behalf of the employer as of the date (a) the employer amends the plan to incorporate a type of plan described in section 6.03 of Rev. Proc. 2017-41 that is not permitted under the Pre-approved program, or (b) the Internal Revenue Service notifies the employer, in accordance with section 8.06(3) of Rev. Proc. 2017-41, that the plan is an individually designed plan due to the nature and extent of employer amendments to the plan. For purposes of amendments by the Provider, the mass submitter shall be recognized as the agent of the Provider and shall have the right to amend the Plan and submit it to the Internal Revenue Service. If the Provider does not adopt the amendments made by the mass submitter, it will no longer be a Provider of a Plan identical to or a minor modifier of the mass submitter plan.
- 12.02 **Amendment by Adopting Employer:** The Employer may (a) change the choice of options in the Adoption Agreement, (b) add overriding language in the Adoption Agreement when such language is necessary to satisfy section 415 or section 416 of the Code because of the required aggregation of multiple plans, (c) amend administrative provisions of the trust or custodial document in the case of a nonstandardized plan and make more limited amendments in the case of a standardized plan such as the name of the plan, employer, trustee or custodian, plan administrator and other fiduciaries, the trust year, and the name of any pooled trust in which the plan's trust will participate, (d) add certain sample or model amendments published by the Internal Revenue Service or other required good faith amendments which specifically provide that their adoption will not cause the Plan to be treated as individually designed and (e) attach a list of section 411(d)(6) of the Code protected benefits which must be preserved from the Employer's prior plan or plan (f) add or change provisions permitted under the plan and /or specify or change the effective date of a provision as permitted under the plan. An Employer that amends the Plan for any other reason, including a waiver of the minimum funding requirement under section 412(d) of the Code, will no longer participate in this Pre-Approved Plan and will be considered to have an individually designed Plan.
- 12.03 **Amendment of Vesting Schedule:** If the Plan's vesting schedule is amended, or the Plan is amended in any way that directly or indirectly affects the computation of a Participant's nonforfeitable percentage, or if the Plan is deemed amended by an automatic change to or from a top-heavy vesting schedule, each Participant with at least 3 years of service with the Employer may elect, within a reasonable period after the adoption of

the amendment or change, to have the nonforfeitable percentage computed under the Plan without regard to such amendment or change. For Participants who do not have at least 1 Hour of Service in any Plan Year beginning after December 31, 1988, the preceding sentence shall be applied by substituting "5 Years of Service" for "3 Years of Service" where such language appears.

The period during which the election may be made shall commence with the date the amendment is adopted or deemed to be made and shall end on the latest of:

- (a) 60 days after the amendment is adopted;
- (b) 60 days after the amendment becomes effective; or
- (c) 60 days after the Participant is issued written notice of the amendment by the Employer or Plan Administrator.

- 12.04 **Amendments Affecting Vested and/or Accrued Benefits:** No amendment to the Plan shall be effective to the extent that it has the effect of decreasing a Participant's accrued benefit. This includes a plan amendment that decreases a participant's accrued benefit, or otherwise places greater restrictions or conditions on a participant's rights to section 411(d)(6) protected benefits, even if the amendment merely adds a restriction or condition that is permitted under the vesting rules in section 411(a)(3) through (11). Notwithstanding the preceding sentence, a Participant's account balance may be reduced to the extent permitted under section 412(d)(2) of the Code or to the extent permitted under sections 1.411(d)-3 and 1.411(d)-4 of the regulations.. For purposes of this paragraph, a plan amendment which has the effect of decreasing a Participant's account balance with respect to benefits attributable to service before the amendment shall be treated as reducing an accrued benefit. Furthermore if the vesting schedule of a plan is amended, in the case of an Employee who is a Participant as of the later of the date such amendment is adopted or the date it becomes effective, the nonforfeitable percentage (determined as of such date) of such Employee's employer-derived accrued benefit will not be less than the percentage computed under the plan without regard to such amendment. No amendment to the plan shall be effective to eliminate or restrict an optional form of benefit. The preceding sentence shall not apply to a plan amendment that eliminates or restricts the ability of a participant to receive payment of his or her account balance under a particular optional form of benefit if the amendment provides a single-sum distribution form that is otherwise identical to the optional form of benefit being eliminated or restricted. For this purpose, a single-sum distribution form is otherwise identical only if the single-sum distribution form identical in all respects to the eliminated or restricted optional form of benefit (or would be identical except that it provides greater rights to the participant) except with respect to the timing of payments after commencement.
- 12.05 **Vesting Upon Plan Termination:** In the event of the termination or partial termination of the Plan the account balance of each affected Participant will be nonforfeitable.
- 12.06 **Vesting Upon Complete Discontinuance of Contributions:** If the Plan is a profit-sharing plan, and there is a complete discontinuance of contributions under the Plan, the account balance of each affected Participant will be nonforfeitable.
- 12.07 **Maintenance of Benefit Upon Plan Merger:** In the event of a merger or consolidation with, or transfer of assets or liabilities to any other plan, each Participant will receive a benefit immediately after such merger, etc. (if the Plan then terminated) which is at least equal to the benefit to which the Participant was entitled immediately before such merger, etc. (if the Plan had terminated).

### ARTICLE XIII MISCELLANEOUS PROVISIONS

- 13.01 **Inalienability of Benefits:** No benefit or interest available hereunder will be subject to assignment or alienation, either voluntarily or involuntarily. The preceding sentence shall also apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a Participant pursuant to a domestic relations order, unless such order is determined to be a qualified domestic relations order, as defined in section 414(p) of the Code, or any domestic relations order entered before January 1, 1985.
- 13.02 **Exclusive Benefit:** The corpus or income of the trust may not be diverted to or used for any other than the exclusive benefit of the Participant or their beneficiaries.
- 13.03 **Reversion of Plan Assets to Employer:**
- (a) Any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the contribution.
  - (b) In the event that the Commissioner of Internal Revenue determines that the Plan is not initially qualified under the Internal Revenue Code, any contribution made incident to that initial qualification by the Employer must be returned to the Employer within one year after the date the initial qualification is denied, but only if the application for the qualification is made by the time prescribed by law for filing the Employer's return for the taxable year in which the Plan is adopted, or such later date as the Secretary of the Treasury may prescribe.
  - (c) All contributions made by the Employer are conditioned on the deductibility of such contributions under section 404 of the Code. To the extent that a deduction is disallowed, such contribution, to the extent disallowed, shall be returned to the Employer within one year after the date of disallowance.
  - (d) Contributions returned to the Employer will not include earnings and will be reduced by any losses.
- 13.04 **Failure of Qualification:** If the Employer's Plan fails to attain or retain qualification, such Plan will no longer participate in this Pre-Approved Plan and will be considered an individually designed plan.
- 13.05 **Crediting Service with Predecessor Employer:** If the Employer maintains the Plan of a predecessor Employer, service with such employer will be treated as service for the Employer.
- 13.06 **State Law:** Except as preempted by ERISA, this Plan shall be governed by the laws of the State indicated in the Adoption Agreement.

### ARTICLE XIV GLOSSARY OF PLAN TERMS

The following words and phrases, when used herein shall have the meanings indicated below, unless a different meaning is clearly indicated by the context. All references to Sections herein pertain to Sections of the Plan unless otherwise indicated by the text or context.

## PART A - THE FOLLOWING ARE GENERAL DEFINITIONS UNDER THE PLAN

- 14.01 **410(b)(6)(C) Transaction:** A "§410(b)(6)(C) transaction" is an asset or stock acquisition, merger, or similar transaction involving a change in the Employer of the Employees of a trade or business. Employees excluded as a result of a "section 410(b)(6)(C) transaction" will be excluded during the period beginning on the date of the transaction and ending on the last day of the first Plan Year beginning after the date of the transaction and ending on the last day of the first Plan Year beginning after the date of the transaction.
- 14.02 **Adoption Agreement:** The instrument completed and executed by the Employer and accepted by the Trustee, in which the Employer adopts the Plan and selects its options under the Plan. There are a number of Adoption Agreements associated with this Plan document and not all elections referred to in this Plan are available in all Adoption Agreements. Therefore by adopting an Adoption Agreement which does not contain an election referred to in this Plan, the Employer shall not have such election available to it. Such agreement may be amended by the Employer from time to time, subject to Section 12.02 of the Plan.
- 14.03 **Authorized Leave of Absence:** Any absence authorized by the Employer under the Employer's standard personnel practices, so long as all persons under similar circumstances will have such practice uniformly applied to them, and further provided that the Participant either returns or retires within the period of the Authorized Leave of Absence. An absence due to service in the armed forces of the United States or of any state shall be considered an Authorized Leave of Absence if that absence is caused by war or other emergency or if the Participant is required to serve under the laws of conscription in time of peace, and the Participant returns to employment within the time provided by law.
- 14.04 **Beneficiary:** The person or persons designated pursuant to Section 10.08 of Article X of the Plan to receive a Participant's benefits upon the Participant's death, subject to the restrictions of Article IX.
- 14.05 **Benefiting:** A Participant is treated as benefiting under the Plan for any Plan Year during which the Participant received or is deemed to receive an allocation in accordance with section 1.410(b)-3(a).
- 14.06 **Break in Service:**
- (a) Hour of Service Method - If the Employer has specified in the Adoption Agreement that the Hour of Service method shall be used, then a Break in Service shall mean a Plan Year during which an Employee does not complete more than 500 (or less, if so elected in the Adoption Agreement) Hours of Service with the Employer. However, in determining the Break in Service referenced in this paragraph, the computation period shall be the same as that which is used to determine a Year of Service for eligibility purposes.
- Solely for the purpose of determining whether a Break in Service for eligibility and vesting purposes has occurred in a computation period, an individual who is absent from work for maternity or paternity reasons shall receive credit for the Hours of Service which would otherwise have been credited to such individual but for such absence, or in any case in which such hours cannot be determined, 8 Hours of Service per day of such absence. The Hours of Service credited under this paragraph shall be credited in the computation period in which the absence begins if the crediting is necessary to prevent a Break in Service in that period, or, in all other cases, in the following computation period.
- (b) Elapsed Time Method - If the Employer has specified in the Adoption Agreement that the elapsed time method shall be used, then a Break in Service shall mean a Period of Severance of at least twelve-consecutive months.
- A Period of Severance is a continuous period of time during which the Employee is not employed by the Employer. Such period begins on the date the Employee retires, quits, or is discharged, or if earlier, the 12 month anniversary of the date on which the Employee was otherwise first absent from service.
- In the case of an individual who is absent from work for maternity or paternity reasons, the twelve-consecutive month period beginning on the first anniversary of the first date of such absence shall not constitute a Break in Service.
- (c) For purposes of Section 14.06(a) and (b) above, an absence from work for maternity or paternity reasons means an absence (1) by reason of the pregnancy of the individual, (2) by reason of the birth of a child of the individual, (3) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (4) for the purpose of caring for such child for a period beginning immediately following such birth or placement. The total number of hours of service under this Section by reason of any such pregnancy or placement shall not exceed 501 hours.
- 14.07 **Code:** The Internal Revenue Code of 1986 and the regulations thereunder, as heretofore or hereafter amended. Reference to a section of the Code shall include that section and any comparable section or sections, or any future statutory provision which amends, supplements or supersedes that section.
- 14.08 **Collective Bargaining Agreement:** An agreement which the Secretary of Labor finds to be a Collective Bargaining Agreement between employee representatives and one or more employers, if there is evidence that retirement benefits were the subject of good faith bargaining and if less than two percent of the Employees of the Employer who are covered pursuant to that agreement are professionals as defined in section 1.410(b)-9(g) of the proposed regulations. For this purpose, the term "employee representatives" does not include any organization more than half of whose members are employees who are owners, officers, or executives of the Employer.
- 14.09 **Compensation:** For purposes of determining Employer Contribution Allocations, Compensation will mean Compensation as that term is defined in Section 14.39 of the Plan. For any Self-Employed covered under the Plan, Compensation will mean Earned Income. Compensation shall include only that Compensation which is actually paid to the Participant during the Determination Period. Except as provided elsewhere in this Plan, the Determination Period shall be the period elected by the Employer in the Adoption Agreement. If the Employer makes no election, the Determination Period shall be the Plan Year.

Notwithstanding the above, if elected by the Employer in the Adoption Agreement, Compensation shall include any amount which is contributed by the Employer pursuant to a salary reduction agreement and which is not includible in the gross income of the Employee under sections 125,



132(f)(4), 402(e)(3), or 402(h)(1)(B) of the Code.

For Plan Years beginning on or after January 1, 1994 and before January 1, 2002, the annual Compensation of each Participant taken into account for determining all benefits provided under the Plan for any Plan Year shall not exceed \$150,000, as adjusted for increases in the cost-of-living in accordance with section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any determination period beginning in such calendar year.

For any plan year beginning after December 31, 2001, the annual compensation of each participant taken into account in determining allocations shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with §401(a)(17)(B) of the Code. Annual compensation means compensation during the plan year or such other consecutive 12-month period over which compensation is otherwise determined under the plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

If a Determination Period consists of fewer than 12 months the annual Compensation limit is an amount equal to the otherwise applicable annual Compensation limit multiplied by a fraction, the numerator of which is the number of months in the short Determination Period, and the denominator of which is 12.

If Compensation for any prior Determination Period is taken into account in determining a Participant's allocation for the current Plan Year, the Compensation for such prior Determination Period is subject to the applicable annual compensation limit in effect for that prior Period. However, solely for purposes of determining a participant's allocations for plan years beginning after December 31, 2001, the annual compensation limit in effect for determination periods beginning before January 1, 2002 is \$200,000.

If so elected in the Adoption Agreement, Compensation for purposes of allocating Employer Contributions shall not include Compensation prior to the date the Employee's participation in this Plan commenced. For purposes of determining the Compensation of a Self-Employed, Compensation shall be deemed to have been earned at a uniform rate throughout the year, and shall include a pro rata amount based on the number of complete months of participation in this Plan.

If so elected in the Adoption Agreement, Compensation for purposes of allocating Employer Contributions shall not include overtime or bonuses. However, Compensation may exclude overtime and bonuses for a Plan Year only if the "compensation percentage" for the Employer's Highly Compensated Employees is not greater than the "compensation percentage" for the Employer's Nonhighly Compensated Employees. The Compensation percentage for a group of Employees is calculated by averaging the separately calculated Compensation ratios for each Employee in the group. An Employee's compensation ratio is calculated by dividing the amount of the Employee's Compensation taking into consideration any exclusions from Compensation under the Adoption Agreement, by the amount of the Employee's Compensation unreduced by any exclusions elected under the Adoption Agreement.

- 14.10 **Depository:** The entity or entities selected by the Employer pursuant to the Trust Agreement. . The term "Depository" may include, among others, a financial institution in which all or part of the plan assets have been invested, or a brokerage or similar company with or through which all or part of the assets have been invested, at the direction of the Trustee, Employer, Plan Administrator, or by a Participant.
- 14.11 **Disability:** Disability means inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. The permanence and degree of such impairment shall be supported by medical evidence. Disability shall be determined by a licensed physician selected by the Plan Administrator. If available and elected by the Employer in the Adoption Agreement, nonforfeitable contributions will be made to the Plan on behalf of each disabled Participant who is not a Highly Compensated Employee (within the meaning of section 14.20 of the Plan).
- 14.12 **Earned Income:** Earned Income means the net earnings from self-employment in the trade or business with respect to which the Plan is established, for which personal services of the individual are a material income-producing factor. Net earnings will be determined without regard to items not included in gross income and the deductions allocable to such items. Net earnings are reduced by contributions by the Employer to a qualified plan to the extent deductible under section 404 of the Code. Net earnings shall be determined with regard to the deduction allowed to the Employer by section 164(f) of the Code for taxable years beginning after December 31, 1989.
- 14.13 **Employee:** Any Employee of the Employer maintaining the Plan or of any other employer required to be aggregated with such Employer under sections 414(b), (c), (m) or (o) of the Code. The term Employee also includes any Leased Employee deemed to be an Employee of any employer described in the previous sentence as provided in sections 414(n) or (o) of the Code.
- 14.14 **Employee Nondeductible Contribution/After-Tax Employee Contribution:** Any contribution made to the Plan by or on behalf of a Participant that is included in the Participant's gross income in the year in which made and that is maintained under a separate account to which earnings and losses are allocated. If elected by the Employer in the Adoption Agreement, pursuant to Section 4.02 of the Plan, such Employee Nondeductible Contributions will be mandatory. In such case, the Employer shall establish uniform and nondiscriminatory rules and procedures for mandatory Employee Nondeductible Contributions as it deems necessary, including requirements describing amounts and/or percentages of Compensation Participants may or must contribute to the Plan.
- 14.15 **Employee Contribution Account:** The account maintained with respect to a Participant in which are recorded any Employee Contributions and any earnings or losses thereon.
- 14.16 **Employer:** The sole proprietor, partnership, corporation, or other entity whose name appears on the Adoption Agreement executed by it, any successor which elects to continue the Plan, and any predecessor which has maintained this Plan.
- 14.17 **Employer Contributions:** Any profit-sharing or money purchase contributions made by the Employer pursuant to Article III and Article XV of the Plan.
- 14.18 **Employer Contribution Account:** The account maintained with respect to a Participant in which are recorded any Employer Contributions and earnings or losses thereon.

14.19 **Entry Date:** The date or dates set out in the Adoption Agreement or in Section 11.01 of the Plan as of which an Employee who has satisfied the eligibility requirements may enter this Plan and become a Participant hereunder.

14.20 **Highly Compensated Employee:**

- (a) Effective for years beginning after December 31, 1996, the term Highly Compensated Employee means any Employee who: (1) was a 5-percent owner at any time during the year or the preceding year, or (2) for the preceding year had compensation from the Employer in excess of \$80,000 and, if the employer so elects in the adoption agreement, was in the top-paid group for the preceding year. The \$80,000 amount is adjusted at the same time and in the same manner as under section 415(d), except that the base period is the calendar quarter ending September 30, 1996.
- (b) For this purpose the applicable year of the Plan for which a determination is being made is called a determination year and the preceding 12-month period is called a look-back year.
- (c) A Highly Compensated former Employee is based on the rules applicable to determining Highly Compensated Employee status as in effect for that determination year, in accordance with section 1.414(q)-1T, A-4 of the temporary Income Tax Regulations and Notice 97-45.
- (d) In determining whether an Employee is a Highly Compensated Employee for years beginning in 1997, the amendments to section 414(q) stated above are treated as having been in effect for years beginning in 1996.
- (e) Determination Years and Look-Back Years: HCE status is determined on the basis of the Applicable Year of the Plan or other entity for which a determination is being made ("Determination Year"). The Look-Back Year is the 12-month period immediately preceding the Determination Year, or if the Employer elects in the Adoption Agreement, the calendar year beginning with or within such 12-month period.
- (f) Applicable Year: The applicable year for a plan is the Plan Year.
- (g) For purposes of this section 14.20, Compensation shall mean compensation as that term is defined under Section 14.39 of the Plan.
- (h) Employers aggregated under sections 414(b), (c), (m), or (o) of the Code are treated as a single employer.
- (i) Top-Paid Group Election: If elected in the Adoption Agreement, an Employee is in the top-paid group for any year if the Employee is in the group consisting of the top 20 percent of the Employees of the Employer when ranked on the basis of Compensation paid to Employees during such year. For purposes of determining the number of Employees in the Top-Paid Group, Employees described in section 414(q)(5) of the Code and 1.414(q)-1T of the Treasury Regulations are excluded. A top-paid group election, once made, applies for all subsequent Determination Years unless subsequently amended by the employer.
- (j) Calendar Year Data Election: If elected in the Adoption Agreement an Employer may make a calendar year data election for a Determination Year. The effect of the calendar year data election is that the calendar year beginning with or within the look-back year is treated as the Employer's look-back year for purposes of determining whether an Employee is an HCE on account of the Employee's Compensation for a look-back year under section 414(q)(1)(B). A calendar year data election, once made, applies for all subsequent Determination Years until subsequently amended by the Employer.
- (k) If the Plan has a calendar year as its Determination Year, then the immediately preceding calendar year is the look-back year for the Plan.
- (l) Interaction of Top-Paid Group Election and Calendar Year Data Election: The top-paid group election and the calendar year data election are independent of each other, and therefore, the Employer making one of the elections is not required also to make the other election. However, if both elections are made, the look-back year in determining the top-paid group must be the calendar year beginning with or within the look-back year.

14.21 **Hour of Service:** Hour of Service shall mean:

- (a) Each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer. These hours will be credited to the Employee for the Computation period in which the duties are performed; and
- (b) Each hour for which an Employee is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including Disability), layoff, jury duty, military duty or leave of absence. No more than 501 hours of service will be credited under this paragraph for any single continuous period (whether or not such period occurs in a single computation period). Hours under this paragraph will be calculated and credited pursuant to Section 2530.200b-2 of the Department of Labor Regulations which is incorporated herein by this reference; and
- (c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same Hours of Service will not be credited both under paragraph (a) or (b), as the case may be, and under this paragraph (c). These hours will be credited to the Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made.

Hours of Service will be credited for employment with other members of an affiliated service group (under section 414(m)), a controlled group of corporations (under section 414(b)), or a group of trades or businesses under common control (under section 414(c)) of which the adopting employer is a member, and any other entity required to be aggregated with the employer pursuant to section 414(o) and the regulations thereunder.

Hours of Service will also be credited for any individual considered an Employee for purposes of this Plan under section 414(n) or section 414(o) and the regulations thereunder.

Solely for purposes of determining whether a Break in Service, as defined in Section 14.06, for participation and vesting purposes has occurred in a computation period, an individual who is absent from work for maternity or paternity reasons shall receive credit for the Hours of Service which would otherwise have been credited to such individual but for such absence, or in any case in which such hours cannot be determined, 8 Hours of Service per day of such absence. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence (1) by reason of the pregnancy of the individual, (2) by reason of a birth of a child of the individual, (3) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (4) for purposes of caring for such child for a period beginning immediately following such birth or placement. The Hours of Service credited under this paragraph shall be credited (1) in the computation period in which the absence begins if the crediting is necessary to prevent a Break in Service in that period, or (2) in all other cases, in the following computation period.

- (d) Service will be determined on the basis of the method selected in the Adoption Agreement.

14.22 **Investment Manager:** Any person, firm or corporation who is a registered investment advisor under the Investment Advisors Act of 1940, a bank, or an insurance company, who has the power to manage, acquire or dispose of Plan assets, and who acknowledges in writing his fiduciary

responsibility to the Plan.

- 14.23 **Leased Employee:** Any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with section 414(n)(6) of the Code) on a substantially full time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient. Contributions or benefits provided a Leased Employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer.
- A Leased Employee shall not be considered an Employee of the recipient if: (a) such employee is covered by a money purchase pension plan providing (1) a nonintegrated employer contribution rate of at least 10 percent of Compensation, as defined in Section 14.39 of the Plan, but including amounts contributed pursuant to a salary reduction agreement which are excludable from the employee's gross income under section 125, section 132(f)(4), section 402(e)(3), or section 402(h)(1)(B) of the Code, (2) immediate participation, and (3) full and immediate vesting; and (b) Leased Employees do not constitute more than 20 percent of the recipient's nonhighly compensated workforce.
- 14.24 **Nonhighly Compensated Employee:** An Employee who is neither a Highly Compensated Employee nor a Family Member of a Highly Compensated Employee.
- 14.25 **Nonresident Alien:** A nonresident alien who receives no earned income from the Employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3) of the Code).
- 14.26 **Normal Retirement Age:** The age selected in the Adoption Agreement. If the Employer enforces a mandatory retirement age, the Normal Retirement Age is the lesser of that mandatory age or the age specified in the Adoption Agreement.
- 14.27 **Owner-Employee:** An individual who is a sole proprietor, or who is a partner owning more than 10 percent of either the capital or profits interest of the partnership.
- 14.28 **Participant:** An Employee who has satisfied the eligibility requirements contained in the Adoption Agreement and in Article II of the Plan with respect to a particular type of contribution, and who was employed by the Employer on the Entry Date. Such Employee is a Participant only with respect to the type(s) of contributions for which the eligibility and Entry Date requirements have been satisfied.
- 14.29 **Plan:** This Plan and Trust adopted by the Employer as provided herein and on the Adoption Agreement executed by the Employer. Unless otherwise indicated, any reference to the Plan shall also include the Adoption Agreement and Trust Agreement adopted by the Employer and Trustee(s).
- 14.30 **Plan Administrator:** The person or persons named to administer the Plan (as set forth in Article VII), on behalf of the Employer as specified in the Adoption Agreement.
- 14.31 **Plan Year:** The 12-consecutive month period designated by the Employer in the Adoption Agreement or specified in Section 11.01.
- 14.32 **Self-Employed:** An individual who has Earned Income for the taxable year from the trade or business for which the Plan is established; also, an individual who would have had Earned Income but for the fact that the trade or business had no net profits for the taxable year.
- 14.33 **Straight Life Annuity:** An annuity payable in equal installments for the life of the Participant that terminate upon the Participant's death.
- 14.34 **Trust Fund:** The fund maintained in accordance with the Trust Agreement and the property held therein. If the Employer has designated a Custodian in the Adoption Agreement, the term "Custodial Fund" shall be substituted for "Trust Fund" throughout this Plan, the Trust Agreement and the Adoption Agreement.
- 14.35 **Trustee:** The person or persons named in the Adoption Agreement and accepting the Trust, or any successor or successors appointed by the Employer and accepting the Trust. If the Employer has designated a Custodian in the Adoption Agreement, the term "Custodian" shall be substituted for "Trustee" throughout this Plan, the Trust Agreement and the Adoption Agreement.
- 14.36 **Valuation Date:** The last day of each Plan Year, any additional dates specified in the Adoption Agreement, and such other dates as shall be directed by the Plan Administrator. In such case, the Plan Administrator will estimate the gain or loss between the last valuation date and the date of distribution, based on reasonable criteria on a nondiscriminatory basis.
- 14.37 **Year of Service:**
- (a) Hours of Service Method: If the Employer has specified in the Adoption Agreement that service will be credited on the basis of hours, days, weeks, semi-monthly payroll periods, or months, a Year of Service is a 12-consecutive month computation period during which the Employee completes at least the number of Hours of Service (not to exceed 1,000) specified in the Adoption Agreement.
  - (b) Elapsed Time Method:
    - (1) If the Employer has specified in the Adoption Agreement (or if the Adoption Agreement default is) that service will be credited under the Elapsed Time Method, for purposes of determining an Employee's initial or continued eligibility to participate in the Plan or the nonforfeitable interest in a Participant's account balance derived from Employer Contributions, a Year of Service is a period of service of 365 days.
    - (2) For purposes of determining an Employee's initial or continued eligibility to participate in the Plan or the nonforfeitable interest in the Participant's account balance derived from Employer Contributions, (except for periods of service which may be disregarded on account of the "rule of parity" described in Sections 2.08 and 5.06) an Employee will receive credit for the aggregate of all time period(s) commencing with the Employee's first day of employment or reemployment and ending on the date a Break in Service begins. The first day of employment or reemployment is the first day the Employee performs an Hour of Service. An Employee will also receive credit for any period of severance of less than 12 consecutive months. Fractional periods of a year will be expressed in terms of days.

**PART B - THE FOLLOWING DEFINITIONS RELATE TO LIMITATIONS ON ALLOCATIONS (SEE ARTICLE VI)**

14.38 **Annual Additions:** The sum of the following amounts credited to a Participant's account for the Limitation Year

- (a) Employer Contributions,
- (b) Employee Contributions,
- (c) Forfeitures, and
- (d) Amounts allocated, to an individual medical account, as defined in section 415(l)(2) of the Code, which is part of a pension or annuity plan maintained by the Employer are treated as Annual Additions to a defined contribution plan. Also amounts derived from contributions paid or accrued which are attributable to post-retirement medical benefits, allocated to the separate account of a key employee, as defined in section 419A(d)(3) of the Code, under a welfare benefit fund, as defined in section 419(e) of the Code, maintained by the Employer are treated as Annual Additions to a defined contribution plan, and allocations under a simplified employee pension plan.

14.39 **415 Compensation:** As elected by the Employer in the Adoption Agreement, Compensation shall mean all of a Participant's:

- (a) Information required to be reported under sections 6041, 6051, and 6052 of the Code (Wages, tips and other compensation as reported on Form W-2). Compensation is defined as wages within the meaning of section 3401(a) and all other payments of compensation to an employee by the employer (in the course of the employer's trade or business) for which the employer is required to furnish the employee a written statement under sections 6041(d), 6051(a)(3), and 6052. Compensation must be determined without regard to any rules under section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in section 3401(a)(2)).
- (b) Section 3401(a) wages. Wages as defined in section 3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in section 3401(a)(2)).
- (c) 415 safe-harbor compensation. Wages, salaries, differential wage payments under section 3401(h), and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining the Plan to the extent that the amounts are includable in gross income (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, reimbursements, and expense allowances under a nonaccountable plan (as described in section 1.62-2(c)), and excluding the following:
  - (1) Employer Contributions (other than elective contributions described in § 402(e)(3), § 408(k)(6), § 408(p)(2)(A)(i), or § 457(b)) to a plan of deferred compensation (including a simplified employee pension described in § 408(k) or a simple retirement account described in § 408(p), and whether or not qualified) to the extent such contributions are not includable in the Employee's gross income for the taxable year in which contributed, and any distributions (whether or not includable in gross income when distributed) from a plan of deferred compensation (whether or not qualified), other than, if the employer so elects in the Adoption Agreement, amounts received during the year by an employee pursuant to a nonqualified unfunded deferred compensation plan to the extent includable in gross income;
  - (2) Amounts realized from the exercise of a nonstatutory stock option (that is, an option other than a statutory stock option as defined in section 1.421-1(b) of the Income Tax Regulations), or when restricted stock (or property) held by the employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;
  - (3) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and
  - (4) Other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includable in the gross income of the employee and are not salary reduction amounts that are described in §125);
  - (5) Other items of remuneration that are similar to any of the items listed in (1) through (4)

For any Self-Employed, Compensation will mean Earned Income.

Except as provided herein, Compensation for a Limitation Year is the Compensation actually paid or made available during such Limitation Year. If elected by the Employer in the Adoption Agreement, Compensation for a Limitation Year shall include amounts earned but not paid during the Limitation Year solely because of the timing of pay periods and pay dates, provided the amounts are paid during the first few weeks of the next Limitation Year, the amounts are included on a uniform and consistent basis with respect to all similarly situated Employees, and no Compensation is included in more than one Limitation Year.

- (d) Differential Wages: "Differential Wage Payments" must be considered Compensation for purposes this Plan. A "Differential Wage Payment" is any payment made by an Employer to an Employee who is performing active military service that represents all or some of the wages that the Employee would have received from the Employer if he/she were still actively employed. Employees may also make contributions to this Plan from Differential Wage Payments or become entitled to additional benefits under the Plan on the basis of the Differential Wage Payments. This provision is effective on the first day of the Plan Year beginning in 2009.
- (e) Unless a different option is elected by the Employer in the Adoption Agreement, Compensation for a Limitation Year shall also include Compensation paid by the later of 2 ½ months after an Employee's severance from employment with the Employer maintaining the plan or the end of the Limitation Year that includes the date of the Employee's severance from employment with the Employer maintaining the Plan, if:
  - (1) The payment is regular Compensation for services during the Employee's regular working hours, or Compensation for services outside the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and, absent a severance from employment, the payments would have been paid to the Employee while the Employee continued in employment with the Employer; or, if the Employer so elects in the Adoption Agreement,
  - (2) The payment is for unused accrued bona fide sick, vacation or other leave that the Employee would have been able to use if employment had continued; or
  - (3) The payment is received by the Employee pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includable in gross income.

Any payments not described above shall not be considered Compensation if paid after severance from employment, even if they are paid by the later of 2 ½ months after the date of severance from employment or the end of the Limitation Year that includes the date of severance from employment, except, if elected by the employer in the Adoption Agreement, Compensation paid to a Participant who is permanently and totally disabled, as defined in §22(e)(3), provided, as elected by the Employer in the Adoption Agreement, salary continuation applies to all participants who are permanently and totally disabled for a fixed or determinable period, or the participant was not a highly compensated employee, as defined in § 414(q), immediately before becoming disabled.

Back pay, within the meaning of § 1.415(c)-2(g)(8), shall be treated as Compensation for the Limitation Year to which the back pay relates to the extent the back pay represents wages and Compensation that would otherwise be included under this definition.

Compensation paid or made available during a Limitation Year shall include amounts that would otherwise be included in Compensation but for an election under §125(a), §132(f)(4), §402(e)(3), §402(h)(1)(B), §402(k), or §457(b).

Unless the Employer elects otherwise in the Adoption Agreement, Compensation shall also include deemed §125 compensation. Deemed § 125 Compensation is an amount that is excludable under §106 that is not available to a Participant in cash in lieu of group health coverage under a §125 arrangement solely because the Participant is unable to certify that he or she has other health coverage. Amounts are deemed §125 compensation only if the Employer does not request or otherwise collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

If elected by the Employer in the Adoption Agreement, Compensation shall not include amounts paid as Compensation to a nonresident alien, as defined in §7701(b)(1)(B), who is not a Participant in the Plan to the extent the Compensation is excludable from gross income and is not effectively connected with the conduct of a trade or business within the United States.

14.40 **Defined Contribution Dollar Limitation:** \$50,000, as adjusted under section 415(d) of the Code.

14.41 **Employer:** For purposes of Article VI, employer shall mean the Employer that adopts this Plan, and all members of a controlled group of corporations (as defined in section 414(b) of the Code as modified by section 415(h)), all commonly controlled trades or businesses (as defined in section 414(c) as modified by section 415(h)) or affiliated service groups (as defined in section 414(m)) of which the adopting employer is a part, and any other entity required to be aggregated with the Employer pursuant to regulations under section 414(o) of the Code.

14.42 **Excess Amount:** The excess of the Participant's Annual Additions for the Limitation Year over the Maximum Permissible Amount.

14.43 **Highest Average Compensation:** The average compensation for the three consecutive Years of Service with the Employer that produces the highest average. A Year of Service with the Employer is the 12-consecutive month period defined in the Adoption Agreement.

14.44 **Limitation Year:** A calendar year, or the 12-consecutive month period elected by the Employer in the Adoption Agreement or specified in Section 11.01. All qualified plans maintained by the Employer must use the same Limitation Year. If the Limitation Year is amended to a different 12-consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made.

14.45 **Maximum Annual Additions:**

For limitation years beginning on or after January 1, 2012, except for catch up contributions described in Code §414(v), the annual addition that may be contributed or allocated to a participant's account under the plan for any limitation year shall not exceed the lesser of:

- (a) \$50,000, as adjusted for increases in the cost-of-living under §415(d) of the Code, or
- (b) 100 percent of the participant's compensation for the limitation year.

The compensation limit referred to in (b) shall not apply to any contribution for medical benefits after separation from service (within the meaning of §401(h) or §419A(f)(2) of the Code) which is otherwise treated as an annual addition.

If a short Limitation Year is created because of an amendment changing the Limitation Year to a different 12-consecutive month period, the Maximum Permissible Amount will not exceed the Defined Contribution Dollar Limitation multiplied by the following fraction:

$$\frac{\text{Number of months in the short Limitation Year}}{12}$$

If the Plan is terminated as of a date other than the last day of the Limitation Year, the Plan is deemed to have been amended to change its Limitation Year and the maximum permissible amount shall be prorated for the resulting short Limitation Year.

14.46 **Pre-Approved Plan:** A plan the form of which is the subject of a favorable opinion letter from the Internal Revenue Service.

**PART C - THE FOLLOWING DEFINITIONS RELATE TO JOINT AND SURVIVOR ANNUITY REQUIREMENTS (SEE ARTICLE IX).**

14.47 **Annuity Starting Date:** The first day of the first period for which an amount is paid as an annuity or any other form.

14.48 **Earliest Retirement Age:** The earliest date on which, under the Plan, the Participant could elect to receive retirement benefits.

14.49 **Election Period:**

- (a) The period which begins on the first day of the Plan Year in which the Participant attains age 35 and ends on the date of the Participant's death. If a Participant separates from service prior to the first day of the Plan Year in which age 35 is attained, with respect to the account balance as of the date of separation, the election period shall begin on the date of separation.

- (b) Pre-age 35 waiver - A Participant who will not yet attain age 35 as of the end of any current Plan Year may make a special qualified election to waive the Qualified Preretirement Survivor Annuity for the period beginning on the date of such election and ending on the first day of the Plan Year in which the Participant will attain age 35. Such election shall not be valid unless the Participant receives a written explanation required under Section 9.05. Qualified Preretirement Survivor Annuity coverage will be automatically reinstated as of the first day of the Plan Year in which the Participant attains age 35. Any new waiver on or after such date shall be subject to the full requirements of Article IX.

14.50 **Qualified Election:** A waiver of a Qualified Joint and Survivor Annuity or a Qualified Preretirement Survivor Annuity. Any waiver of a Qualified Joint and Survivor Annuity or a Qualified Preretirement Survivor Annuity shall not be effective unless: (a) the Participant's spouse consents in writing to the election; (b) the election designates a specific Beneficiary, including any class of beneficiaries or any contingent beneficiaries, which may not be changed without spousal consent (or the spouse expressly permits designations by the Participant without any further spousal consent); (c) the spouse's consent acknowledges the effect of the election; and (d) the spouse's consent is witnessed by a plan representative or notary public. Additionally, a Participant's waiver of the Qualified Joint and Survivor Annuity shall not be effective unless the election designates a form of benefit payment which may not be changed without spousal consent (or the spouse expressly permits designations by the Participant without any further spousal consent). If it is established to the satisfaction of a plan representative that there is no spouse or that the spouse cannot be located, a waiver will be deemed a qualified election.

Any consent by a spouse obtained under this provision (or establishment that the consent of a spouse may not be obtained) shall be effective only with respect to such spouse. A consent that permits designations by the Participant without any requirement of further consent by such spouse must acknowledge that the spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit where applicable, and that the spouse voluntarily elects to relinquish either or both of such rights. A revocation of a prior waiver may be made by a Participant without the consent of the spouse at any time before the commencement of benefits. The number of revocations shall not be limited. No consent obtained under this provision shall be valid unless the Participant has received notice as provided in Section 9.05.

14.51 **Qualified Joint and Survivor Annuity:** An immediate annuity for the life of the Participant with a survivor annuity for the life of the spouse which is not less than 50 percent and not more than 100 percent of the amount of the annuity which is payable during the joint lives of the Participant and spouse and which is the amount of benefit which can be purchased with the Participant's vested account balance. The percentage of the survivor annuity under the Plan shall be 50% (unless a different percentage is elected by the Employer in the Adoption Agreement.)

14.52 **Qualified Optional Survivor Annuity:** An immediate annuity for the life of the participant with a survivor annuity for the life of the spouse which is equal to the applicable percentage of the amount of the annuity which is payable during the joint lives of the participant and the spouse and which is the amount of benefit which can be purchased with the participant's vested account balance. If the percentage of the survivor annuity is less than 75%, the applicable percentage is 75%. If the percentage of the survivor annuity is greater than or equal to 75%, the applicable percentage is 50%.

14.53 **Spouse (Surviving Spouse):** The spouse or surviving spouse of the Participant, provided that a former spouse will be treated as the spouse or surviving spouse and a current spouse will not be treated as the spouse or surviving spouse to the extent provided under a Qualified Domestic Relations Order as described in section 414(p) of the Code.

14.54 **Vested Account Balance:** The aggregate value of the Participant's Vested Account Balances derived from Employer and Employee Contributions (including rollovers), whether vested before or upon death, including the proceeds of insurance contracts, if any, on the Participant's life. The provisions of Article X shall apply to a Participant who is vested in amounts attributable to Employer Contributions, Employee Contributions (or both) at the time of death or distribution.

#### **PART D - THE FOLLOWING DEFINITIONS RELATE TO MINIMUM REQUIRED DISTRIBUTIONS UPON ATTAINING AGE 70 1/2 OR DEATH (SEE ARTICLE X)**

14.55 **Applicable Life Expectancy:** The life expectancy (or joint and last survivor expectancy) calculated using the attained age of the Participant (or Designated Beneficiary) as of the Participant's (or Designated Beneficiary's) birthday in the applicable calendar year reduced by one for each calendar year which has elapsed since the date life expectancy was first calculated. If the life expectancy is being recalculated, the applicable life expectancy shall be the life expectancy as so recalculated. The applicable calendar year shall be the first distribution calendar year, and if life expectancy is being recalculated such succeeding calendar year.

14.56 **Designated Beneficiary:** The individual who is designated by the participant (or the participant's surviving spouse) as the beneficiary of the participant's interest under the plan and who is the designated beneficiary under § 401(a)(9) of the Code and § 1.401(a)(9)-4 of the regulations.

14.57 **Distribution Calendar Year:** A calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the participant's required beginning date. For distributions beginning after the participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under section 10.07(b)(2). The required minimum distribution for the participant's first distribution calendar year will be made on or before the participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

14.58 **Life Expectancy:** Life expectancy as computed by use of the Single Life Table in § 1.401(a)(9)-9, Q&A-1, of the regulations.

14.59 **Participant's Account Balance:**  
The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

14.60 **Qualified Longevity Annuity:**

For purposes of computing minimum required distributions that must be made to a participant or beneficiary in each distribution calendar year in order to satisfy § 401(a)(9) of the Code, a participant's account balance does not include the value of any qualifying longevity annuity contract (QLAC). A QLAC is an annuity contract, purchased from an insurance company on or after July 2, 2014, for the benefit of an employee under the plan, stating its intent to be a QLAC and otherwise meeting all of the requirements of Reg. § 1.401(a)(9)-6. The amount of the premiums paid for the QLAC under the plan will not exceed the lesser of:

- (a) An amount equal to the excess of \$125,000 (as adjusted by the Commissioner) over the sum of
  - (1) The premiums paid before that date with respect to the contract, and
  - (2) Premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is purchased for the employee under the plan, or any other plan, annuity, or account described in section 401(a), 403(a), 403(b), or 408 or eligible governmental plan under section 457(b); or
- (b) An amount equal to the excess of
  - (1) 25 percent of the employee's account balance (as of the last valuation date preceding the date of the premium payment) under the plan (including the value of any QLAC held under the plan for the employee) as of the contract date, over
  - (2) The sum of premiums paid before that date with respect to the contract and premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is held or was purchased for the employee under the plan.

Distributions under the QLAC portion of the participant's account will commence not later than the first day of the month next following the participant's 85th birthday. After distributions commence, those distributions will satisfy all applicable minimum distribution requirements from that point forward (other than the requirement that annuity payments commence on or before the Required Beginning Date.)

If an annuity contract fails to be a QLAC solely because a premium for the contract exceeds the above limits, the excess premium will be returned (either in cash or in the form of a contract that is not intended to be a QLAC) to the non-QLAC portion of the employee's account by the end of the calendar year following the calendar year in which the excess premium was originally paid.

#### 14.61 **Required Beginning Date:**

- (a) The Required Beginning Date of a Participant shall be defined as one of the following as elected by the Employer in the Adoption Agreement (if no election is made the default under Section (a)(2) shall apply):
  - (1) The Required Beginning Date of a Participant is the April 1 of the calendar year following the calendar year in which the Participant attains age 70½.
  - (2) The Required Beginning Date of a Participant is the April 1 of the calendar year following the calendar year in which the Participant attains age 70½, except that benefit distributions to a participant (other than a 5-percent owner) with respect to benefits accrued after the later of the adoption or effective date of the amendment to the Plan must commence by the later of the April 1 of the calendar year following the calendar year in which the Participant attains age 70½ or retires.
  - (3) The required beginning date of a participant is April 1 of the calendar year following the later of the calendar year in which the participant attains age 70½ or the calendar year in which the participant retires, except that benefit distributions to a 5-percent owner must commence by April 1 of the calendar year following the calendar year in which the participant attains age 70½.
    - (A) If elected by the employer in the adoption agreement, any participant (other than a 5-percent owner) attaining age 70½ in years after 1995 may elect by April 1 of the calendar year following the calendar year in which the participant attained age 70½ (or by December 31, 1997 in the case of a participant attaining age 70½ in 1996), to defer distributions until April 1 of the calendar year following the calendar year in which the participant retires. If no such election is made, the participant will begin receiving distributions by April 1 of the calendar year following the year in which the participant attained age 70½.
    - (B) If elected by the employer in the adoption agreement, any participant (other than a 5-percent owner) attaining age 70½ in years prior to 1997 may elect to stop distributions and recommence by April 1 of the calendar year following the year in which the participant retires. To satisfy the Joint and Survivor Annuity Requirements described in Article IX, the requirements in Notice 97-75, Q&A-8, must be satisfied for any participant who elects to stop distributions. There is either (as elected by the employer in the adoption agreement) (i) a new annuity starting date upon recommencement, or (ii) no new annuity starting date upon recommencement.
- (b) 5-percent owner. A Participant is treated as a 5-percent owner for purposes of this Section if such Participant is a 5 percent owner as defined in section 416 of the Code at any time during the Plan Year ending with or within the calendar year in which such owner attains age 70½. Once distributions have begun to a 5-percent owner under this Section, they must continue to be distributed, even if the Participant ceases to be a 5-percent owner in a subsequent year.

#### **PART E - THE FOLLOWING DEFINITIONS RELATE TO TOP-HEAVY PLANS (SEE ARTICLE VIII)**

14.62 **Key Employee:** In determining whether the plan is top-heavy for plan years beginning after December 31, 2001, key employee means any employee or former employee (including any deceased employee) who at any time during the plan year that includes the determination date is an officer of the employer having an annual compensation greater than \$130,000 (as adjusted under §416(i)(1) of the Code for plan years beginning after December 31, 2002), a 5-percent owner of the employer, or a 1-percent owner of the employer having an annual compensation of more than \$150,000. In determining whether a plan is top-heavy for plan years beginning before January 1, 2002, key employee means any employee or former employee (including any deceased employee) who at any time during the 5-year period ending on the determination date, is an officer of the employer having an annual compensation that exceeds 50 percent of the dollar limitation under §415(b)(1)(A), an owner (or considered an owner under §318) of one of the ten largest interests in the employer if such individual's compensation exceeds 100 percent of the dollar limitation under §415(c)(1)(A), a 5 percent owner of the employer, or a 1 percent owner of the employer who has an annual compensation or more than \$150,000. For purposes of this paragraph, annual compensation means compensation within the meaning of Section 14.39 of the Plan.

14.63 **Top-Heavy Plan:** For any Plan Year beginning after December 31, 1983, this Plan is Top-Heavy if any of the following conditions exists:

- (a) If the Top-Heavy Ratio for this Plan exceeds 60 percent and this Plan is not part of any required aggregation group or permissive aggregation group of plans.
- (b) If this Plan is a part of a required aggregation group of plans but not part of a permissive aggregation group and the Top-Heavy Ratio for the group of plans exceeds 60 percent.
- (c) If this Plan is a part of a required aggregation group and part of a permissive aggregation group of plans and the Top-Heavy Ratio for the group of plans and the Top-Heavy Ratio for the permissive aggregation group exceeds 60 percent.

**14.64 Top-Heavy Ratio:**

- (a) If the Employer maintains one or more defined contribution plans (including any simplified employee pension plan) and the employer has not maintained any defined benefit plan which during the 5-year period ending on the determination date(s) has or has had accrued benefits, the Top-Heavy Ratio for this Plan alone or for the required or permissive aggregation group as appropriate is a fraction, the numerator of which is the sum of the account balances of all Key Employees as of the determination date(s) (including any part of any account balance distributed in the 1-year period ending on the determination date(s)) (5-year period ending on the determination date in the case of a distribution made for a reason other than severance from employment, death or disability and in determining whether the plan is top-heavy for plan years beginning before January 1, 2002) , and the denominator of which is the sum of all account balances (including any part of any account balance distributed in the 1-year period ending on the determination date(s)) (5-year period ending on the determination date in the case of a distribution made for a reason other than severance from employment, death or disability and in determining whether the plan is top-heavy for plan years beginning before January 1, 2002), both computed in accordance with section 416 of the Code and the regulations thereunder. Both the numerator and denominator of the Top-Heavy Ratio are increased to reflect any contribution not actually made as of the determination date, but which is required to be taken into account on that date under section 416 of the Code and the regulations thereunder.
- (b) If the Employer maintains one or more defined contribution plans (including any simplified employee pension plan) and the Employer maintains or has maintained one or more defined benefit plans which during the 5-year period ending on the Determination Date(s) has or has had any accrued benefits, the Top-Heavy Ratio for any required or permissive aggregation group as appropriate is a fraction, the numerator of which is the sum of account balances under the aggregated defined contribution plan or plans for all Key Employees, determined in accordance with (a) above, and the present value of accrued benefits under the aggregated defined benefit plan or plans for all Key Employees as of the Determination Date(s), and the denominator of which is the sum of the account balances under the aggregated defined contribution plan or plans for all Participants, determined in accordance with (a) above, and the present value of accrued benefits under the defined benefit plan or plans for all Participants as of the Determination Date(s), all determined in accordance with section 416 of the Code and the regulations thereunder. The accrued benefits under a defined benefit plan in both the numerator and denominator of the Top-Heavy Ratio are increased for any distribution of an accrued benefit made in the one-year period ending on the Determination Date (5-year period ending on the determination date in the case of a distribution made for a reason other than severance from employment, death or disability and in determining whether the plan is top-heavy for plan years beginning before January 1, 2002).
- (c) For purposes of (a) and (b) above the value of account balances and the present value of accrued benefits will be determined as of the most recent Valuation Date that falls within or ends with the 12-month period ending on the Determination Date, except as provided in section 416 of the Code and the regulations thereunder for the first and second Plan Years of a defined benefit plan. The account balances and accrued benefits of a Participant (1) who is not a Key Employee but who was a Key Employee in a prior year, or (2) who has not been credited with at least one Hour of Service with any employer maintaining the Plan at any time during the 1-year period (five-year period in determining whether the plan is top-heavy for plan years beginning before January 1, 2002) ending on the Determination Date will be disregarded. The calculation of the Top-Heavy Ratio, and the extent to which distributions, rollovers, and transfers are taken into account will be made in accordance with section 416 of the Code and the regulations thereunder. Deductible Employee Contributions will not be taken into account for purposes of computing the Top-Heavy Ratio. When aggregating plans the value of account balances and accrued benefits will be calculated with reference to the Determination Dates that fall within the same calendar year.

The accrued benefit of a Participant other than a Key Employee shall be determined under (a) the method, if any, that uniformly applies for accrual purposes under all defined benefit plans maintained by the Employer, or (b) if there is no such method, as if such benefit accrued not more rapidly than the slowest accrual rate permitted under the fractional rule of section 411(b)(1)(C) of the Code.

**14.65 Permissive Aggregation Group:** The Required Aggregation Group of plans plus any other plan or plans of the Employer which, when considered as a group with the Required Aggregation Group, would continue to satisfy the requirements of sections 401(a)(4) and 410 of the Code.

**14.66 Required Aggregation Group:**

- (a) Each qualified plan of the Employer in which at least one Key Employee participates or participated at any time during the determination period (regardless of whether the plan has terminated), and
- (b) Any other qualified plan of the Employer which enables a plan described in (a) above to meet the requirements of sections 401(a)(4) or 410 of the Code.

**14.67 Determination Date:** For any Plan Year subsequent to the first Plan Year, the last day of the preceding Plan Year. For the first Plan Year of the Plan, the last day of that year.

**14.68 Valuation Date:** The date elected by the Employer in the Adoption Agreement or specified in Section 11.01 and such other dates as shall be directed by the Plan Administrator as of which account balances or accrued benefits are valued for purposes of calculating the Top-Heavy Ratio.

**14.69 Present Value:** Present Value shall be based only on the interest and mortality rates specified in the Adoption Agreement.

**PART F - THE FOLLOWING DEFINITIONS RELATE TO QUALIFIED CASH OR DEFERRED ARRANGEMENTS (SEE ARTICLE XV)**

**14.70 Actual Deferral Percentage; ADP:** For a specified group of Participants for a Plan Year, the average of the ratios (calculated separately for each Participant in such group) of (a) the amount of Employer contributions actually paid over to the trust on behalf of such Participant for the Plan Year



to (b) the Participant's Compensation for such Plan Year (whether or not the Employee was a Participant for the entire Plan Year). Employer Contributions on behalf of any Participant shall include: (a) any Elective Deferrals made pursuant to the Participant's deferral election, including Excess Elective Deferrals of Highly Compensated Employees, but excluding (1) Excess Elective Deferrals of Nonhighly Compensated Employees that arise solely from Elective Deferrals made under the plan or plans of this Employer and (2) Elective Deferrals that are taken into account in the Contribution Percentage test (provided the ADP test is satisfied both with and without exclusion of these Elective Deferrals); and (3) at the election of the Employer, Qualified Non-elective Contributions and Qualified Matching Contributions. For purposes of computing Actual Deferral Percentages, an Employee who would be a Participant but for the failure to make Elective Deferrals shall be treated as a Participant on whose behalf no Elective Deferrals are made.

**14.71 Average Contribution Percentage; ACP:** The average of the Contribution Percentages of the Eligible Participants in a group.

**14.72 Catch-up Contributions:** Elective Deferrals made to the Plan that are in excess of an otherwise applicable plan limit and that are made by participants who are aged 50 or over by the end of their taxable years. An otherwise applicable plan limit is a limit in the Plan that applies to Elective Deferrals without regard to Catch-up Contributions, such as the limits on annual additions, the dollar limitation on Elective Deferrals under Code §402(g) (not counting Catch-up Contributions) and the limit imposed by the actual deferral percentage (ADP) test under §401(k)(3). Catch-up Contributions for participant for a taxable year may not exceed (1) the dollar limit on Catch-up Contributions under Code §414(v)(2)(B)(i) for the taxable year or (2) when added to other Elective Deferrals, 100 percent of the participant's Compensation for the taxable year. The dollar limit on Catch-up Contributions under Code §414(v)(2)(B)(i) was \$5,000 for taxable years beginning in 2006. After 2006, the \$5,000 limit is adjusted by the Secretary of the Treasury for cost-of-living increases under Code §414(v)(2)(C). Any such adjustments will be in multiples of \$500. Different limits apply to Catch-up Contributions under SIMPLE 401(k) plans.

Catch-up Contributions are not subject to the limits on annual additions, are not counted in the ADP test and are not counted in determining the minimum allocation under Code §416 (but Catch-up Contributions made in prior years are counted in determining whether the Plan is top-heavy) Provisions in the Plan relating to Catch-up Contributions apply to Elective Deferrals made after 2001.

**14.73 Compensation:**

- (a) For purposes of allocating a Participant's contribution including Elective Deferrals, Compensation shall have the meaning given it under Section 14.09 of the Plan.
- (b) Solely for purposes of determining whether a Plan satisfies either the ADP or ACP tests (described in Section 15.04 and 15.12 respectively), the term Compensation may be determined on a Plan Year basis by the Plan Administrator. Such definition must however be one of the alternatives available under Section 14.39 of the Plan. Any definition selected by the Employer as described under Section 14.73(d) below may be used as long as the allocations are made uniformly to all Participants. If no election is made by the Employer, then the default shall be 415 Compensation as defined under Section 14.73(d)(1).
- (c) For Plan Years beginning before the later of January 1, 1992 or the date that is 60 days after publication of final regulations under section 1.414(s)-1T, Compensation for purposes of computing the Actual Deferral Percentage and the Average Contribution Percentage shall be limited to Compensation received by an Employee while a Participant in the Plan.
- (d) Alternative Definitions of Compensation that Satisfy section 414(s): In addition to the definitions provided under section 14.39 of the Plan, any definition of compensation satisfies section 414(s) of the Code with respect to Employees (other than Self-Employed Individuals treated as Employees under section 401(c)(1)) if the definition of Compensation does not by design favor Highly Compensated Employees, is reasonable within the meaning of section 1.414(s)-1(d)(2), and satisfies the nondiscrimination requirements of section 1.414(s)-1(d)(3). The following definitions automatically satisfy section 414(s) of the Code.
  - (1) Compensation within the meaning of section 415(c)(3). For years beginning after December 31, 1997, this definition of compensation includes elective deferrals defined in section 402(g)(3), amounts deferred under a section 125 cafeteria plan or under a section 457 plan and the value of qualified transportation fringe benefits described in section 132(f). Under this definition, a self-employed person's compensation is earned income as defined in section 401(c)(2).
  - (2) Wages as defined in section 3401(a) plus all other compensation required to be reported by the employer under sections 6041, 6051 and 6052, or wages as defined in 3401(a), both determined without regard to any rules that limit wages based on the nature or location of employment.
  - (3) A safe-harbor definition that starts with (1) or (2), but excludes all of the following: reimbursements or other expense allowances, fringe benefits, moving expenses, deferred compensation, and welfare benefits. This safe-harbor generally permits the following definition to fall within the scope of section 414(s): Regular or base salary or wages, plus commissions, tips, overtime and other premium pay, bonuses, and any other item of compensation includible in gross income that is not listed as an exclusion in the preceding sentence. If this definition is used, any self-employed individual's compensation is to be limited to earned income multiplied by the percentage of Nonhighly Compensated Employees' total compensation (determined on a group basis) that is included under the plan definition. Under any of these definitions, the employer can elect to include or exclude elective contributions not includible in income, section 457(b) deferred compensation, qualified transportation fringe benefits excluded from income under section 132(f)(4) and section 414(h)(2) pick-up contributions. If any of these are included (excluded), they must all be included (excluded). In certain situations compensation can include "deemed section 125 compensation". Other definitions of compensation may satisfy section 414(s) if they are reasonable, not designed to favor Highly Compensated Employees, and if the facts and circumstances show that the average percentage of total compensation included for Highly Compensated Employees as a group does not exceed the average percentage for Nonhighly Compensated Employees by more than a de minimis amount. In this case, the Employer must submit a demonstration that the definition is nondiscriminatory. Imputed Compensation or Compensation defined in reference to an Employee's rate of Compensation (rather than actual Compensation) may not be used for purposes of the ACP (or ADP) test. The period used to determine an Employee's Compensation must be the Plan Year, the calendar year ending in the Plan Year, or the portion of either during which the Employee was eligible under the Plan.

**14.74 Contribution Percentage:** The ratio (expressed as a percentage) of the Participant's Contribution Percentage Amounts to the Participant's Compensation for the Plan Year (whether or not the Employee was a Participant for the entire Plan Year).

**14.75 Contribution Percentage Amounts:** The sum of the Employee Nondeductible Contributions, Matching Contributions and Qualified Matching Contributions (to the extent not taken into account for purposes of the ADP test) made under the Plan on behalf of the Participant for the Plan Year. Such Contribution Percentage Amounts shall not include Matching Contributions that are forfeited either to correct Excess Aggregate

Contributions or because the contributions to which they relate are Excess Deferrals, Excess Contributions, or Excess Aggregate Contributions. If so elected in the Adoption Agreement the Employer may include Qualified Nonelective Contributions in the Contribution Percentage Amounts. The Employer also may elect to use Elective Deferrals in the Contribution Percentage Amounts so long as the ADP test is met before the Elective Deferrals are used in the ACP test and continues to be met following the exclusion of those Elective Deferrals that are used to meet the ACP test.

- 14.76 **Elective Deferrals:** Any Employer contributions made to the Plan at the election of the Participant, in lieu of cash compensation, and shall include contributions made pursuant to a salary reduction agreement or other deferral mechanism. With respect to any taxable year, a Participant's Elective Deferral is the sum of all employer contributions made on behalf of such Participant pursuant to an election to defer under any qualified cash or deferred arrangement as described in section 401(k) of the Code, any salary reduction simplified employee pension described in section 408(k)(6), any SIMPLE IRA Plan described in §408(p), , any plan as described under section 501(c)(18), and any employer contributions made on the behalf of a Participant for the purchase of an annuity contract under section 403(b) pursuant to a salary reduction agreement. Elective Deferrals shall not include any deferrals properly distributed as excess annual addition. For years beginning after 2005, the term "elective Deferrals" includes Pre-tax Elective Deferrals and Roth Elective Deferrals. Pre-tax Elective Deferrals are a participant's Elective Deferrals that are not includible in the participant's gross income at the time deferred. The Employer may, if notification is made within a reasonable time and in a manner described in IRS Revenue Ruling 2000-8, 2000-7 IRB617, allow for negative elections. If such administrative provision applies and the Employee does not affirmatively elect to not participate and the Employee does not affirmatively elect a different amount (including no amount), a default amount shall be deducted from the Employee's Compensation. Such default amount shall be part of the initial notification received by the Employer. If negative elections apply under the Plan, the Employer shall indicate whether the default shall be a pre-tax Elective Deferral or a Roth Elective Deferral in the Adoption Agreement.
- 14.77 **Elective Deferral Account:** The account maintained with respect to a Participant in which are recorded his Elective Deferrals and any earnings or losses thereon.
- 14.78 **Eligible Participant:** Any Employee who is eligible to make an Employee Nondeductible Contribution, or an Elective Deferral (if the Employer takes such contributions into account in the calculation of the Contribution Percentage), or to receive a Matching Contribution (including forfeitures) or a Qualified Matching Contribution. If an Employee Contribution is required as a condition of participation in the Plan, any Employee who would be a Participant in the Plan if such Employee made such a contribution shall be treated as an eligible Participant on behalf of whom no Employee Contributions are made.
- 14.79 **Excess Aggregate Contributions:** With respect to any Plan Year, the excess of:
- The aggregate Contribution Percentage Amounts taken into account in computing the numerator of the Contribution Percentage actually made on behalf of Highly Compensated Employees for such Plan Year, over
  - The maximum Contribution Percentage Amounts permitted by the ACP test (determined by hypothetically reducing contributions made on behalf of Highly Compensated Employees in order of their Contribution Percentages beginning with the highest of such percentages). Such determination shall be made after first determining Excess Elective Deferrals pursuant to Section 14.81 and then determining Excess Contributions pursuant to Section 14.80.
  - Such determination shall be made by first determining how much the actual contribution ratio (ACR) of the Highly Compensated Employee with the highest ACR would need to be reduced to satisfy the ADP test or cause such ratio to equal the ACR of the Highly Compensated Employee with the next highest ratio. This process is repeated until such time that the ACP test would be satisfied. The amount of the Excess Aggregate Contributions is equal to the sum of these hypothetical reductions multiplied, in each case, by the Highly Compensated Employee's Compensation.
- 14.80 **Excess Contribution:** With respect to any Plan Year, the excess of:
- The aggregate amount of Employer contributions actually taken into account in computing the ADP of Highly Compensated Employees for such Plan Year, over
  - The maximum amount of such contributions permitted by the ADP test (determined by hypothetically reducing contributions made on behalf of Highly Compensated Employees in order of the ADPs, beginning with the highest of such percentages).
- 14.81 **Excess Elective Deferrals:** Those Elective Deferrals that are either (1) are made during the participant's taxable year and exceed the dollar limitation under Code §402(g) (including, if applicable, the dollar limitation on Catch-up Contributions defined in §414(v)) for such year; or (2) are made during a calendar year and exceed the dollar limitation under Code 402(g) (including , if applicable, the dollar limitation on Catch-up Contributions defined in §414(v)) for the participant's taxable year beginning in such calendar year, counting only Elective Deferrals made under this Plan and any other plan, contract or arrangement maintained by the Employer.
- 14.82 **Matching Contribution:** An Employer contribution made to this or any other defined contribution plan on behalf of a Participant on account of an Employee Nondeductible Contribution made by such Participant, or on account of a Participant's Elective Deferral, under a plan maintained by the Employer.
- 14.83 **Matching Contribution Account:** The account maintained with respect to a Participant in which are recorded the Matching Contributions made on his behalf under this Plan and any earnings or losses thereon.
- 14.84 **Qualified Matching Contributions:** Matching Contributions that are nonforfeitable when made to the Plan and that are distributable only in accordance with the distribution provisions (other than for hardships) applicable to Elective Deferrals. The term Qualified Matching Contributions shall also include Matching Contributions which the Employer redesignates as Qualified Matching Contributions.
- 14.85 **Qualified Matching Contribution Account:** The account maintained with respect to a Participant in which are recorded the Qualified Matching Contributions made on his behalf under this Plan and any earnings or losses thereon.
- 14.86 **Qualified Nonelective Contributions:** Contributions (other than Matching Contributions or Qualified Matching Contributions) made by the Employer and allocated to Participant's accounts that the Participants may not elect to receive in cash until distributed from the Plan; that are nonforfeitable when made; and that are distributable only in accordance with the distribution provisions that are applicable to Elective Deferrals and Qualified Matching Contributions.

- 14.87 **Qualified Nonelective Contribution Account:** The account maintained with respect to a Participant in which are recorded the Qualified Nonelective Contributions made on his behalf under this Plan and any earnings or losses thereon.
- 14.88 **Roth Elective Deferrals:** A Participant's Elective Deferrals that are includible in the Participant's gross income at the time deferred and have been irrevocably designated as Roth Elective Deferrals by the Participant in his or her deferral election. A Participant's Roth Elective Deferrals will be maintained in a separate account or separately accounted for, and contain only the participant's Roth Elective Deferrals and gains and losses attributable to those Roth Elective Deferrals.

#### ARTICLE XV

#### PROVISIONS FOR TRADITIONAL CASH OR DEFERRED ARRANGEMENTS

- 15.01 **Participation and Coverage:** Each Employee who is employed and compensated by the Employer, who is a member of an eligible class of Employees and who has satisfied the eligibility requirements contained in the Adoption Agreement with respect to Elective Deferrals shall become eligible to make Elective Deferrals to the Plan.
- 15.02 **Employee Nondeductible Contributions:** Any Employee eligible to make Employee Nondeductible Contributions under this Plan may do so by entering into a payroll deduction agreement in a form prescribed by or acceptable to the Plan Administrator. The Employer shall contribute to the Plan on behalf of the Participant through payroll deduction the amount indicated in such payroll deduction agreement.
- 15.03 **Special Rules for Elective Deferrals:**
- (a) Elective Deferrals:
- (1) Any Employee eligible to make Elective Deferrals under this Plan may do so by entering into a deferral agreement in a form prescribed by or acceptable to the Plan Administrator at any time, specifying the amount and type (either Roth, Pre-Tax or a specified combination) of Elective Deferrals to be withheld from each wage payment. Such election will be effective for the first pay period beginning after 5 business days from receipt of the election, unless a later period is specified in the Adoption Agreement, or by the Employee on such Form. An Employee's election will remain in effect until superseded by another election. Except in the case of an In-Plan Roth Rollover (a rollover to a Participant's Roth Elective Deferral Account from another account of the Participant in this Plan), Elective Deferrals contributed to the Plan as one type, either Roth or Pre-Tax, may not later be reclassified as the other type. The Employer shall contribute to the Plan on behalf of each Participant the amount deferred pursuant to such deferral agreement. The Plan Administrator may make reasonable rules applicable uniformly to all Employees as to when deferral agreements may be entered, when they will become effective, and how and when deferral agreements may be revoked or amended. Each Participant shall have an effective opportunity to make or change and election to make Elective Deferrals (including Designated Roth Contributions) at least once each Plan Year.
  - (2) A Participant's Roth Elective Deferrals will be deposited in the Participant's Roth Elective Deferral account in the Plan. No contributions other than Roth Elective Deferrals, In-Plan Roth Rollovers and properly attributable earnings will be credited to each Participant's Roth Elective Deferral Account, and gains, losses and other credits or charges will be allocated on a reasonable and consistent basis to such account. Separate accounting of the Roth Elective Deferrals and the gains and losses thereon shall satisfy the separate account rule.
  - (3) No Participant shall be permitted to have Elective Deferrals made under this Plan, or any other qualified plan maintained by the Employer, during any taxable year, in excess of the dollar limitation contained in section 402(g) of the Code in effect for the Participant's taxable year beginning in such calendar year. In the case of a Participant aged 50 or over by the end of the taxable year, the dollar limitation described in the preceding sentence includes the amount of Elective Deferrals that can be Catch-up Contributions. The dollar limitation contained in Code §402(g) was \$17,000 for taxable years beginning in 2012. After 2012, the \$17,000 limit will be adjusted by the Secretary of the Treasury for cost-of-living increases under §402(g)(4). Any such adjustments will be in multiples of \$500.
- (b) Distribution of Excess Elective Deferrals:
- (1) A Participant may assign to this Plan any Excess Elective Deferrals made during a taxable year of the Participant by notifying the Plan Administrator on or before the date specified in the Adoption Agreement of the amount of the Excess Elective Deferrals to be assigned to the Plan. A Participant is deemed to notify the Plan Administrator of any Excess Elective Deferrals that arise by taking into account only those Elective Deferrals made to this Plan and any other plans of this Employer.
  - (2) Notwithstanding any other provision of the Plan, Excess Elective Deferrals, plus any income and minus any loss allocable thereto, shall be distributed no later than April 15 to any Participant to whose account Excess Elective Deferrals were assigned for the preceding year and who claims Excess Elective Deferrals for such taxable year. For years beginning after 2005, distribution of Excess Elective Deferrals for a year shall be made first from the Participant's Pre-tax Elective Deferral account, to the extent Pre-tax Elective Deferrals were made for the year, unless the Participant specifies otherwise.
  - (3) **Determination of Income or Loss:** The Plan Administrator may use one of the methods below for computing the income or loss allocable to Excess Elective Deferrals provided that such method is used consistently with respect to all Participants for the Taxable Year. Excess Elective Deferrals shall be adjusted for any income or loss up to the date of distribution. For taxable years beginning after 2007, the income or loss allocable to Excess Elective Deferrals is the income or loss allocable to the Participant's Elective Deferral account for the taxable year multiplied by a fraction, the numerator of which is such Participant's Excess Elective Deferrals for the year and the denominator is the Participant's account balance attributable to Elective Deferrals without regard to any income or loss occurring during such taxable year. For taxable years beginning before 2008, income or loss allocable to Excess Elective Deferrals also includes ten percent of the amount determined under the preceding sentence multiplied by the number of whole calendar months between the end of the Participant's taxable year and the date of distribution, counting the month of distribution if distribution occurs after the 15th of such month.
  - (4) The following methods may be used by the Plan to determine income and loss and may change from year to year as long as the Plan Administrator uses the same method to determine excesses during a Plan Year.
    - (A) The income or loss allocable to Excess Elective Deferrals is the sum of: (i) income or loss allocable to the Participant's Elective Deferral account for the taxable year multiplied by a fraction, the numerator of which is such participant's Excess Elective Deferrals for the year and the denominator is the Participant's account balance attributable to Elective Deferrals without regard to any income or loss occurring during such taxable year; and (ii) 10 percent of the amount determined under (i) multiplied by the number of whole calendar months between the end of the Participant's taxable year and the date of distribution, counting the

month of distribution if distribution occurs after the 15th of such month.

- (B) The income or loss allocable to Excess Elective Deferral is the sum of (i) income or loss allocable to the Participant's Elective Deferral account for the taxable year multiplied by a fraction, the numerator of which is such participant's Excess Elective Deferrals for the year and the denominator is the Participant's account balance attributable to Elective Deferrals without regard to any income or loss occurring during such taxable year; and (ii) income or loss allocable to the Participant's Elective Deferral Account from the beginning of the next Plan Year through the date of correction. The valuation of the Account may be made up to seven days prior to the distribution date.
- (C) For taxable year beginning before January 1, 2006 and after 2008, income or loss allocable to the period between the end of the taxable year and the date of distribution will be disregarded in determining income or loss on Excess Elective Deferrals for such years.

**15.04 Actual Deferral Percentage Test:**

- (a) The Actual Deferral Percentage (hereinafter "ADP") for Participants who are Highly Compensated Employees for each Plan Year and the ADP for Participants who are Nonhighly Compensated Employees for the same Plan Year must satisfy one of the following tests:
  - (1) The ADP for Participants who are Highly Compensated Employees for the Plan Year shall not exceed the ADP for Participants who are Nonhighly Compensated Employees for the same Plan Year multiplied by 1.25; or
  - (2) The ADP for participants who are Highly Compensated Employees for the Plan Year shall not exceed the ADP for Participants who are Nonhighly Compensated Employees for the same Plan Year multiplied by 2.0, provided that the ADP for Participants who are Highly Compensated Employees does not exceed the ADP for Participants who are Nonhighly Compensated Employees by more than two (2) percentage points.
- (b) **Current Year Testing:** If elected by the Employer in the Adoption Agreement, the ADP tests in Section 15.04, above, will be applied by comparing the current Plan Year's ADP for Participants who are highly compensated Employees with the current Plan Year's ADP for Participants who are non-highly compensated Employees. Once made, the Employer can elect Prior Year Testing for a Plan Year only if the Plan has used Current Year Testing for each of the preceding 5 Plan Years (or if lesser, the number of Plan Years the Plan has been in existence) or if, as a result of a merger or acquisition described in Code § 410(b)(6)(C)(i), the Employer maintains both a plan using Prior Year Testing and a plan using Current Year Testing and the change is made within the transition period described in § 410(b)(6)(C)(ii).

**15.05 Prior Year Testing:** The Actual Deferral Percentage (hereinafter "ADP") for a Plan Year for Participants who are Highly Compensated Employees for each Plan Year and the prior year's ADP for Participants who were Non- highly Compensated Employees for the prior Plan Year must satisfy one of the following tests:

- (a) The ADP for a Plan Year for Participants who are Highly Compensated Employees for the Plan Year shall not exceed the Prior year's ADP for Participants who were Non-highly Compensated Employees for the prior Plan Year multiplied by 1.25; or
- (b) The ADP for a Plan Year for Participants who are Highly Compensated Employees for the Plan Year shall not exceed the Prior Year's ADP for Participants who were Non-highly Compensated Employees for the Prior Plan Year multiplied by 2.0, provided that the ADP for Participants who are Highly Compensated Employees does not exceed the ADP for Participants who were Non-highly Compensated Employees in the prior Plan Year by more than 2 percentage points.

For the first Plan Year the Plan permits any Participant to make Elective deferrals and this is not a successor plan, for purposes of The foregoing tests, the prior year's non- highly compensated Employees' ADP shall be 3 percent unless the Employer has elected in the Adoption Agreement to use the Plan Year's ADP for these Participants. Unless elected by the Employer in the Adoption Agreement pursuant to 15.04(b) above, prior year testing shall apply.

**15.06 Special Rules for Actual Deferral Percentage Tests:**

- (a) A Participant is a Highly Compensated Employee for a particular Plan Year if he or she meets the definition of a Highly Compensated Employee in effect for that Plan Year. Similarly, a Participant is a Non-highly Compensated Employee for a particular Plan Year if he or she does not meet the definition of a Highly Compensated Employee in effect for that Plan Year.
- (b) The ADP for any Participant who is a Highly Compensated Employee for the Plan Year and who is eligible to have Elective Deferrals (and Qualified Nonelective Contributions or Qualified Matching Contributions, or both, if treated as Elective Deferrals for purposes of the ADP test) allocated to his or her accounts under two or more arrangements described in section 401(k) of the Code, that are maintained by the Employer, shall be determined as if such Elective Deferrals (and, if applicable, such Qualified Nonelective Contributions or Qualified Matching Contributions, or both) were made under a single arrangement. If a Highly Compensated Employee participates in two or more cash or deferred arrangements that have different Plan Years, all Elective Deferrals made during the Plan Year under all such arrangements shall be aggregated. For plan years beginning before 2006, all such CODAs ending with or within the same calendar year shall be treated as a single arrangement. Notwithstanding the foregoing, certain plans shall be treated as separate if mandatorily disaggregated under regulations under Code § 401(k).
- (c) In the event that this Plan satisfies the requirements of sections 401(k), 401(a)(4), or 410(b) of the Code only if aggregated with one or more other plans, or if one or more other plans satisfy the requirements of such sections of the Code only if aggregated with this Plan, then this Section shall be applied by determining the ADP of employees as if all such plans were a single plan. If more than 10 percent of the Employer's Non-highly Compensated Employees are involved in a plan coverage change as defined in Regulations § 1.401(k)-2(c)(4), then any adjustments to the Nonhighly Compensated Employees' ADP for the prior year will be made in accordance with such Regulations, unless the Employer has elected in the adoption agreement to use the Current Year Testing method. Plans may be aggregated in order to satisfy Code § 401(k) only if they have the same Plan Year and use the same ADP testing method.
- (d) For purposes of determining the ADP test, Elective Deferrals, Qualified Nonelective Contributions and Qualified Matching Contributions must be made before the end of the twelve-month period immediately following the Plan Year to which contributions relate.
- (e) The Employer shall maintain records sufficient to demonstrate satisfaction of the ADP test and the amount of Qualified Nonelective Contributions or Qualified Matching Contributions, or both, used in such test.
- (f) The determination and treatment of the ADP amounts of any Participant shall satisfy such other requirements as may be prescribed by the Secretary of the Treasury.

#### 15.07 Distribution of Excess Contributions:

- (a) Notwithstanding any other provision of this Plan, Excess Contributions, plus any income and minus any loss allocable thereto, shall be distributed no later than the last day of each Plan Year to Participants to whose accounts such Excess Contributions were allocated for the preceding Plan Year. The amount of Excess Contributions attributable to a given HCE for a Plan Year is the amount (if any) by which the HCE's contributions taken into account under this Section must be reduced for the HCE's ADR to equal the highest permitted ADR under the Plan. To determine and calculate the highest permitted ADR under the Plan, the ADR of the HCE with the highest ADR is reduced by the amount required to cause that HCE's ADR to equal the ADR of the HCE with the next highest ADR. If a lesser reduction would enable the arrangement to satisfy the ADP requirements, then only this lesser reduction is used in determining the highest permitted ADR. This process described above must be repeated until the arrangement would satisfy the ADP requirements. The sum of all reductions for all HCEs determined under this Section the total amount of Excess Contributions for the Plan Year. Excess Contributions are allocated to the Highly Compensated Employees with the largest amounts of employer contributions taken into account in calculating the ADP test for the year in which the excess arose, beginning with the Highly Compensated Employee with the largest amount of such employer contributions and continuing in descending order until all the Excess Contributions have been allocated. For purposes of the preceding sentence, the "largest amount" is determined after distribution of any Excess Contributions. To the extent a Highly Compensated Employee has not reached his or her Catch-up Contribution limit under the Plan, Excess Contributions allocated to such Highly Compensated Employee are Catch-up Contributions and will not be treated as Excess Contributions. If such excess amounts are distributed more than 2 1/2 months after the last day of the Plan Year in which such excess amounts arose, a ten (10) percent excise tax will be imposed on the Employer maintaining the Plan with respect to such amounts.
- (b) Excess Contributions (including the amounts recharacterized) shall be treated as Annual Additions under the Plan.
- (c) Determination of Income or Loss - The Plan Administrator may use one of the methods below for computing the income or loss allocable to Excess Contributions, provided that such method is used consistently with respect to all Participants for the Plan Year. Excess contributions shall be adjusted for any income or loss. For Plan Years beginning after 2007, the income or loss allocable to Excess Contributions allocated to each Participant is the income or loss allocable to the Participant's Elective Deferral Account (and, if applicable, the Qualified Nonelective Contribution Account of the Qualified Matching Contribution Account or both) for the Plan Year multiplied by a fraction, the numerator of which is such Participant's Excess Contributions for the year and the denominator is the Participant's account balance attributable to Elective Deferrals (and Qualified Nonelective Contributions or Qualified Matching Contributions, or both), if any such contributions are included in the ADP test) without regard to any income or loss occurring during such Plan Year. For Plan Years beginning before 2008, allocable income or loss also includes ten percent of the amount determined under the preceding sentence multiplied by the number of whole calendar months between the end of the Plan Year and the date of distribution, counting the month of distribution if distribution occurs after the 15th of such month.
- (d) Accounting for Excess Contributions - Excess Contributions allocated to a Participant shall be distributed from the Participant's Elective Deferral Account and Qualified Matching Contribution Account (if applicable) in proportion to the Participant's Elective Deferrals and Qualified Matching Contributions (to the extent used in the ADP test) for the Plan Year. For Plan Years beginning after 2005, distribution of Excess Deferrals that are Excess Contributions shall be made from the Participant's Pre-tax Elective Deferrals account before the Participant's Roth Elective Deferral Account to the extent that Pre-tax Elective Deferrals were made for the year, unless the Participant specifies otherwise. Excess Contributions shall be distributed from the Participant's Qualified Nonelective Contribution Account only to the extent that such Excess Contributions exceed the balance in the Participant's Elective Deferral Account and Qualified Matching Contribution Account. The amount of Excess Contributions to be distributed or re-characterized shall be reduced by Excess Deferrals previously distributed for the taxable year ending in the same Plan Year and Excess Deferrals to be distributed for a taxable year will be reduced by Excess Contributions previously distributed or re-characterized for the Plan Year beginning in such taxable year.
- (e) For Plan Years beginning before 2006 and after 2008, income or loss allocable to the period between the end of the Plan Year and the date of distribution (the "Gap Period") will be disregarded in determining income or loss on Excess Contributions for such years. Gap-period income or loss must be included in any distribution of Excess Contributions occurring in any distribution of Excess Contributions occurring in Plan years beginning after 2007.

15.08 **Recharacterization of Excess Contributions:** A Participant may treat Excess Contributions allocated to him or her as an amount distributed to the Participant and then contributed by the Participant to the Plan. Recharacterized amounts will remain nonforfeitable and subject to the same distribution requirements as Elective Deferrals. Amounts may not be recharacterized by a Highly Compensated Employee to the extent that such amount in combination with other Employee Nondeductible Contributions made by that Employee would exceed any stated limit under the Plan for Employee Nondeductible Contributions.

Recharacterization must occur no later than two and one-half months after the last day of the Plan Year in which such Excess Contributions arose and is deemed to occur no earlier than the date the last Highly Compensated Employee is informed in writing of the amount recharacterized and the consequences thereof. Recharacterized amounts will be taxable to the Participant for the Participant's tax year in which the Participant would have received them in cash.

#### 15.09 Matching Contributions:

- (a) If elected by the Employer in the Adoption Agreement, the Employer will make Matching Contributions to the Plan.
- (b) Matching Contributions shall be vested in accordance with the vesting schedule selected in the Cash or Deferred Section of the Adoption Agreement. In any event, Matching Contributions shall be fully vested at Normal Retirement Age, upon complete or partial termination of the profit-sharing plan, or upon complete discontinuance of Employer contributions.
- (c) Forfeitures of Matching Contributions, other than Excess Aggregate Contributions, shall be made in accordance with Section 5.07.

#### 15.10 Qualified Matching Contributions (QMACs):

- (a) If elected by the Employer in the Adoption Agreement, the Employer will make Qualified Matching Contributions to the Plan.
- (b) The Employer may redesignate a Matching Contribution as a Qualified Matching Contribution no later than the time prescribed by law for filing the Employer's federal income tax return for the taxable year for which the Matching Contribution was made. Matching Contributions which are redesignated as Qualified Matching Contributions will become nonforfeitable and subject to the same distribution requirements as Elective Deferrals.
- (c) Notwithstanding the elections made in the Adoption Agreement, an Employer may make QMACs on behalf of Participants that are sufficient to satisfy either the Actual Deferral Percentage test or the Average Contribution Percentage test, or both, pursuant to regulations under the

Code. Such Contributions will only be made to the nonhighly compensated employees (NHC) unless indicated otherwise in the Adoption Agreement. The allocation of QMACs and Targeted QMACS (as defined under 15.10(d)) may be made as follows under one of the options below:

- (1) To all NHC Employees, unless indicated otherwise in the Adoption Agreement;
  - (2) To all NHC Employees that are eligible, unless otherwise indicated in the Adoption Agreement;
  - (3) The Plan Administrator may limit the allocation of any QMAC only to some or all NHC Employees who are part of the ADP test or a part of the ACP test; or
  - (4) The Plan Administrator may allocate the QMAC to NHC Participants who are eligible to make Elective Deferrals under the Plan even if they do not satisfy the eligibility requirements or allocation requirements for receiving a Matching Contribution, including a QMAC.
- (d) Targeted QMACs: The allocations indicated above in 15.10(c) must satisfy the following targeting rules.
- (1) The Plan Administrator may include in the ACP test only such Matching Contribution amounts (including QMACs) as are not impermissibly targeted. A Matching Contribution is impermissibly targeted if the Matching Contribution amount allocated to any NHC exceeds the greater of: (i) 5% of Compensation; (ii) the amount of the NHC's Elective Deferrals; or (iii) the product of 2 times the Plan's Representative Matching Rate and the NHC's Elective Deferrals for the Plan Year.
  - (2) Definition of Representative Matching Rate: The Plan's Representative Matching Rate is the lowest Matching Rate for any Participants who are NHCs and are part of the ACP test in a group consisting of: (i) any one-half of the such NHCs who make Elective Deferrals for the Plan Year; or if it would result in a greater Representative Matching Rate, (ii) all of the Participants who are NHCs who make Elective Deferrals for the Plan Year and who are employed by the Employer on the last day of the Plan Year.
  - (3) Definition of Matching Rate: The Matching Rate for an NHC is the NHC's Matching Contributions divided by his/her Elective Deferrals; provided that if the Matching Rate is not the same for all levels of Elective Deferrals, the Plan Administrator will determine each NHC's Matching Rate by assuming an Elective Deferral equal to 6% of Compensation.
  - (4) Employee Contributions: If the Plan permits Employee Contributions, the Plan Administrator will apply this Section 15.10(d) by adding together an NHC's Employee Contributions and Elective Deferrals. If the Plan provides a Matching Contribution only as to Employee Contributions, the Plan Administrator will apply this Section 15.10(d) by substituting the Employee Contributions for Elective Deferrals.

#### 15.11 Limitations on Employee Contributions and Matching Contributions:

- (a) The ACP for Participants who are Highly Compensated Employees for each Plan Year and the ACP for Participants who are Nonhighly Compensated Employees for the same Plan Year must satisfy one of the following tests:
- (1) The ACP for Participants who are Highly Compensated Employees for the Plan Year shall not exceed the ACP for Participants who are Nonhighly Compensated Employees for the same Plan Year multiplied by 1.25; or
  - (2) The ACP for Participants who are Highly Compensated Employees for the Plan Year shall not exceed the ACP for Participants who are Nonhighly Compensated Employees for the same Plan Year multiplied by two (2), provided that the ACP for Participants who are Highly Compensated Employees does not exceed the ACP for Participants who are Nonhighly Compensated Employees by more than two (2) percentage points.
- (b) **Current Year ACP Testing:** If elected by the Employer in the Adoption Agreement, the ACP tests in Section 15.11(a), above, will be applied by comparing the current Plan Year's ACP for participants who are Highly Compensated Employees for each Plan Year with the current Plan Year's ACP for participants who are Non-highly Compensated Employees. Once made, the Employer can elect Prior Year testing for a Plan Year only if the Plan has used Current Year testing for each of the preceding 5 Plan Years (or if lesser, the number of Plan Years the Plan has been in existence) or if, as a result of a merger or acquisition described in Code section 410(b)(6)(C)(i), the Employer maintains both a plan using Prior Year testing and a plan using Current Year testing and the change is made within the transition period described in section 410(b)(6)(C)(ii).

15.12 **Prior Year Testing:** The Average Contribution Percentage ("ACP") for a Plan Year for Participants who are Highly Compensated Employees for each Plan Year and the prior year's ACP for participants who were Non-highly Compensated Employees for the prior Plan Year must satisfy one of the following tests:

- (a) The ACP for a Plan Year for Participants who are Highly Compensated Employees for the Plan Year shall not exceed the prior year's ACP for Participants who were Non-highly Compensated Employees for the prior Plan Year multiplied by 1.25; or
- (b) The ACP for a Plan Year for Participants who are Highly Compensated Employees for the Plan Year shall not exceed the prior year's ACP for Participants who were Non-highly Compensated Employees for the prior Plan Year multiplied by 2, provided that the ACP for Participants who are Highly Compensated Employees does not exceed the ACP for Participants who were Non-highly Compensated Employees in the prior Plan Year by more than 2 percentage points.

For the first Plan Year this Plan permits any Participant to make Employee Contributions, provides for Matching Contributions or both, and this is not a successor plan, for purposes of the foregoing tests, the prior year's Non-highly Compensated Employees' ACP shall be 3 percent unless the Employer has elected in the Adoption Agreement to use the Plan Year's ACP for these Participants. Unless elected by the Employer in the Adoption Agreement pursuant to 15.11(b) above, prior year testing shall apply.

#### 15.13 Special Rules for Limitations on Employee and Matching Contributions:

- (a) Special Rules: A Participant is a Highly Compensated Employee for a particular Plan Year if he or she meets the definition of a Highly Compensated Employee in effect for that Plan Year. Similarly, a Participant is a Non-highly Compensated Employee for a particular Plan Year if he or she does not meet the definition of a Highly Compensated Employee in effect for that Plan Year.
- (b) For purposes of this Section, the Contribution Percentage for any Participant who is a Highly Compensated Employee and who is eligible to have Contribution Percentage Amounts allocated to his or her account under two or more plans described in section 401(a) of the Code, or arrangements described in section 401(k) of the Code that are maintained by the Employer, shall be determined as if the total of such contribution Percentage Amounts was made under each Plan. If a Highly Compensated Employee participates in two or more cash or deferred arrangements that have different Plan Years, all cash or deferred arrangements ending with or within the same calendar year shall be treated as a single arrangement. Notwithstanding the foregoing certain plans shall be treated as separate if mandatorily disaggregated

under regulations under section 401(m) of the Code.

- (c) In the event that this Plan satisfies the requirements of sections 401(m), 401(a)(4) or 410(b) of the Code only if aggregated with one or more other plans, or if one or more other plans satisfy the requirements of such sections of the Code only if aggregated with this Plan, then this Section shall be applied by determining the Contribution Percentage of Employees as if all such Plans were a single plan. Any adjustments to the Non-highly Compensated Employee ACP for the prior year will be made in accordance with Notice 98-1 and any superseding guidance, unless the Employer has elected in the adoption agreement to use the Current Year Testing method. Plans may be aggregated in order to satisfy section 401(m) of the Code only if they have the same Plan Year and use the same ACP testing method.
- (d) For purposes of determining the Contribution Percentage test, Employee Contributions are considered to have been made in the Plan Year in which contributed to the trust. Matching Contributions and Qualified Nonelective Contributions will be considered made for a Plan Year if made no later than the end of the twelve-month period beginning on the day after the close of the Plan Year.
- (e) The Employer shall maintain records sufficient to demonstrate satisfaction of the ACP test and the amount of Qualified Nonelective Contributions or Qualified Matching Contributions, or both, used in such test.
- (f) The determination and treatment of the Contribution Percentage of any Participant shall satisfy such other requirements as may be prescribed by the Secretary of the Treasury.

#### 15.14 Distribution of Excess Aggregate Contributions:

- (a) Notwithstanding any other provision of this Plan, Excess Aggregate Contributions, plus any income and minus any loss allocable thereto, shall be forfeited, if forfeitable, or if not forfeitable, distributed no later than 12 months after a Plan Year to Participants to whose accounts such Excess Aggregate Contributions were allocated for such Plan Year. Excess Aggregate Contributions are allocated to the Highly Compensated Employees with the largest Contribution Percentage Amounts taken into account in calculating the ACP test for the year in which the excess arose, beginning with the Highly Compensated Employee with the largest amount of such Contribution Percentage Amounts and continuing in descending order until all the Excess Aggregate Contributions have been allocated. For purposes of the preceding sentence, the "largest amount" is determined after distribution of any Excess Aggregate Contributions. If such Excess Aggregate Contributions are distributed more than 2 1/2 months after the last day of the Plan Year in which such excess amounts arose, a ten (10) percent excise tax will be imposed on the Employer maintaining the Plan with respect to those amounts. Excess Aggregate Contributions shall be treated as Annual Additions under the Plan. Excess Aggregate Contributions shall be determined in accordance with Section 14.79.
- (b) Determination of Income or Loss - The Plan Administrator may use one of the methods below for computing the income or loss allocable to Excess Aggregate Contributions provided that such method is used consistently with respect to all Participants for the Plan Year. Excess Aggregate Contributions shall be adjusted for any income or loss. For Plan Years beginning after 2007, the income or loss attributable to Excess Aggregate Contributions allocated to each Participant is the income or loss allocable to the Participant's Employee Contribution Account, Matching Contribution Account (if any, and if all amounts therein are not used in the ADP test) and, if applicable, Qualified Nonelective Contribution Account and Elective Deferral Account for the Plan Year multiplied by a fraction, the numerator of which is such Participant's Excess Aggregate Contributions for the year and the denominator is the Participant's account balance(s) attributable to Contribution Percentage Amounts without regard to any income or loss occurring during such Plan Year. For Plan Years beginning before 2008, allocable income or loss also includes ten percent of the amount determined under the preceding sentence multiplied by the number of whole calendar months between the end of the Plan Year and the date of distribution, counting the month of distribution if distribution occurs after the 15th of such month.
- (c) Forfeitures of Excess Aggregate Contributions - Forfeitures of Excess Aggregate Contributions may either be reallocated to the accounts of Nonhighly Compensated Employees or applied to reduce Employer Contributions, as elected by the Employer in the Adoption Agreement.
- (d) Accounting for Excess Aggregate Contributions - Excess Aggregate Contributions allocated to a Participant shall be forfeited, if forfeitable, or distributed on a pro rata basis from the Participant's Employee Contribution Account, Matching Contribution Account, and Qualified Matching Contribution Account (and, if applicable, the Participant's Qualified Nonelective Contribution Account or Elective Deferral Account, or both). For Plan Years beginning after 2005, distribution of Elective Deferrals that are Excess Aggregate Contributions shall be made from the Participant's Pre-tax Elective Deferral account before the Participant's Roth Elective Deferral account, to the extent Pre-tax Elective Deferrals were made for the year, unless the Participant specifies otherwise.
- (e) The method of distributing Excess Aggregate Contributions must be nondiscriminatory. The Plan may not distribute a Highly Compensated Employee's matched Employee Contributions without forfeiting the corresponding matching employer contributions. The Plan may distribute unmatched Employee Contributions first, or distribute (or forfeit) Employer Matching Contributions before distributing Employee Contributions. However, if the Plan distributes matched Employee Contributions, there must be a proportional forfeiture of Matching Contributions.
- (f) For Plan Years beginning before 2006 and after 2008, income or loss allocable to the period between the end of the Plan Year and the date of distribution (the "Gap Period") will be disregarded in determining income or loss on Excess Aggregate Contributions for such years. Gap-period income or loss must be included in any distribution of Excess Aggregate Contributions occurring in any distribution of Excess Aggregate Contributions occurring in Plan years beginning after 2007.

#### 15.15 Qualified Nonelective Contributions (QNECs):

- (a) The Employer may elect to make Qualified Nonelective Contributions under the Plan on behalf of Employees as provided in the Adoption Agreement.

In addition, if the Employer has elected in the Adoption Agreement to use the Current Year Testing method, in lieu of distributing Excess Contributions as provided in Section 15.07 of the Plan, or Excess Aggregate Contributions as provided in Section 15.14 of the Plan. Notwithstanding the elections made in the Adoption Agreement the Employer may make Qualified Nonelective Contributions (QNECs) on behalf of Participants that are sufficient to satisfy either the Actual Deferral Percentage test or the Average Contribution Percentage test, or both, pursuant to regulations under the Code. Such Contributions will only be made to the NHC employees unless indicated otherwise in the Adoption Agreement. The allocation of QNECs and Targeted QNECs (as defined under 15.10(d)) may be made as follows under one of the options below:

- (1) To all NHC Employees, unless indicated otherwise in the Adoption Agreement;
- (2) To all NHC Employees that are eligible, unless otherwise indicated in the Adoption Agreement;
- (3) The Plan Administrator may limit the allocation of any QNEC only to some or all NHC Employees who are part of the ADP test or a part of the ACP test; or
- (4) The Plan Administrator may allocate the QNEC to NHC Participants who are eligible to make Elective Deferrals under the Plan even if they do not satisfy the eligibility requirements or allocation requirements for receiving a Nonelective Contribution, including a QNEC.

- (b) Targeted QNECs: The allocations indicated above in 15.15(a) must satisfy the following targeting rules.
- (1) The Plan Administrator may include in the ADP test only such Nonelective Contribution amounts (including QNECs) as are not impermissibly targeted. A Nonelective Contribution is impermissibly targeted if the Nonelective Contribution amount allocated to any NHC exceeds the greater of: (i) 5% of Compensation; (ii) the amount of the NHC's Elective Deferrals; or (iii) the product of 2 times the Plan's Representative ADP Rate and the NHC's Elective Deferrals for the Plan Year.
  - (2) Definition of Representative ADP Rate: The Plan's Representative ADP Rate is the lowest ADP Rate for any Participants who are NHCs and are part of the ADP test in a group consisting of: (i) any one-half of the such NHCs who make Elective Deferrals for the Plan Year; or if it would result in a greater Representative ADP Rate, (ii) all of the Participants who are NHCs who make Elective Deferrals for the Plan Year and who are employed by the Employer on the last day of the Plan Year.
  - (3) Definition of ADP Rate: The ADP Rate for an NHC who is included in the ADP test, is the sum of the NHC's QNECs, QMACs used in the ADP test, divided by the NHC's Compensation.

15.16 **Nonforfeitable and Vesting:** The Participant's accrued benefit derived from Elective Deferrals, Qualified Nonelective Contributions, Employee Nondeductible Contributions, and Qualified Matching Contributions is nonforfeitable.

15.17 **Distribution Requirements:** Elective Deferrals, Qualified Nonelective Contributions, and Qualified Matching Contributions, and income allocable to each, are not distributable to a Participant or his or her Beneficiary or Beneficiaries, in accordance with such Participant's or Beneficiary or Beneficiaries election, earlier than upon severance from employment, death, or Disability. Such amounts may also be distributed upon:

- (a) Termination of the Plan without the establishment of another defined contribution plan, other than an employee stock ownership plan (as defined in section 4975(e) (7) or section 409(a) of the Code) or a simplified employee pension plan as defined in section 408(k), a SIMPLE IRA Plan (defined in §408(p), a plan or contract described in § 403(b) or a plan described in § 457(b) or (f)) at any time during the period beginning on the date of plan termination and ending 12 months after all assets have been distributed from the Plan. Such a distribution must be made in a lump sum.
- (b) The disposition by a corporation to an unrelated corporation of substantially all of the assets (within the meaning of section 409(d)(2) of the Code) used in a trade or business of such corporation if such corporation continues to maintain this Plan after the disposition, but only with respect to Employees who continue employment with the corporation acquiring such assets.
- (c) The disposition by a corporation to an unrelated entity of such corporation's interest in a subsidiary (within the meaning of section 409(d)(3) of the Code) if such corporation continues to maintain this Plan, but only with respect to Employees who continue employment with such subsidiary.
- (d) The attainment of age 59 1/2 in the case of a Profit-Sharing Plan.
- (e) The attainment of age 62 in the case of a Money Purchase Plan
- (f) The hardship of the Participant as described in Section 15.19.
- (g) The participant's call to active duty after September 11, 2001, (because of the participant's status as a member of a reserve component) for a period of at least 180 days or for an indefinite period (a "qualified reservist distribution").
- (h) The participant's service in the uniformed services while on active duty for a period of at least 30 days. If a participant receives a distribution under this provision, the participant's Elective Deferrals (and Employee Contributions) will be suspended for 6 months after receipt of the distribution.
- (i) A federally declared disaster, where resulting legislation authorizes such a distribution.

All distributions that may be made pursuant to one or more of the foregoing distributable events are subject to the spousal and participant consent requirements (if applicable) contained in sections 411(a)(11) and 417 of the Code. In addition, distributions after March 31, 1988, that are triggered by any of the first three events enumerated above under this Section 15.17(a), (b), or (c) of must be made in a lump sum.

15.18 **Qualified Reservist Distribution:**

- (a) Effective Date: This provision applies to individuals ordered or called to active duty after September 11, 2001. The two-year period for making repayments of Qualified Reservist Distributions does not end before the date that is two years after the date of enactment of the Pension Protection Act of 2006.
- (b) Qualified Reservist Distribution: A Qualified Reservist Distribution is a distribution (1) from an IRA or attributable to elective deferrals under a 401(k) plan, 403(b) annuity, or certain similar arrangements, (2) made to an individual who (by reason of being a member of a reserve component as defined in section 101 of title 37 of the U.S. Code) was ordered or called to active duty for a period in excess of 179 days or for an indefinite period, and (3) that is made during the period beginning on the date of such order or call to duty and ending at the close of the active duty period. A 401(k) plan or 403(b) annuity does not violate the distribution restrictions applicable to such plans by reason of making a Qualified Reservist Distribution.
- (c) Repayments May Only be Made to an IRA: An individual who receives a Qualified Reservist Distribution may, at any time during the two-year period beginning on the day after the end of the active duty period, make one or more contributions to an IRA of such individual in an aggregate amount not to exceed the amount of such distribution. The dollar limitations otherwise applicable to contributions to IRAs do not apply to any contribution made pursuant to the provision. No deduction is allowed for any contribution made under the provision.

15.19 **Hardship Distribution:**

- (a) Distribution of Elective Deferrals (and any earnings credited to a Participant's account as of the later of December 31, 1988, and the end of the last Plan Year ending before July 1, 1989) may be made to a Participant in the event of hardship. For the purposes of this Section, hardship distributions will only be made in accordance with objective standards, set forth in Section 15.19(b) of the Plan, giving the criteria of for determining whether the Participant has an immediate and heavy financial need where such Participant lacks other available resources. Hardship distributions are subject to the spousal consent requirements contained in sections 411(a)(11) and 417 of the Code.
- (b) Special Rules: The following are the only financial needs considered immediate and heavy:
  - (1) Expenses incurred or necessary for medical care, described in Code § 213(d), of the employee, the employee's spouse, dependents or primary beneficiary under the Plan;
  - (2) The purchase (excluding mortgage payments) of a principal residence for the employee;



- (3) Payment of tuition and related educational fees for up to the next 12 months of post-secondary education for the employee, the employee's spouse, children, dependents or primary beneficiary under the Plan;
- (4) Payments necessary to prevent the eviction of the employee from, or a foreclosure on the mortgage of, the employee's principal residence;
- (5) Payments for funeral or burial expenses for the employee's deceased parent, spouse, child, dependent or primary beneficiary under the Plan;
- (6) Expenses to repair damage to the employee's principal residence that would qualify for a casualty loss deduction under Code § 165 (determined without regard to whether the loss exceeds 10 percent of adjusted gross income).

For (5) and (6) it is effective for Plan Years beginning on or after 1/1/06 (optionally effective for Plan Years beginning after 12/29/04).

- (c) A distribution will be considered as necessary to satisfy an immediate and heavy financial need of the Employee only if:
  - (1) The Employee has obtained all distributions, other than hardship distributions, and all nontaxable loans under all plans maintained by the Employer;
  - (2) All plans maintained by the Employer provide that the Employee's Elective Deferrals (and Employee Nondeductible Contributions) will be suspended for 6 months after the receipt of the hardship distribution;
  - (3) The distribution is not in excess of the amount of an immediate and heavy financial need (including amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution); and
  - (4) A Participant whose deferrals and contributions have been suspended will be deemed to have elected to stop his deferrals and contributions and will be permitted to resume deferrals by entering another deferral agreement when eligible to do so.

15.20 **Top-Heavy Requirements:** Neither Elective Deferrals nor Matching Contributions (if used to satisfy the ACP test) may be taken into account for the purpose of satisfying the minimum top-heavy contribution requirement.

## ARTICLE XVI SAFE HARBOR CODA

### 16.01 Rules of Application

- (a) If the Employer has elected the Safe Harbor CODA option in the Adoption Agreement, the provisions of this Article shall apply for the Plan Year and any provisions relating to the ADP test described in § 401(k)(3) of the Code or the ACP test described in § 401(m)(2) of the Code do not apply.
- (b) To the extent that any other provision of the Plan is inconsistent with the provisions of this Article, the provisions of this Article govern.
- (c) In accordance with Treasury Regulations Sections 1.401(k)-1(e)(7) and 1.401(m)-1(c)(2), it is impossible for the employer to use ADP and ACP testing for a plan year in which it is intended for the plan through its written terms to be an IRC 401(k) safe harbor plan and IRC 401(m) safe harbor plan and the employer fails to satisfy the requirements of such safe harbors for the plan year.

### 16.02 Definitions

- (a) "ACP Test Safe Harbor" is the method described in Section 16.04 of this article for satisfying the ACP test of § 401(m)(2) of the Code.
- (b) "ACP Test Safe Harbor Matching Contributions" are Matching Contributions described in Section 16.04 of this Article.
- (c) "ADP Test Safe Harbor" is the method described in Section 16.03 of this Article for satisfying the ADP test of § 401(k)(3) of the Code.
- (d) "ADP Test Safe Harbor Contributions" are Matching Contributions and Nonelective contributions described in Section 16.03(a)(1) of this Article.
- (e) "Compensation" is defined in Section 14.09 of the Plan, except, for purposes of this article, no dollar limit, other than the limit imposed by §401(a)(17) of the Code, applies to the compensation of a Non-highly Compensated Employee. However, solely for purposes of determining the compensation subject to a participant's deferral election, the employer may use an alternative definition to the one described in the preceding sentence, provided such alternative definition is a reasonable definition within the meaning of § 1.414(s)-1(d)(2) of the regulations and permits each participant to elect sufficient Elective Deferrals to receive the maximum amount of Matching Contributions (determined using the definition of compensation described in the preceding sentence) available to the participant under the plan.
- (f) "Eligible Employee" means an employee eligible to make Elective Deferrals under the Plan for any part of the Plan Year or who would be eligible to make Elective Deferrals but for a suspension due to a distribution described in Section 15.19 (c)(2) of the plan or to statutory limitations, such as §§ 402(g) and 415 of the Code.
- (g) "Matching Contributions" are contributions made by the employer on account of an Eligible Employee's Elective Deferrals.

### 16.03 ADP Test Safe Harbor

- (a) ADP Test Safe Harbor Contributions
  - (1) Unless the Employer elects in the Adoption Agreement to make Enhanced Matching Contributions or Safe Harbor Nonelective Contributions, the Employer will contribute for the Plan Year a Safe Harbor Matching Contribution to the Plan on behalf of each Eligible Employee equal to (A) 100 percent of the amount of the Employee's Elective Deferrals that do not exceed 3 percent of the Employee's Compensation for the Plan Year, plus (B) 50 percent of the amount of the Employee's Elective Deferrals that exceed 3 percent of the Employee's Compensation but that do not exceed 5 percent of the Employee's Compensation ("Basic Matching Contributions").
  - (2) Notwithstanding the requirement in (1) above that the Employer make the ADP Test Safe Harbor Contributions to this Plan, if the Employer so provides in the Adoption Agreement, the ADP Test Safe Harbor Contributions will be made to the defined contribution plan indicated in the Adoption Agreement. However, such contributions will be made to this Plan unless (A) each Employee eligible under this Plan is also eligible under the other plan and (Bi) the other plan has the same Plan Year as this Plan.
  - (3) The Participant's accrued benefit derived from ADP Test Safe Harbor Contributions is nonforfeitable and is subject to the same distribution restrictions as apply to Elective Deferrals, except that no distribution can be made on account of hardship. In addition, such contributions must satisfy the ADP Test Safe Harbor without regard to permitted disparity under § 401(l).
- (b) Notice Requirement:  
At least 30 days, but not more than 90 days, before the beginning of the Plan Year, the employer will provide each Eligible Employee a

comprehensive notice of the Employee's rights and obligations under the Plan, written in a manner calculated to be understood by the average Eligible Employee. If an Employee becomes eligible after the 90th day before the beginning of the Plan Year and does not receive the notice for that reason, the notice must be provided no more than 90 days before the Employee becomes eligible but not later than the date the Employee becomes eligible.

(c) Election Periods:

In addition to any other election periods provided under the Plan, each Eligible Employee may make or modify a deferral election during the 30-day period immediately following receipt of the notice described in Section 16.03(b) above.

**16.04 ACP Test Safe Harbor**

(a) ACP Test Safe Harbor Matching Contributions

- (1) In addition to the ADP Test Safe Harbor Contributions described in Section 16.03(a)(1) of this Article, the Employer will make the ACP Test Safe Harbor Matching Contributions, if any, indicated in the Adoption Agreement for the Plan Year.
- (2) ACP Test Safe Harbor Matching Contributions will be vested as indicated in the Adoption Agreement, but, in any event, such contributions shall be fully vested at normal retirement age, upon the complete or partial termination of the Plan, or upon the complete discontinuance of Employer Contributions. Forfeitures of nonvested ACP Test Safe Harbor Matching Contributions will be used to reduce the Employer's Contribution.

**ARTICLE XVII**

**AUTOMATIC CONTRIBUTION ARRANGEMENT**

**17.01 Rules of Application for EACA**

- (a) If the Employer has elected the Eligible Automatic Contribution Arrangement ("EACA") option in the Adoption Agreement, the provisions of this Article shall apply for the Plan Year and, to the extent that any other provision of the Plan is inconsistent with the provisions of this Article, the provisions of this Article shall govern.
- (b) Default Elective Deferrals will be made on behalf of Covered Employees who do not have an affirmative election in effect regarding Elective Deferrals. The amount of Default Elective Deferrals made for a Covered Employee each pay period is equal to the Default Percentage specified in the Adoption Agreement multiplied by the Covered Employee's compensation for that pay period. If the Employer has so elected in the Adoption Agreement, a Covered Employee's Default Percentage will increase by one percentage point each Plan Year, beginning with the second Plan Year that begins after the Default Percentage first applies to the Covered Employee. The increase will be effective beginning with the first pay period that begins in such Plan Year or, if elected by the Employer in the Adoption Agreement, the first pay period in such Plan Year that begins on or after the date specified in the Adoption Agreement.
- (c) A Covered Employee will have a reasonable opportunity after receipt of the notice described in Section 17.04 of this Article to make an affirmative election regarding Elective Deferrals (either to have no Elective Deferrals made or to have a different amount of Elective Deferrals made) before Default Elective Deferrals are made on the Covered Employee's behalf. Default Elective Deferrals being made on behalf of a Covered Employee will cease as soon as administratively feasible after the Covered Employee makes an affirmative election.

This 17.01 is effective for Plan Years beginning after December 31, 2007.

**17.02 Definitions**

- (a) An "EACA" is an automatic contribution arrangement that satisfies the uniformity requirement in Section 17.03 of this Article and the notice requirement in Section 17.04 of this Article.
- (b) An "automatic contribution arrangement" is an arrangement under which, in the absence of an affirmative election by a Covered Employee, a certain percentage of compensation will be withheld from the Covered Employee's pay and contributed to the Plan as an Elective Deferral.
- (c) A "Covered Employee" is a Plan participant identified in the Adoption Agreement as being covered under the EACA.
- (d) "Default Elective Deferrals" are the Elective Deferrals contributed to the Plan under the EACA on behalf of Covered Employees who do not have an affirmative election in effect regarding Elective Deferrals.
- (e) The "Default Percentage" is the percentage of a Covered Employee's compensation contributed to the Plan as a Default Elective Deferral for the Plan Year. The Default Percentage is specified in the Adoption Agreement.

**17.03 Uniformity Requirement**

- (a) Except as provided in Section 17.03(b) below or if the Employer has elected an increasing Default Percentage in the Adoption Agreement, the same percentage of compensation will be withheld as Default Elective Deferrals from all Covered Employees subject to the Default Percentage.
- (b) Default Elective Deferrals will be reduced or stopped to meet the limitations under Code §§ 401(a)(17), 402(g), and 415 and to satisfy any suspension period required after a distribution.

**17.04 Notice Requirement**

- (a) At least 30 days, but not more than 90 days, before the beginning of the Plan Year, the Employer will provide each Covered Employee a comprehensive notice of the Covered Employee's rights and obligations under the EACA, written in a manner calculated to be understood by the average Covered Employee. If an employee becomes a Covered Employee after the 90th day before the beginning of the Plan Year and does not receive the notice for that reason, the notice will be provided no more than 90 days before the employee becomes a Covered Employee but not later than the date the employee becomes a Covered Employee.
- (b) The notice must accurately describe:
  - (1) The amount of Default Elective Deferrals that will be made on the Covered Employee's behalf in the absence of an affirmative election;
  - (2) The Covered Employee's right to elect to have no Elective Deferrals made on his or her behalf or to have a different amount of Elective Deferrals made;
  - (3) How Default Elective Deferrals will be invested in the absence of the Covered Employee's investment instructions; and

- (4) The Covered Employee's right to make a withdrawal of Default Elective Deferrals and the procedures for making such a withdrawal.

#### 17.05 Withdrawal of Default Elective Deferrals

- (a) No later than 90 days after Default Elective Deferrals are first withheld from a Covered Employee's pay, the Covered Employee may request a distribution of his or her Default Elective Deferrals. No spousal consent is required for a withdrawal under this Section 17.05.
- (b) The amount to be distributed from the Plan upon the Covered Employee's request is equal to the amount of Default Elective Deferrals made through the earlier of (a) the pay date for the second payroll period that begins after the Covered Employee's withdrawal request and (b) the first pay date that occurs after 30 days after the Covered Employee's request, plus attributable earnings through the date of distribution. Any fee charged to the Covered Employee for the withdrawal may not be greater than any other fee charged for a cash distribution.
- (c) Unless the Covered Employee affirmatively elects otherwise, any withdrawal request will be treated as an affirmative election to stop having Elective Deferrals made on the Covered Employee's behalf as of the date specified in Section 17.05(b) above.
- (d) Default Elective Deferrals distributed pursuant to this Section 17.05 are not counted towards the dollar limitation on Elective Deferrals contained in Code § 402(g) nor for the ADP test. Matching Contributions that might otherwise be allocated to a Covered Employee's account on behalf of Default Elective Deferrals will not be allocated to the extent the Covered Employee withdraws such Elective Deferrals pursuant to this Section 17.05 and any Matching Contributions already made on account of Default Elective Deferrals that are later withdrawn pursuant to this Section 17.05 will be forfeited.

17.06 **Special Rule for Distribution of Excess Contributions and Excess Aggregate Contributions:** If the Employer has elected in the Adoption Agreement that all Plan participants are Covered Employees, then the Plan has until 6 months (rather than 2½ months) after the end of the Plan Year to distribute Excess Contributions and Excess Aggregate Contributions and avoid the Code § 4979 10% excise tax.

#### 17.07 Rules of Application for QACA

- (a) If the Employer has elected the Qualified Automatic Contribution Arrangement ("QACA") option in the Adoption Agreement, the provisions of Sections 17.07 through 17.12 shall apply for the Plan Year and, to the extent that any other provision of the Plan is inconsistent with the provisions of this Article, the provisions of this Article shall govern.
- (b) Default Elective Deferrals will be made on behalf of Covered Employees who do not have an affirmative election in effect regarding Elective Deferrals. The amount of Default Elective Deferrals made for a Covered Employee each pay period is equal to the Default Percentage specified in the Adoption Agreement (which may not be less than 3% nor higher than 10%) multiplied by the Covered Employee's compensation for that pay period. A Covered Employee's Default Percentage must increase by one percentage point each Plan Year, beginning with the second Plan Year that begins after the Default Percentage first applies to the Covered Employee, until 6% is achieved. The Employer may continue to increase the amounts but in no event may the Default Percentage exceed 10%.
- (c) A Covered Employee will have a reasonable opportunity after receipt of the notice described in Section 17.10 of this Article to make an affirmative election regarding Elective Deferrals (either to have no Elective Deferrals made or to have a different amount of Elective Deferrals made) before Default Elective Deferrals are made on the Covered Employee's behalf. Default Elective Deferrals being made on behalf of a Covered Employee will cease as soon as administratively feasible after the Covered Employee makes an affirmative election.
- (d) ADP Test Safe Harbor Vesting – The ADP Test Safe Harbor Contributions must be nonforfeitable for any employee who completes two years of service creditable for vesting purposes. The vesting percentage applicable to the first year of service will be as elected by the Employer in the adoption agreement.

This 17.07 is effective for Plan Years beginning after December 31, 2007.

#### 17.08 Definitions

- (a) A "QACA" is an automatic contribution arrangement that satisfies the requirement of section 401(k)(13) and 401(m)(12) and the notice requirement in Section 17.10 of this Article.
- (b) An "qualified automatic contribution arrangement" is an arrangement under which, in the absence of an affirmative election by a Covered Employee, a certain percentage of compensation will be withheld from the Covered Employee's pay and contributed to the Plan as an Elective Deferral. It also contains mandatory Employer Contributions specified in Section 17.12 below.
- (c) A "Covered Employee" is a Plan participant identified in the Adoption Agreement as being covered under the QACA.
- (d) "Default Elective Deferrals" are the Elective Deferrals contributed to the Plan under the QACA on behalf of Covered Employees who do not have an affirmative election in effect regarding Elective Deferrals.
- (e) The "Default Percentage" is the percentage of a Covered Employee's compensation contributed to the Plan as a Default Elective Deferral for the Plan Year. The Default Percentage is specified in the Adoption Agreement.

#### 17.09 Uniformity Requirement

- (a) Except as provided in Section 17.09(b) below or if the Employer has elected an increasing Default Percentage in the Adoption Agreement, the same percentage of compensation will be withheld as Default Elective Deferrals from all Covered Employees subject to the Default Percentage.
- (b) Default Elective Deferrals will be reduced or stopped to meet the limitations under Code §§ 401(a)(17), 402(g), and 415 and to satisfy any suspension period required after a distribution.

#### 17.10 Notice Requirement

- (a) At least 30 days, but not more than 90 days, before the beginning of the Plan Year, the Employer will provide each Covered Employee a comprehensive notice of the Covered Employee's rights and obligations under the QACA, written in a manner calculated to be understood by the average Covered Employee. If an employee becomes a Covered Employee after the 90th day before the beginning of the Plan Year and does not receive the notice for that reason, the notice will be provided no more than 90 days before the employee becomes a Covered Employee but not later than the date the employee becomes a Covered Employee.
- (b) The notice must accurately describe:

- (1) The amount of Default Elective Deferrals that will be made on the Covered Employee's behalf in the absence of an affirmative election;

- (2) The Covered Employee's right to elect to have no Elective Deferrals made on his or her behalf or to have a different amount of Elective Deferrals made; and
- (3) How Default Elective Deferrals will be invested in the absence of the Covered Employee's investment instructions.

- 17.11 **Special Rule for Distribution of Excess Contributions and Excess Aggregate Contributions:** If the Employer has elected in the Adoption Agreement that all Plan participants are Covered Employees, then the Plan has until 6 months (rather than 2½ months) after the end of the Plan Year to distribute Excess Contributions and Excess Aggregate Contributions and avoid the Code § 4979 10% excise tax.
- 17.12 **Employer Mandated Contributions:** Subject to the election in the Adoption Agreement, if the Employer has elected a QACA, one the following contributions is being made to the Plan: (a) A Nonelective contribution of 3% of the Covered Employee's Compensation; or (b) A matching contribution of a dollar for dollar match of up to 1% of Compensation, plus (c) a matching contribution of 50% of the Elective Deferrals from 1% to 6% of Compensation.

**ARTICLE XVIII  
LOANS TO PARTICIPANTS**

- 18.01 **General Rules:** If the Employer has specified in the Adoption Agreement that Participant loans are available, the following provisions shall apply:
- (a) Loans shall be made available to all Participants and beneficiaries on a reasonably equivalent basis.
  - (b) Loans shall not be made available to Highly Compensated Employees (as defined in Section 14.20 of the Plan) in an amount greater than the amount made available to other Employees.
  - (c) Loans must be adequately secured. Although it is the intention that loans to Participants shall be repaid, the collateral for each loan shall be the assignment of the Participant's entire right, title, and interest in and to his account balance, evidenced by his promissory note for the amount of the loan (including interest), payable to the order of the Trustee, and such other security as the Plan Administrator shall require pursuant to the Plan's Loan Policy and Procedures.
  - (d) Each loan must bear interest at a reasonable rate determined by taking into account interest rates being charged at the time of the loan. There shall be no discrimination among Participants in the matter of interest rates, but loans granted at different times may bear different interest rates and terms if the differences are justified by changes in the general economic condition.
  - (e) No Participant loan shall exceed the present value of the Participant's vested accrued benefit.
  - (f) Unless this is a Plan described in Section 9.06, a Participant must obtain the consent of his or her spouse, if any, to use the account balance as security for the loan. Spousal consent shall be obtained no earlier than the beginning of the 180-day period (90-day period for Plan Years beginning before January 1, 2007) that ends on the date on which the loan is to be so secured. The consent must be in writing, must acknowledge the effect of the loan, and must be witnessed by a plan representative or notary public. Such consent shall thereafter be binding with respect to the consenting spouse or any subsequent spouse with respect to that loan. A new consent shall be required if the account balance is used for renegotiation, extension, renewal, or other revision of the loan.
  - (g) In the event of default, foreclosure on the note and attachment of security will not occur until a distributable event occurs in the Plan.
  - (h) Loan repayments will be suspended under this plan as permitted under §414(u)(4) of the Internal Revenue Code.
  - (i) Enforceable Agreement Requirement. A loan does not satisfy the requirements of this paragraph unless the loan is evidenced by a legally enforceable agreement (which may include more than one document) and the terms of the agreement demonstrate compliance with the requirements of section 72(p)(2) and this Section. Therefore, the agreement must specify the amount and date of the loan and the repayment schedule. The agreement does not have to be signed if the agreement is enforceable under applicable law without being signed. The agreement must be set forth either:
    - (1) In a written paper document; or
    - (2) In a document that is delivered through an electronic medium under an electronic system that satisfies the requirements of section 1.401(a)-21 of the regulations.
  - (j) Any additional requirements will be outlined in the Plan's Loan Policy and Procedures.
- 18.02 **Spousal Consent:** If a valid spousal consent has been obtained in accordance with Section 18.01(f) above, then, notwithstanding any other provision of this Plan, the portion of the Participant's vested account balance used as a security interest held by the Plan by reason of a loan outstanding to the Participant shall be taken into account for purposes of determining the amount of the account balance payable at the time of death or distribution, but only if the reduction is used as repayment of the loan. If less than 100% of the Participant's vested account balance (determined without regard to the preceding sentence) is payable to the surviving spouse, then the account balance shall be adjusted by first reducing the vested account balance by the amount of the security used as repayment of the loan, and then determining the benefit payable to the surviving spouse.
- 18.03 **Participant Loan Limits:** No loan to any Participant or Beneficiary can be made to the extent that such loan when added to the outstanding balance of all other loans to the Participant or Beneficiary would exceed the lesser of (a) \$50,000 reduced by the excess (if any) of the highest outstanding balance of loans during the one year period ending on the day before the loan is made, over the outstanding balance of loans from the Plan on the date the loan is made, or (b) one-half the present value of the nonforfeitable accrued benefit of the Participant. For the purpose of the above limitation, all loans from all plans of the Employer and other members of a group of employers described in sections 414(b), 414(c), and 414(m) and (o) of the Code are aggregated. Furthermore, any loan shall by its terms require that repayment (principal and interest) be amortized in level payments, not less frequently than quarterly, over a period not extending beyond five years from the date of the loan, unless such loan is used to acquire a dwelling unit which within a reasonable time (determined at the time the loan is made) will be used as the principal residence of the Participant. An assignment or pledge of any portion of the Participant's interest in the Plan and a loan, pledge, or assignment with respect to any insurance contract purchased under the Plan, will be treated as a loan under this paragraph.
- 18.04 **Failure to Make Loan Payment:** If a Participant fails to make a loan payment when due, such Participant will have 90 days (or such other reasonable period established by the Trustee, disclosed to Participants, and applied on a uniform basis) after such loan payment due date to cure such default. If the Participant fails to make the loan payment by the end of the cure period, one or more of the following options will be applied on a uniform basis for all Participants under the Plan's written loan policy:
- (a) If permitted under the maximum Participant loan limits, a new loan will be created in the amount of the amount in default; or
  - (b) The amount in default will be reported as a deemed distribution for the tax year in which the cure period expired.

**ARTICLE XIX  
INSURANCE PROVISIONS**

If the Employer has specified in the Adoption Agreement that the Trustee may purchase life insurance contracts, the following provisions shall apply:

**19.01 Incidental Insurance Provisions:**

- (a) Ordinary Life - For purposes of these incidental insurance provisions, ordinary life insurance contracts are contracts with both nondecreasing death benefits and nonincreasing premiums. If such contracts are purchased, less than 1/2 of the aggregate Employer Contributions allocated to any Participant will be used to pay the premiums attributable to them.
- (b) Term and Universal Life - No more than 1/4 of the aggregate Employer Contributions allocated to any Participant will be used to pay the premiums on term life insurance contracts, universal life insurance contracts, and all other life insurance contracts which are not ordinary life.
- (c) Combination - The sum of 1/2 of the ordinary life insurance premiums and all other life insurance premiums will not exceed 1/4 of the aggregate Employer Contributions allocated to any Participant.

**19.02 Distribution of Insurance Contracts:** Subject to Article IX, Joint and Survivor Annuity requirements, the contracts on a Participant's life will be converted to cash or an annuity or distributed to the Participant upon commencement of benefits.

**19.03 Ownership and Beneficiary of Insurance Contracts:** The Trustee shall apply for and will be the owner of any insurance contract purchased under the terms of this Plan. The insurance contract(s) must provide that proceeds will be payable to the Trustee, however the Trustee shall be required to pay over all proceeds of the contract(s) to the Participant's Designated Beneficiary in accordance with the distribution provisions of this Plan. A Participant's spouse will be the Designated Beneficiary of the proceeds in all circumstances unless a qualified election has been made in accordance with Section 14.50 of the Joint and Survivor Annuity requirements, if applicable. Under no circumstances shall the trust retain any part of the proceeds. The terms of any annuity contract purchased and distributed by the Plan to a Participant or spouse shall comply with the requirements of this Plan.

**19.04 Treatment of Insurance Dividends:** Any dividends or credits earned on insurance contracts will be allocated to the Participant's account derived from Employer Contributions for whose benefit the contract is held.

**19.05 Transferability of Annuities:** Any annuity contract distributed here from must be nontransferable.

**19.06 Conflicts with Insurance Contracts:** In the event of any conflict between the terms of this Plan and the terms of any insurance contract purchased hereunder, the Plan provisions shall control.

**19.07 Nondiscrimination Requirements for Investments in Insurance Contracts:** If this Plan is funded, in whole or in part, with life insurance contracts it will not satisfy the requirements of section 401(a)(4) if : (1) the Plan permits HCEs, prior to distribution of retirement benefits, to purchase those life insurance contracts prior to distribution; and (2) any rights under the Plan for NHCEs to purchase life insurance contracts from the Plan prior to distribution of retirement benefits are not of inherently equal or greater value than the purchase rights of HCEs.

**ARTICLE XX  
DIVERSIFICATION REQUIREMENTS FOR ELECTIVE DEFERRALS, EMPLOYEE CONTRIBUTIONS  
AND EMPLOYER NONELECTIVE CONTRIBUTIONS INVESTED IN EMPLOYER SECURITIES**

**20.01** The provisions of this Article apply only if the Plan holds any publicly traded employer security, except as described in Section 20.02. For purposes of this Article, a publicly traded security is a security which is traded on a national securities exchange that is registered under section 6 of the Securities Exchange Act of 1935 or which is traded on a foreign national securities exchange that is officially recognized, sanctioned, or supervised by a governmental authority and the security is deemed by the Securities and Exchange Commission as having a "ready market" under SEC Rule 15c3-1 (17 CFR 240.15c3).

**20.02** If the Employer, or any member of a controlled group of corporations (as described in Treasury regulations section 1.401(a)(35)-1(f)(2)(iv)(A)) which includes the Employer, has issued a class of stock which is a publicly traded employer security, and the Plan holds employer securities which are not publicly traded employer securities, then the Plan shall be treated as holding publicly traded employer securities.

**20.03** With respect to a Participant (including for purposes of this Section an alternate payee who has an account under the Plan or a deceased Participant's Beneficiary), if any portion of the Participant's account under the Plan attributable to Elective Deferrals (as described in section 402(g)(3)(A) of the Code), Employee Contributions, or rollover contributions is invested in publicly traded employer securities, then the Participant must be offered the opportunity to elect to divest those Employer securities and reinvest an equivalent amount in other investment options as described in Section 20.05.

**20.04 (a)** With respect to a Participant who has completed at least three years of vesting service (including for purposes of this Section an alternate payee who has an account under the plan with respect to such Participant or a deceased Participant's Beneficiary), if a portion of the Participant's account attributable to Employer Nonelective contributions is invested in publicly traded Employer securities, then the Participant must be offered the opportunity to elect to divest those Employer securities and reinvest an equivalent amount in other investment options as described in Section 20.05.

**(b)** If the Plan holds publicly traded Employer securities acquired in a Plan Year beginning before January 1, 2007, Section 20.04(a) applies only the applicable percentage of the number of shares of those securities. The applicable percentage is 33% for the first plan year to which Code section 401(a)(35) applies, 66% for the second plan year, and 100% for all subsequent plan years. If the Plan holds more than one class of securities, this transitional rule applies separately with respect to each class. This transitional rule does not apply to a participant who has attained age 55 and who has completed at least 3 years of vesting service before the first day of the first plan year beginning after December 31, 2005.

**20.05** At least three investment options (other than employer securities) must be offered to participants described in Sections 20.03 and 20.04. Each

investment option must be diversified and have materially different risk and return characteristics. Periodic reasonable divestment and reinvestment opportunities must be provided at least quarterly. Except as provided in sections 1.401(a)(35)-1(e)(2) and (3) of the Treasury Regulations, restrictions (either direct or indirect) or conditions will not be imposed on the investment of publicly traded employer securities if such restrictions or conditions are not imposed on the investment of other plan assets.

- 20.06 If this Plan has elected the Elapsed Time Method of crediting service for vesting purposes or the Plan provides for immediate vesting without using a vesting computation period, a Participant completes three years of vesting service on the day immediately preceding the third anniversary of the Participant's date of hire as described in Treasury regulations § 1.401(a)(35)-1(c)(3).



**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

**DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224**

Plan Description: Standardized Pre-Approved Profit Sharing/Money Purchase/CODA  
FFN 31799AQAQ01-001 Case 202000267 EIN 20-1916735  
Letter Serial No O704407a  
Date of Submission 07/30/2020

PENSERV PLAN SERVICES, INC.  
420 DRESHER ROAD, SUITE 100  
HORSHAM, PA 19044

Contact Person:  
Janell Hayes  
Telephone Number:  
513-975-6319  
In Reference To: TEGE:EP:7521  
Date 01/08/2021

Dear Applicant:

In our opinion, the form of the plan identified above is acceptable for use by employers for the benefit of their employees under Internal Revenue Code (IRC) Section 401.

We considered the changes in qualification requirements in the 2017 Cumulative List of Notice 2017-37, 2017-29 Internal Revenue Bulletin (IRB) 89. Our opinion relates only to the acceptability of the form of the plan under the IRC. We did not consider the effect of other federal or local statutes.

You must provide the following to each employer who adopts this plan:

- . A copy of this letter
- . A copy of the approved plan
- . Copies of any subsequent amendments including their dates of adoption
- . Direct contact information including address and telephone number of the plan provider

Our opinion on the acceptability of the plan's form is a determination as to the qualification of the plan as adopted by a particular employer only under the circumstances, and to the extent, described in Revenue Procedure (Rev. Proc.) 2017-41, 2017-29 I.R.B. 92. The employer who adopts this plan can generally rely on this letter to the extent described in Rev. Proc. 2017-41. Thus, Employee Plans Determinations, except as provided in Section 12 of Rev. Proc. 2020-4, 2020-01 I.R.B. 148 (as updated annually), will not issue a determination letter to an employer who adopts this plan. Review Rev. Proc. 2020-4 to determine the eligibility of an adopting employer, and the items needed, to submit a determination letter application. The employer must also follow the terms of the plan in operation.

An employer who adopts this plan may not rely on this letter if the coverage and contributions or benefits under the employer's plan are more favorable for highly compensated employees, as defined in IRC Section 414(q).

Our opinion doesn't apply for purposes of IRC Sections 415 and 416 if an employer maintains or ever maintained another qualified plan for one or more employees covered by this plan. For this purpose, we will not consider the employer to have maintained another defined contribution plan provided both of the following are true:

- . The employer terminated the other plan before the effective date of this plan
- . No annual additions were credited to any participant's account under the other plan as of any date within the limitation year of this plan

Also, for this purpose, we'll consider an employer as maintaining another defined contribution plan if the

PENSERV PLAN SERVICES, INC.  
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employer maintains any of the following:

- . A welfare benefit fund defined in IRC Section 419(e), which provides post-retirement medical benefits allocated to separate accounts for key employees as defined in IRC Section 419A(d)
- . An individual medical account as defined in IRC Section 415(1)(2), which is part of a pension or annuity plan maintained by the employer
- . A simplified employee pension plan

An employer who adopts this plan may not rely on an opinion letter for either of the following:

If the timing of any amendment or series of amendments to the plan satisfies the nondiscrimination requirements of Treasury Regulations 1.401(a)(4)-5(a), except with respect to plan amendments granting past service that meet the safe harbor described in Treasury Regulations 1.401(a)(4)-5(a)(3) and are not part of a pattern of amendments that significantly discriminates in favor of highly compensated employees

If the plan satisfies the effective availability requirement of Treasury Regulations 1.401(a)(4)-4(c) for any benefit, right, or feature

An employer who adopts this plan as an amendment to a plan other than a standardized plan may not rely on this opinion letter about whether a prospectively eliminated benefit, right, or other feature satisfies the current availability requirements of Treasury Regulations 1.401(a)(4)-4.

Our opinion doesn't apply to Treasury Regulations 1.401(a)-1(b)(2) requirements for a money purchase plan or target benefit plan where the normal retirement age under the employer's plan is lower than age 62.

Our opinion doesn't constitute a determination that the plan is an IRC Section 414(d) governmental plan. This letter is not a ruling with respect to the tax treatment to be given contributions that are picked up by the governmental employing unit within the meaning of IRC Section 414(h)(2).

Our opinion doesn't constitute a determination that the plan is an IRC Section 414(e) church plan.

Our opinion may not be relied on by a non-electing church plan for rules governing pre-ERISA participation and coverage.

The provisions of this plan override any conflicting provision contained in the trust or custodial account documents used with the plan, and an adopting employer may not rely on this letter to the extent that provisions of a trust or custodial account that are a separate portion of the plan override or conflict with the provisions of the plan document. This opinion letter does not cover any provisions in trust or custodial account documents.

An employer who adopts this plan may not rely on this letter when:

- . the plan is being used to amend or restate a plan of the employer which was not previously qualified
- . the employer's adoption of the plan precedes the issuance of the letter
- . the employer doesn't correctly complete the adoption agreement or other elective provisions in the plan
- . the plan is not identical to the pre-approved plan (that is, the employer has made amendments that cause the plan not to be considered identical to the pre-approved plan, as described in Section 8.03 of Rev. Proc. 2017-41)

Our opinion doesn't apply to what is contained in any documents referenced outside the plan or adoption agreement, if applicable, such as a collective bargaining agreement

Our opinion doesn't consider issues under Title I of the Employee Retirement Income Security Act (ERISA) which are administered by the Department of Labor.

If you, the pre-approved plan provider, have questions about the status of this case, you can call the telephone number at the top of the first page of this letter. This number is only for the provider's use. Individual participants or adopting eligible employers with questions about the plan should contact you.



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You must include your address and telephone number on the pre-approved plan or the plan's adoption agreement, if applicable, so that adopting employers can contact you directly.

If you write to us about this plan, provide your telephone number and the best time to call if we need more information. Whether you call or write, refer to the letter serial number and file folder number at the top of the first page of this letter.

Let us know if you change or discontinue sponsorship of this plan.

Keep this letter for your records.

Sincerely Yours,



Khin M. Chow  
Director, EP Rulings & Agreements

**Letter 6186 (June-2020)**  
**Catalog Number 72434C**



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

Plan Description: Non-Standardized Pre-Approved Profit Sharing/Money Purchase/CODA  
FFN 31799AQAQ01-002 Case 202000268 EIN 20-1916735  
Letter Serial No O704430a  
Date of Submission 07/30/2020

PENSERV PLAN SERVICES, INC.  
420 DRESHER ROAD, SUITE 100  
HORSHAM, PA 19044

Contact Person:  
Janell Hayes  
Telephone Number:  
513-975-6319  
In Reference To: TEGE:EP:7521  
Date 01/08/2021

Dear Applicant:

In our opinion, the form of the plan identified above is acceptable for use by employers for the benefit of their employees under Internal Revenue Code (IRC) Section 401.

We considered the changes in qualification requirements in the 2017 Cumulative List of Notice 2017-37, 2017-29 Internal Revenue Bulletin (IRB) 89. Our opinion relates only to the acceptability of the form of the plan under the IRC. We did not consider the effect of other federal or local statutes.

You must provide the following to each employer who adopts this plan:

- . A copy of this letter
- . A copy of the approved plan
- . Copies of any subsequent amendments including their dates of adoption
- . Direct contact information including address and telephone number of the plan provider

Our opinion on the acceptability of the plan's form is a determination as to the qualification of the plan as adopted by a particular employer only under the circumstances, and to the extent, described in Revenue Procedure (Rev. Proc.) 2017-41, 2017-29 I.R.B. 92. The employer who adopts this plan can generally rely on this letter to the extent described in Rev. Proc. 2017-41. Thus, Employee Plans Determinations, except as provided in Section 12 of Rev. Proc. 2020-4, 2020-01 I.R.B. 148 (as updated annually), will not issue a determination letter to an employer who adopts this plan. Review Rev. Proc. 2020-4 to determine the eligibility of an adopting employer, and the items needed, to submit a determination letter application. The employer must also follow the terms of the plan in operation.

Except as provided below, our opinion doesn't apply to the requirements of IRC Sections 401(a)(4), 401(l), 410(b), and 414(s). Our opinion doesn't apply to IRC Sections 415 and 416 if an employer maintains or ever maintained another qualified plan for one or more employees covered by this plan. For this purpose, we will not consider the employer to have maintained another defined contribution plan provided both of the following are true:

- . The employer terminated the other plan before the effective date of this plan
- . No annual additions have been credited to any participant's account under the other plan as of any date within the limitation year of this plan

Also, for this purpose, we'll consider an employer as maintaining another defined contribution plan, if the employer maintains any of the following:

- . A welfare benefit fund defined in IRC Section 419(e), which provides post-retirement medical benefits allocated to separate accounts for key employees as defined in IRC Section 419A(d)

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- . An individual medical account as defined in IRC Section 415(1)(2), which is part of a pension or annuity plan maintained by the employer
- . A simplified employee pension plan

Our opinion doesn't apply to Treasury Regulations Section 1.401(a)-1(b)(2) requirements for a money purchase plan or target benefit plan where the normal retirement age under the employer's plan is lower than age 62.

Our opinion doesn't constitute a determination that the plan is an IRC Section 414(d) governmental plan. This letter is not a ruling with respect to the tax treatment to be given contributions which are picked up by the governmental employing unit within the meaning of IRC Section 414(h)(2).

Our opinion doesn't constitute a determination that the plan is an IRC Section 414(e) church plan.

Our opinion may not be relied on by a non-electing church plan for rules governing pre-ERISA participation and coverage.

Our opinion applies to the requirements of IRC Section 410(b) if 100 percent of all non-excludable employees benefit under the plan.

Employers who choose a safe harbor allocation formula and a safe harbor compensation definition may also rely on this opinion letter for the non-discriminatory amounts requirement under IRC Section 401(a)(4).

If this plan includes a cash or deferred arrangement (CODA) or otherwise provides for contributions subject to IRC Sections 401(k) and/or 401(m), the employer may rely on the opinion letter regarding the form of the non-discrimination tests of IRC Sections 401(k)(3) and 401(m)(2), if the employer uses a safe harbor compensation definition. For plans described in IRC Sections 401(k)(12) or (13) and/or 401(m)(11) or (12), employers may rely on the opinion letter regarding whether the plan's form satisfies the requirements of those sections unless the plan provides for the safe harbor contribution to be made under another plan. For SIMPLE plans described in IRC Sections 401(k)(11) and 401(m)(10), employers may also rely on the opinion letter regarding whether the plan's form satisfies the requirements of those sections.

The provisions of this plan override any conflicting provision contained in the trust or custodial account documents used with the plan, and an adopting employer may not rely on this letter to the extent that provisions of a trust or custodial account that are a separate portion of the plan override or conflict with the provisions of the plan document. This opinion letter does not cover any provisions in trust or custodial account documents.

An employer who adopts this plan may not rely on this letter when:

- . the plan is being used to amend or restate a plan of the employer which was not previously qualified
- . the employer's adoption of the plan precedes the issuance of the letter
- . the employer doesn't correctly complete the adoption agreement or other elective provisions in the plan
- . the plan is not identical to the pre-approved plan (that is, the employer has made amendments that cause the plan not to be considered identical to the pre-approved plan, as described in Section 8.03 of Rev. Proc. 2017-41)

Our opinion doesn't apply to what is contained in any documents referenced outside the plan or adoption agreement, if applicable, such as a collective bargaining agreement

Our opinion doesn't consider issues under Title I of the Employee Retirement Income Security Act (ERISA) which are administered by the Department of Labor.

If you, the pre-approved plan provider, have questions about the status of this case, you can call the telephone number at the top of the first page of this letter. This number is only for the provider's use.

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Individual participants or adopting eligible employers with questions about the plan should contact you.

You must include your address and telephone number on the pre-approved plan or the plan's adoption agreement, if applicable, so that adopting employers can contact you directly.

If you write to us about this plan, provide your telephone number and the best time to call if we need more information. Whether you call or write, refer to the letter serial number and file folder number at the top of the first page of this letter.

Let us know if you change or discontinue sponsorship of this plan.

Keep this letter for your records.

Sincerely Yours,



Khin M. Chow  
Director, EP Rulings & Agreements

**Letter 6186 (June-2020)**  
**Catalog Number 72434C**

## PURPOSE OF THIS DISCLOSURE STATEMENT

This custody account agreement (“Agreement”), is made by and between the individual(s) or entity executing the Digital Trust Custodial Account Adoption Agreement (hereinafter referred to, jointly and severally if more than one individual, as “Account Owner”) and Digital Trust (hereinafter referred to as “Custodian”).

Custodian hereby agrees to accept and hold such monies, securities and property (hereinafter referred to as “Property”) as may from time to time be delivered by or for Account Owner to Custodian, or added in the process of investing the Property, in a custody account (“Custodial Account” or “Account”) and to invest such Property, solely at the direction of the Account Owner or any duly appointed investment advisor and subject to the terms below.

## DISCLOSURES

1. **Important Information About Procedures for Opening a New Account.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver’s license or other identifying documents.
2. **Account Owner Responsibilities**
  - a. **Account Owner.** The Account Owner acknowledges that the Account is a non-interest bearing self-directed account. Where applicable, the custodian acts as a “fiduciary” for this account, as defined by the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), by the Internal Revenue Code or any other applicable local, state, or federal laws only in relation to its custodial services. The Custodian does not, and the Account Owner acknowledges that the Custodian does not assume fiduciary responsibilities for any Account Owner’s Investment Decisions associated with the account. The Account Owner also acknowledges that the account with the Custodian will be established in the name of the Custodian for the benefit of the Account Owner and Account Owner agrees that all transactions related to the account must go through the account held with the Custodian otherwise this could result in tax implications. It is the Account Owner’s responsibility (not the Custodian’s), to select and monitor the investments in the account. The Account Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the account and accepts full and sole responsibility for such selection (“Account Owner’s Investment Decisions”). The Custodian provides no investment, legal, or tax advice or recommendations related to your account. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the account and accepts full and sole responsibility for the success or failure of such investments. Assets in your account are not guaranteed by Digital Trust and are subject to investment risk, including the possible loss of your investment value.
  - b. **Authorized Agent.** The Account Owner may appoint a third party as their authorized agent to direct the investment of the account by notifying the Custodian in a form acceptable to the Custodian. The Custodian shall assume that the authorized agent is at all times qualified to act as agent for the Account Owner and shall recognize the agent as having the authority to direct the investment of the account until such time as 1.) the Account Owner notifies the Custodian in writing that he has removed the authorized agent, or 2.) the Custodian is notified of the death of the Account Owner. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement. Custodian shall bear no responsibility for any transactions in the account, or resultant losses or damages to Account Owner, caused by any acts or omissions of Authorized Agents. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement. Custodian and TPA shall bear no responsibility for any transactions in the Account, or resultant losses or damages to Account Owner, caused by any acts or omissions of Authorized Agents.
  - c. **Additional Information.** Account Owner agrees and acknowledges that, unless where required by law, the Custodian is not responsible for communicating, forwarding or notifying any party, including the Account Owner, with respect to communications or other matters which are received by or come to the attention of the Custodian with respect to assets in the account. It is the Account Owner’s responsibility to make arrangements to receive such information or monitor public sources for such information.
  - d. **Account Owner’s Representations.** Account Owner represents and warrants that any information given or any information that will be given in the future with respect to this account is complete and accurate. Account Owner also agrees that any directions Account Owner or Account Owner’s authorized agent give to the custodian, or any actions Account Owner or Account Owner’s authorized agent take will be proper under this Agreement and that the Custodian is entitled to rely upon any such information or directions. The Custodian shall not be responsible for losses of any kind that may result from such directions to the Custodian or from the Account Owner’s actions, or the Account Owner’s authorized agent’s actions, or failures to act of both. Account Owner agrees to reimburse the Custodian for any losses the Custodian may incur as a result of such directions, actions or failures to act.
  - e. **Owner Investment Responsibility.** The Account Owner has the full responsibility to review and investigate the assets they direct the Custodian to invest in for their account. It is the Account Owner’s responsibility, not the Custodian’s, to select and monitor the investments in the account. The Account Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the account and accepts full and sole responsibility for such selection. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the account and accepts full and sole responsibility for the success or failure of such investments. The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the account. It is the Account Owner’s responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
  - f. **Fair Market Valuations.** The valuation for investments must be provided to the Custodian on a timely basis by the Account Owner or another party chosen by the Account Owner for this purpose (“Valuation Agent”) and identified as such in a written document delivered to the Custodian. It is the Account Owner’s responsibility to determine and provide the valuation of Alternative Assets to the Custodian. The Custodian shall have no responsibility for acting on an FMV reported by the Account Owner or Valuation Agent. For

Alternative Assets such as investments in limited liability companies, limited partnerships, hedge funds, and other similar entities, the Account Owner directs the Custodian to obtain the FMV of the Account Owner's Alternative Assets from the investment entity itself and hereby appoints each such entity as the Valuation Agent for the Account's investment in the entity itself. Each Valuation Agent shall be required to sign such documents as the Custodian shall deem appropriate or necessary to confirm the understanding and agreement of the Valuation Agent to its obligation to provide such to the Custodian. Failure of the Account Owner or Valuation Agent to provide a timely valuation shall be the sole responsibility of the Valuation Agent or the Account Owner, as the case may be, and the Custodian shall not be required to take any further steps to secure an updated FMV for the Account. The Custodian shall not be responsible for the timeliness or the accuracy of any FMV of any Alternative Asset furnished by the Account Owner or a Valuation Agent. The Custodian shall reflect the latest valuation received on an asset in the Custodial Account's statements on a timely basis, but the Custodian shall have no duty to inform the Account Owner or to follow up with any Valuation Agent with respect to the status of any such additional valuations. The Custodian shall have no duty or responsibility to solicit any valuation from either the Account Owner or the Valuation Agent. If the Custodian does not receive an updated FMV for an Alternative Asset, the Custodian shall be entitled to use the last FMV provided to the Custodian, or if none, the original purchase price for the Alternative Asset in question (such last FMV or original purchase price, as the case may be, shall hereinafter be referred to as the "Last Value").

- g. Review of Statements.** Custodian, shall provide Account Owner with quarterly Account Statements containing the account assets and account activity within your account. Please review the statement carefully and if you identify any discrepancies please document in writing and provide to Custodian via email within forty-five (45) days of the statement issuance at [Operations@digitaltrust.com](mailto:Operations@digitaltrust.com) or via mail at the address listed on the statement. If the notice of discrepancies is not received within the forty-five (45) day time frame, it will signify your approval of the statement and precludes you from making future objections or exceptions regarding the information contained in this statement. Such approval by you shall be full acquittal and discharge of Custodian regarding the transactions and information on such statement. Issuance shall mean (1) the posting of your Account Statement within the online platform or (2) the date of mailing of a paper Account Statement.
- h. Indemnity.** Custodian shall be indemnified by Account Owner against any liabilities, losses, damages, costs and expenses (including but not limited to legal fees) incurred by Custodian and arising out of any action taken or omitted to be taken by the Custodian hereunder or pursuant to any Instructions, including but not limited to (i) any taxes or other governmental charges, and any expenses related thereto, which may be imposed or assessed with respect to the asset/investment, and/or (ii) the Custodian or any nominee or agent of the Custodian, appearing as holder or holder of record of the asset/investment or any part thereof, but excluding those liabilities, losses, damages, costs and expenses which arise (whether through act or omission) as the result of fraud, willful default or gross negligence on the part of the Custodian in the performance of its duties under this Agreement.

### 3. General Terms

- a. Account.** The Custodian shall establish and maintain a separate Account in the name of the Account Owner. All deposits to the account shall be in cash. The Custodian's acceptance of in-kind assets will be in accordance with the Custodian's current policies and procedures. We recommend that you contact the Custodian or Third Party Administrator (TPA) for additional information. Neither the Account Owner nor a Beneficiary shall assign any portion of the Account Owners Account and the Custodian shall not recognize any such assignment. It is the Account Owner's sole responsibility not the Custodian's to determine the amount of permissible deposits and deposit timing as permissible by law. In addition, it is the Account Owner's not the Custodian's responsibility to determine and maintain records of the deductible portion of any deposit.

If the Account Owner is not an individual, Account Owner hereby warrants that the Account Owner has the power and authority to open and use the Custodial Account, that all necessary actions have been taken to authorize the use of the Custodial Account and that the signed of this Agreement have all proper authority to enter into the Agreement on behalf of the Account Owner. Account Owner also agrees to produce evidence of such authority if requested by Custodian and that the Custodian may act upon the instructions of any person the Custodian reasonably believe has the authority to act for the Account Owner.

- b. Uninvested Cash Funds.** From time to time you may deposit cash or digital assets with us, or we may receive funds in settlement of trades, that are not subject to a current Direction of Investment (or are awaiting your direction) (collectively referred to as "Uninvested Funds"). Digital Trust may place funds in one or more money markets, demand deposit accounts (savings or checking), including but not limited to Certificates of Deposit (CDs), investment grade bonds, "A" rated or higher life insurance companies (fixed annuities), municipal bonds, United States treasuries, fixed income annuities with our without life insurance companies, mortgage and real estate backed securities or collateralized investments, and/or Digital or Non Digital yield generating structured investments. Your account is credited with all Uninvested Funds. You agree that if we receive no other instructions, Uninvested Funds from your account shall be invested in account(s) of Custodian's choosing using a method designed to maintain liquidity of the Uninvested Funds.
- i. Specifically, you authorize and direct us to sweep Uninvested Cash Funds automatically into Custodian's designated account(s) until such time as further direction is received from you or your designated representative(s). If FDIC insurance applies to the investments purchased with Uninvested Cash Funds, the insurance will be subject to all applicable laws and regulations related to FDIC insurance limitations.
  - ii. We may adjust the method for investment between the accounts from time to time and we are not required to provide notice or obtain your consent.
  - iii. If we receive monies after hours or that otherwise cannot be immediately swept into an approved interest-bearing investment, such amounts may remain uninvested in our bank account overnight. In that case, we may also earn float on such amounts. In addition, if we issue a check on your behalf in connection with (1) distributions requested by you or (2) fees paid to third party service providers to your account, we debit your account the amount of the check and deposit the funds into a special disbursement account held by us. In that case, we will earn float on the amount of the check from the date it is issued until the date the check is presented and paid.
  - iv. Amounts held in our bank account or Digital Asset wallets are held in an omnibus account and are not segregated from other deposit funds.
- c. Investments—No Duty to Review or Monitor Investments.** The Custodian shall have no duty or responsibility to review any investment held in the Account or any investment under consideration by the Account Owner or any purchase directed by the Account Owner with respect to any issue, including but not limited to, its safety, risk, suitability or whether or not it should be registered as a security with

the appropriate government agencies and shall have no liability with respect to its safety, risk, suitability or whether or not it should be registered as a security with the appropriate government agencies. The Custodian shall not be responsible to investigate or perform any due diligence on any investment, investment sponsor or any principal involved with any investment. Further, the Custodian has no duty to monitor any investment held in the Account. Under this agreement the Custodian provides Self Directed Custody Services for the assets/investments selected by the Account Owner. Custodian acts on the Account Owner's Investment Decisions provided by the Account Owner and has no responsibility for any transactions made in accordance with Account Owner's Investment Decisions, including the performance, disclosure of any risks associated with the asset/investment, any due diligence, or suitability of the assets/investments selected by the Account Owner. **Account Owner agrees that Custodian has no responsibility on the outcome of self-directed investments including but not limited to total loss.**

- d. Acting on Direction.** The Custodian shall act on the Account Owner's Investment Decisions for transfers, investments and distributions of assets/ investments when the Account Owner has submitted directions in the manner required by Custodian. Custodian may also act on Account Owner's Investment Decisions submitted by your Authorized Agent and any other authority granted by the Account Owner in compliance with Custodian's then current policies and procedures. The Custodian is not responsible for losses or damages resulting from the delay of acting on an Account Owner's Investment Decision if the direction is unclear, incomplete and not in acceptable form to the Custodian. The Custodian has no responsibility to question any Account Owner's Investment Decisions received in good order from the Account Owner or your Authorized Agent. When the Custodian is directed to invest in assets in accordance with Account Owner's Investment Decisions, including assets that are not publicly traded, the Custodian shall not have any responsibility or liability of the entity or the broker/agent involved does not settle the trade in accordance with the trade executed by the account owner.
- e. Standard of Care/Liability.** Custodian will use commercially reasonable efforts in performing their obligations under this Agreement.
- i. Subject to the terms of this Agreement, Custodian shall not be responsible for any loss or damage suffered by Account Holder as a result of the Custodian performing such duties unless the same results from an act of fraud, willful default or gross negligence on the part of the Custodian. In such event the liability of the Custodian in connection with the asset/investment so affected by the Custodian's fraud, willful default or gross negligence shall not exceed the market value (as determined by the Custodian in any reasonable commercial manner) of such asset/investment at the time when Account Owner discovers such fraud, willful default or gross negligence.
  - ii. Custodian will be entitled to rely on and may act upon the advice of legal counsel and accountants or other agents with expertise in the relevant area, in relation to matters of law, regulation or market practice, and shall not be liable to Account Owner under this Agreement for any action taken or omitted pursuant to such advice, provided that Custodian has acted in good faith and with commercially reasonable efforts.
  - iii. Custodian shall not, save as stated above, be responsible for the title, validity or genuineness of any asset/investment (or any evidence of title thereto) received or delivered by it pursuant to this Agreement.
  - iv. Neither Custodian nor its affiliates shall be liable for any consequential, incidental, exemplary, punitive, special or indirect damages, whether or not the likelihood of such damages was known by Custodian or its affiliates.
  - v. Custodian shall not be liable to the Account Owner for any statements, representations, actions or inactions of any salesperson, broker or other third party provider of the investment purchased for this account.
  - vi. The Custodian may take any and all other actions which in its judgment may be necessary or appropriate for the proper administration of the assets of the Account. In the performance of its duties and responsibilities under this Agreement the Custodian may employ such agents and vendors as it feels appropriate without notice to the Account Owner.
- f. Statements and Reports.** It is the Account Owner's responsibility to prepare and file all required income tax returns. Custodian will provide to Account Owner at least once each year all information regarding the transactions executed under this Agreement that may reasonably be required for the preparation of Account Owner's income tax returns/ Account Owner is responsible for the payment of any and all accountant and attorney fees incurred in the preparation of Account Owner's tax return or resulting from the operation of this Agreement.
- g. Privacy and Subpoena.** Custodian shall use reasonable measures to maintain and protect the Account Owners personal data. Data will be shared only when necessary to fulfill the activities requested by the Account Owner. Custodian does reserve the right to respond to a subpoena or request from a regulator or law enforcement agency in accordance with the applicable law without your prior approval or notice.
- h. No Tax, Legal or Investment Advice.** Custodian is not responsible for providing legal, tax or investment advice. Account Owner should consult with their financial or tax advisor if such advice is required, The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the account. It is the Account Owner's responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
- i. Common Ownership.** Digital Trust, Alternative IRA Services, LLC dba BitcoinIRA, Rocket Dollar, Inc., Rocket Dollar Capital, Rocket Dollar Advisor, Inc, WAO Advisory, Inc., and/or Choiceapp.io are companies affiliated by common ownership, and that because these entities are under common ownership, the use of any of the entities may result in an indirect financial benefit to the owners of the entities.
- 4. Fees and Expenses.** Custodian shall be entitled to collect fees for their Custodial Services and the administration of the Account Owner's account in accordance with the Fee Schedule and this agreement. Custodian reserves the right to change the Fee Schedule from time to time and will notify Account Owner of such changes. All fees and expenses, including legal or other fees resulting from the administration of your account, will be collected by Custodian according to the payment method selected by Account Owner under this Agreement. If Account Owner has selected to have Custodian collect fees and expenses from the cash in the account, in the event there is not enough cash to cover the fees and expenses, the Account Owner authorizes the Custodian to sell or liquidate a portion of the assets in the account to collect the fees and expenses. If the Account Owner has selected the option to pay the Custodian fees and expenses by selling an asset in the account, the Custodian will sell a portion of the asset with the largest market value to collect such fees. Sales of assets to cover fees will be executed in or around the first week of every month. Sales for expenses will be executed as needed. The Custodian shall not incur any liability from initiating the sale or liquidation of assets to collect the fees and expenses. Custodian reserves the right to send Account Owner's debt to collections agents or resign as custodian for unpaid fees.
- 5. Amendments to Agreement.** From time to time the Custodian may amend this agreement for any reason deemed necessary by Custodian. Some amendments may be necessary to comply and abide by new laws and regulations. Any such amendment will be provided by providing

a copy of the amendment to Account Owner at your last known mailing or electronic address as shown in our records. Account Owner shall have thirty (30) calendar days to object to the Amendment. Such objection shall include the direction to terminate your account, termination and other fees will apply to the account closing. If no objection is received by Custodian, Custodian deems that Amendment is accepted and consented to by Account Owner

## 6. Notice, Delivery and Electronic Signature

- a. CONSENT FOR ELECTRONIC DISCLOSURES UNDER THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** The Account Application (Application) includes the Account Agreement provisions, the Fee Schedule and the Custodial Account Disclosures documents together as one which have been presented to the Account Owner prior to executing the Application. By completing this application online, you agree to be bound by all terms and conditions contained in the Application.
- b. Consent to Electronic Delivery of Statements and Other Communications.** By consenting to the terms and conditions of this Application, you agree to receive the following communications electronically: periodic statements, disclosures, notices (including Amendment changes), agreements, changes to terms and conditions, records, documents, tax statements, Privacy Notice, and all other information we provide to you. We may deliver these communications to you through your online access, by email or by using other electronic methods allowed pursuant to applicable laws and regulations. While electronic delivery and email notifications are provided free of charge, you may incur internet access and telephone charges. However, we reserve the right to deliver any communication to you as a paper copy, rather than electronically. Your consent remains in effect until you give us notice that you are withdrawing it and covers all communications, including those related to any product or service offered either now or in the future. Electronic documents will no longer be sent after the account is terminated and all regulatory reporting requirements have been satisfied.
- c. Withdrawal of Consent.** You may contact us in any of the ways described below to withdraw your consent to receive any future communication electronically. If you wish to receive electronic communications after you have withdrawn your consent, please contact Digital Trust at the phone number or address below. Please refer to the Fee Schedule for any fee that may apply for paper copies.
- d. Paper Delivery of Disclosures and Notices.** You have the right to receive a paper copy of any communication sent electronically. To receive a paper copy, you may request it in writing by sending your request to Digital Trust, 7336 W. Post Road, Suite #111, Las Vegas, Nevada 89113 or calling us at (800) 777-9878. You may have to pay a fee for the paper copy unless charging a fee is prohibited by law.
- e. IMPORTANT.** It is your responsibility to provide and maintain a current email and residential address with us. We may treat an invalid email address or the subsequent malfunction of a previously valid email address as a withdrawal of your consent to receive electronic communication. We will not impose a fee to process the withdrawal of your consent; however, fees may apply to paper copies mailed. Withdrawal of your consent to receive electronic communications will be effective only after we have a reasonable period of time to process your withdrawal. All communications in either electronic or paper format from us to you will be considered “in writing.”
- f. How to Update Your Records.** It is your responsibility to provide us with true, accurate and complete email address, contact, and other information related to your account. You must promptly notify us of any changes in this information. You can update your information via TPA's platform, by calling us, or by writing us at the address above.
- g. Equipment and Software Requirements.** In order to view and retain electronic communications that we make available to you, you must have:
- A PC or other device with an Internet browser that has “cookies” enabled and supports 128-bit encryption
  - An Internet connection
  - An email address
  - A PDF viewer (such as Adobe Reader)
  - A printer or computer with sufficient electronic storage space

All communications shall be delivered to the last address we have on file for the Account Owner. These notices will be sent through electronic delivery (email) and will be considered delivered the same day as sent. If you have opted out of electronic delivery, communications sent to you through the United States Postal Service are considered delivered 5 business days after the postmark date. It is the Account Owner's responsibility to notify the Custodian of any email address change or residential address change. Custodian will not be held liable for any losses or damages if the Account Owner has not provided Custodian with the most current address information. The electronically signed copy of this document should be considered equivalent to a printed hard copy form. It is considered a true and complete record of the document, admissible in arbitration and/or administrative hearings or proceedings. Your electronic signature on the Application and other electronic forms such as the Investment Direction are considered valid and the same as if the paper form or Application were physically signed.

- 7. Withdrawals/Distributions.** Account Owner will provide full and complete instructions for any Distributions out of the Account. Custodian offers no tax or legal advice and Account Owner should consult with their tax or financial advisor to understand the implications of the action requested. Instructions should be submitted to Custodian in a manner acceptable to the Custodian. Custodian will not under any circumstances be responsible for the timing, purpose or propriety of any distribution from the account, nor shall the Custodian incur any liability or responsibility for any tax or penalty imposed on account of any distribution or failure to make a required distribution. Custodian may make any payment or distribution required or authorized hereunder by mailing a check or other property or by ACH or Federal wire or other electronic transfer to the payee at the address last furnished to the Custodian. Custodian shall not be liable for any payment made in good faith without actual knowledge of any changed condition or status of any person receiving benefits hereunder.

Custodian may, but shall not be obligated to, pay any estate, inheritance, income, or other tax or assessment attributable to any property or interest held in the account out of the assets of the account upon such information or direction as it may require. Before payment of any benefit, Custodian may also require releases or other related documentation from the taxing authority and require indemnification from such payee as may be necessary for the Custodian's protection against tax liability.

- 8. Successor Custodian.** In the event that Digital Trust changes its name, reorganizes, is acquired by another organization, or if all or a portion of our entire organization is purchased by another organization, that organization will automatically become the trustee or custodian of your Account so long as the organization is authorized to serve as a trustee or custodian and satisfies the requirements of the IRS Code Section 408(a)(2).
- 9. Termination or Resignation.** Account Owner or Custodian may terminate this agreement at any time by giving written notice to the other. We can resign as Custodian at any time effective 30 days after we send written notice of our resignation to you. Upon receipt of that notice, you must make arrangements to transfer your account to another Custodian (Successor Custodian) or request a distribution of your



account. If you do not complete a distribution form or transfer your account within 30 days from the date we send the notice to you, we have the right to either a) transfer your assets to a successor trustee or custodian that we choose or b) we may distribute your Account to you in a single lump sum and/or re-register the assets to you in-kind. In the event of re-registration of the assets, the Custodian's authority to re-register the assets supersedes any and all conflicting instructions, directions, or authorities with respect to said assets contained in any investment documents. If this agreement is terminated, we may charge you a reasonable amount of money that is necessary to cover any costs associated with distributing or transferring your account, including but not limited to fees and expenses incurred and taxes. The Custodian shall not be liable for any taxes, penalties, or losses arising from any delays, omissions, acts, or other action or inaction of any other person(s) or entity, including the Account Owner in connection with transfer or distribution of the account. The Successor Custodian shall acquire all of the powers and authority conferred by the resigning Custodian. The transfer and delivery of assets to the Successor Custodian shall be a complete discharge and exoneration of any liability for the resigning Custodian unless the Account Owner or Successor Custodian notifies the resigning Custodian within forty-five (45) days from the date of resignation. Custodian may close the Account if it is not funded within ninety (90) days from Account opening.

- 10. Designation of Beneficiaries.** In the event of your death, any account balance will be paid to your beneficiary designation deemed legally valid by the Custodian. In the event that the beneficiary designated is a minor or not of sound mind, the Custodian may at its discretion make beneficiary payments to such person acting as a parent or guardian of said beneficiary.
- a. Validity.** A beneficiary designation is deemed legally valid when the Account Owner has provided a full complete and executed designation clearly providing if the Account Owner is adding to or changing a portion of the then current beneficiary designation form in a format approved by the Custodian. Any valid beneficiary designation shall be effective upon receipt by the Custodian. Upon opening your account, you can designate your beneficiaries, and while still living, you can change your beneficiaries by submitting a fully completed Change of Beneficiary form acceptable to the Custodian.
  - b. Beneficiary Designations and Change of Beneficiary.** In the event of marriage, divorce, death, adoption and the birth of children the Account Owner should evaluate the beneficiaries listed on the account and provide the Custodian with a fully completed Change of Beneficiary form to update the account. The Custodian reserves the right to reject or not accept a beneficiary designation not made to individuals or entities. If you do not live in a "community property" State, you are free to name any person or entity as your beneficiary, even if you are married. In "community property" States, Account Owners who earn monies contributed to their account during a legal marriage will be required to provide a spousal consent to designate a person or entity as beneficiary other than their spouse. (Subject to changes in law, "community property" States currently include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.)
  - c. Death Distributions.** Custodian will rely on a certified copy of the death certificate or other evidence deemed appropriate by the Custodian that certifies the Account Owner's death. The Custodian has no responsibility to search for beneficiaries if Account Owner does not provide beneficiary information for the account. By entering into this Agreement, you authorize Custodian to rely on any representation of facts made by the legal representative of your estate, any beneficiary, or any other person or source deemed appropriate by us, in determining the identity of unnamed beneficiaries. Your estate, and any unnamed beneficiaries further understand and agree that any information or instructions provided by such persons may be reviewed with counsel and Custodian may require further documentation to determine the beneficiaries. Prior to a distribution of assets to a beneficiary or the estate of the Account Owner, Custodian reserves the right to request from the beneficiary or the estate of the Account Owner, indemnification and discharge from any liability.
  - d. Distribution to Estate.** Custodian reserves the right to distribute the account to the estate of the Account Owner in the event that there is conflicting or incomplete information in determining the beneficiaries. In the event that there are no beneficiaries provided to Custodian or all beneficiaries renounce their rights to receive any benefit from the Account, or in the event that no beneficiaries survive the Account Owner, the account will be distributed to your estate.
- 11. Arbitration Agreement.** In the event any legal or equitable claims or disputes arise out of performance of this agreement, or a breach of this Agreement, the parties agree to attempt to resolve the claim or dispute through good faith negotiation. In the event the parties are unable to resolve or settle such claim or dispute through negotiations, the parties agree that the claim or dispute will be settled by binding arbitration. Any arbitration proceedings shall be conducted in Las Vegas, Nevada, in accordance with the Commercial Dispute Resolution Procedures of the American Arbitration Association (AAA) in effect at the time a demand for arbitration is made. The Account Owner expressly waives any right he or she may have to establish or conduct litigation or arbitration in any other forum or location, or before any other body. The Account Owner may only bring claims and disputes in his or her individual capacity and not as a plaintiff or class member. Any and all claims arising out of or relating to this Agreement are required to have an arbitration filed within two (2) years from the date that the Account Owner knew of the facts giving rise to such claim or claims. The arbitrator shall have the authority to award reasonable attorneys' fees and costs, including the costs of arbitration, to the prevailing party.
- 12. Governing Law.** This Agreement and all amendment hereto shall be governed by and construed in accordance with the laws of the State of Nevada and the federal laws of the United States of America, and the obligations hereunder shall be determined in accordance with such laws. If any provision of this Agreement or the application thereof to any person or circumstances shall be determined to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 13. Other Administrative Powers.** Anything in this Agreement to the contrary notwithstanding, the Custodian may choose to request direction from the Account Owner as to any specific action or situation that arises with the account. If a request for direction is made, the Custodian shall not incur any liability for following the Account Owner's direction or for taking no action if no such direction is furnished to the Custodian. The Custodian shall have the right, at the expense of the Account Owner, to seek a direction or approval of its accounts from a court of competent jurisdiction whenever the Custodian shall, in its sole discretion, deem it appropriate. The Custodian is not required to, but in its sole discretion may, exercise the full power and authority to settle, compound or abandon all claims and demands in favor of or against the account or Account Owner, including any claim that may be asserted for taxes under present or future laws; to maintain or defend any litigation necessary in its administration of the account if indemnified to its satisfaction against any expenses and liabilities sustained or anticipated in connection therewith; to retain any fiat subject to any dispute without liability for payment of interest or decline to make payment thereof, until final adjudication of such dispute by a court of competent jurisdiction.
- 14. Third Party Actions.** The Custodian shall not be liable to the Account Owner for (i) any statements, representations, actions or inactions of the Advisor or any broker or other salesperson or principal of any investment purchased for the Custodial Account and (ii) the use of account information provided to the Advisor or other third party as authorized or directed by the Account Owner.

**15. Digital Currency.** Custodian cannot and does not guarantee the value of digital currency or any other investment. Custodian shall not be responsible for any third-party services. Furthermore, Custodian or TPA cannot cancel or reverse a transaction involving digital currency. Once a transaction request has been made, Account Owner will subsequently not be able to cancel or otherwise modify the transaction request. Account Owner acknowledges and agrees that Custodian shall have no liability for losses you suffer in connection with any digital currency transaction initiated via the TPA Platform under this Agreement unless such losses are the direct result of Custodian's fraud, willful default or gross negligence. Custodian does not ensure that any transaction request you submit or cause to be submitted to a digital currency network via the TPA Platform will be completed by the applicable network. You acknowledge and agree that the transaction requests you authorize Custodian to submit for completion on a digital currency network may not be completed, or may be substantially delayed, by the digital currency network and Custodian is not responsible for any delay or any failure of completion caused by the digital currency network. When you complete a transaction request via the TPA Platform, this authorizes Custodian to submit the transaction request to the digital currency network in accordance with the instructions you provide.

- a. Third Parties.** Digital Trust as custodian has a contractual agreement with Alternative IRA Services, LLC dba BitcoinIRA ("Bitcoin IRA") to act as a third-party servicer to your cryptocurrency or gold IRA account in conjunction with certain cryptocurrency service providers. You acknowledge Bitcoin IRA may change service providers at any time without notice. Those services performed by Bitcoin IRA include but are not limited to client servicing, hosting of the client platform, administrative functions necessary to open the IRA and facilitate the investment transactions including identity verification. Any issues or errors arising out of the use of the third-party platform are the responsibility of the third-party platform.
- b. Key Storage.** Custodian shall use commercially reasonable efforts to keep in safe custody on behalf of Account Holder all Custodial Coins received by Custodian. Custodian will use commercially reasonable efforts to keep all Keys to the Custodial Wallet held by Custodian secure and shall maintain at least one (1) backup Key. Custodian shall exercise all commercially reasonable efforts to prevent unauthorized access to or use of the Keys held by Custodian to the Custodial Wallet. Custodian shall not be held responsible for any prohibited transactions or tax liabilities or penalties related to the storage of keys.
- c. Asset Value Reporting Policy.** To value digital assets in your account, Custodian will electronically obtain USD equivalent prices from digital currency market data providers or other sources as of the last date of the statement to report on your account statement. Custodian does not guarantee the accuracy or timeliness of prices received and the prices are not to be relied upon for any investment decisions for your account.
- d. Trading, Transactions, and Residuals.**
  - i. Account Owner acknowledges and accepts the risk of trading, settlement and holding assets such as Digital Assets.
  - ii. Account Owner acknowledges that Custodian reserves the right to suspend or restrict transaction activity in the asset or account reasonably necessary to comply with Custodian's anti-money laundering programs and policies, any requirements under applicable law, to prevent fraud, prevent suspicious transactions, or for any security reasons. Account Owner acknowledges for digital asset transfers or withdrawals that the vault withdrawal timeframe may take up to forty-eight (48) hours to execute.
  - iii. Custodian will reflect in Account Owners Account market occurrences such as dividends, rewards, etc. when such activity occurs and after Custodian receives the proper information to reflect such activity.
  - iv. Upon liquidation of digital currency, Account Owner may incur negligible mining fees that are charged at an unknown rate by miners of blockchain based products. This fee will be the responsibility of Account Owner. The Bitcoin IRA Platform accounts for an estimation of this which is withheld upon liquidation. The withholding will be greater than the amount charged by the miners, leaving a residual referred to as *dust*. Account Owner acknowledges Custodian will use dust for payment and apply any residual to Account Owner's account for outstanding Custodial Fees or any cost associated with maintaining the wallet and/or account.
- e. Transaction Requests and Verification.** For transactions initiated by Account Owner, the Account Owner appoints the Custodian with the authority to request the movement of assets and perform the out of band transaction verification as required by then current policies and procedures (e.g. video ID verification) including movement of assets out of the Cold Wallet Storage for purposes of settling trades executed by the Account Owner. Authority is granted to Custodian, provided Account Owner has appropriately provided direction or instruction in accordance with the Custodian's current policy and procedures via the Bitcoin IRA Platform or other method acceptable to Custodian.
- f. Acknowledgement of Fork, Airdrop, and Token Support.** Account Owner agrees that all "airdrops" and "forks" will be handled by Custodian pursuant to its current policies and procedures. Account Owner acknowledges that Custodian is under no obligation to support any airdrops or forks, or handle them in any manner. Account Owner acknowledges that Custodian does not own or control the underlying software protocols which govern the operation of Digital Currencies. Digital Asset protocols are subject to changes in protocol rules (referred to as "forks"), and such forks may materially affect the value, function, or name of the Digital Asset. You acknowledge and agree (i) that Custodian is not responsible for operation of the underlying Digital Asset protocols and that Custodian makes no guarantee of their functionality, security, or availability; and (ii) if a fork occurs, Custodian may temporarily suspend the ability to transact in the Digital Asset affected, and Custodian may decide not to support the forked protocol entirely or may enable you to transfer the affected Digital Asset.

Account Owner further acknowledges that Custodian, at its sole discretion, may update the policies and procedures from time to time. Custodian is under no obligation to provide notification to Customer of any modification. Account Owner further acknowledges and agrees that Custodian may, from time to time, offer support for select ERC20 tokens or other tokens, metacoins, colored coins, side chains, or coins which enhance or interoperate with coins supported by Custodian (collectively, "Tokens"). Custodian will notify Account Owner and the general public if the Custodian supports a particular Token. Account Owner further acknowledges and agrees that, upon the occurrence of any event outside the control of Custodian resulting in the migration of any ERC20 token from Ethereum to another protocol, including but not limited to a "mainnet launch," (a "Migration Event") Custodian may immediately cease any and all support for such ERC20 token, and that Custodian will be under no obligation to provide support for any Token related to or resulting from such a Migration Event.

CUSTODIAN WILL HAVE NO RESPONSIBILITY OR LIABILITY IF CLIENT LOSES, BURNS, OR OTHERWISE CANNOT ACCESS OR CONTROL ANY TOKEN THAT CUSTODIAN DOES NOT SUPPORT.

## PURPOSE OF THIS DISCLOSURE STATEMENT

This custody account agreement (“Agreement”), is made by and between the individual(s) or entity executing the Digital Trust Custodial Account Adoption Agreement (hereinafter referred to, jointly and severally if more than one individual, as “Account Owner”) and Digital Trust (hereinafter referred to as “Custodian”).

Custodian hereby agrees to accept and hold such monies, securities and property (hereinafter referred to as “Property”) as may from time to time be delivered by or for Account Owner to Custodian, or added in the process of investing the Property, in a custody account (“Custodial Account” or “Account”) and to invest such Property, solely at the direction of the Account Owner or any duly appointed investment advisor and subject to the terms below.

## DISCLOSURES

1. **Important Information About Procedures for Opening a New Account.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver’s license or other identifying documents.
2. **Account Owner Responsibilities**
  - a. **Account Owner.** The Account Owner acknowledges that the Account is a non-interest bearing self-directed account. Where applicable, the custodian acts as a “fiduciary” for this account, as defined by the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), by the Internal Revenue Code or any other applicable local, state, or federal laws only in relation to its custodial services. The Custodian does not, and the Account Owner acknowledges that the Custodian does not assume fiduciary responsibilities for any Account Owner’s Investment Decisions associated with the account. The Account Owner also acknowledges that the account with the Custodian will be established in the name of the Custodian for the benefit of the Account Owner and Account Owner agrees that all transactions related to the account must go through the account held with the Custodian otherwise this could result in tax implications. It is the Account Owner’s responsibility (not the Custodian’s), to select and monitor the investments in the account. The Account Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the account and accepts full and sole responsibility for such selection (“Account Owner’s Investment Decisions”). The Custodian provides no investment, legal, or tax advice or recommendations related to your account. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the account and accepts full and sole responsibility for the success or failure of such investments. Assets in your account are not guaranteed by Digital Trust and are subject to investment risk, including the possible loss of your investment value.
  - b. **Authorized Agent.** The Account Owner may appoint a third party as their authorized agent to direct the investment of the account by notifying the Custodian in a form acceptable to the Custodian. The Custodian shall assume that the authorized agent is at all times qualified to act as agent for the Account Owner and shall recognize the agent as having the authority to direct the investment of the account until such time as 1.) the Account Owner notifies the Custodian in writing that he has removed the authorized agent, or 2.) the Custodian is notified of the death of the Account Owner. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement. Custodian shall bear no responsibility for any transactions in the account, or resultant losses or damages to Account Owner, caused by any acts or omissions of Authorized Agents. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement. Custodian and TPA shall bear no responsibility for any transactions in the Account, or resultant losses or damages to Account Owner, caused by any acts or omissions of Authorized Agents.
  - c. **Additional Information.** Account Owner agrees and acknowledges that, unless where required by law, the Custodian is not responsible for communicating, forwarding or notifying any party, including the Account Owner, with respect to communications or other matters which are received by or come to the attention of the Custodian with respect to assets in the account. It is the Account Owner’s responsibility to make arrangements to receive such information or monitor public sources for such information.
  - d. **Account Owner’s Representations.** Account Owner represents and warrants that any information given or any information that will be given in the future with respect to this account is complete and accurate. Account Owner also agrees that any directions Account Owner or Account Owner’s authorized agent give to the custodian, or any actions Account Owner or Account Owner’s authorized agent take will be proper under this Agreement and that the Custodian is entitled to rely upon any such information or directions. The Custodian shall not be responsible for losses of any kind that may result from such directions to the Custodian or from the Account Owner’s actions, or the Account Owner’s authorized agent’s actions, or failures to act of both. Account Owner agrees to reimburse the Custodian for any losses the Custodian may incur as a result of such directions, actions or failures to act.
  - e. **Owner Investment Responsibility.** The Account Owner has the full responsibility to review and investigate the assets they direct the Custodian to invest in for their account. It is the Account Owner’s responsibility, not the Custodian’s, to select and monitor the investments in the account. The Account Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the account and accepts full and sole responsibility for such selection. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the account and accepts full and sole responsibility for the success or failure of such investments. The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the account. It is the Account Owner’s responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
  - f. **Fair Market Valuations.** The valuation for investments must be provided to the Custodian on a timely basis by the Account Owner or another party chosen by the Account Owner for this purpose (“Valuation Agent”) and identified as such in a written document delivered to the Custodian. It is the Account Owner’s responsibility to determine and provide the valuation of Alternative Assets to the Custodian. The Custodian shall have no responsibility for acting on an FMV reported by the Account Owner or Valuation Agent. For

Alternative Assets such as investments in limited liability companies, limited partnerships, hedge funds, and other similar entities, the Account Owner directs the Custodian to obtain the FMV of the Account Owner's Alternative Assets from the investment entity itself and hereby appoints each such entity as the Valuation Agent for the Account's investment in the entity itself. Each Valuation Agent shall be required to sign such documents as the Custodian shall deem appropriate or necessary to confirm the understanding and agreement of the Valuation Agent to its obligation to provide such to the Custodian. Failure of the Account Owner or Valuation Agent to provide a timely valuation shall be the sole responsibility of the Valuation Agent or the Account Owner, as the case may be, and the Custodian shall not be required to take any further steps to secure an updated FMV for the Account. The Custodian shall not be responsible for the timeliness or the accuracy of any FMV of any Alternative Asset furnished by the Account Owner or a Valuation Agent. The Custodian shall reflect the latest valuation received on an asset in the Custodial Account's statements on a timely basis, but the Custodian shall have no duty to inform the Account Owner or to follow up with any Valuation Agent with respect to the status of any such additional valuations. The Custodian shall have no duty or responsibility to solicit any valuation from either the Account Owner or the Valuation Agent. If the Custodian does not receive an updated FMV for an Alternative Asset, the Custodian shall be entitled to use the last FMV provided to the Custodian, or if none, the original purchase price for the Alternative Asset in question (such last FMV or original purchase price, as the case may be, shall hereinafter be referred to as the "Last Value").

- g. Review of Statements.** Custodian, shall provide Account Owner with quarterly Account Statements containing the account assets and account activity within your account. Please review the statement carefully and if you identify any discrepancies please document in writing and provide to Custodian via email within forty-five (45) days of the statement issuance at [Operations@digitaltrust.com](mailto:Operations@digitaltrust.com) or via mail at the address listed on the statement. If the notice of discrepancies is not received within the forty-five (45) day time frame, it will signify your approval of the statement and precludes you from making future objections or exceptions regarding the information contained in this statement. Such approval by you shall be full acquittal and discharge of Custodian regarding the transactions and information on such statement. Issuance shall mean (1) the posting of your Account Statement within the online platform or (2) the date of mailing of a paper Account Statement.
- h. Indemnity.** Custodian shall be indemnified by Account Owner against any liabilities, losses, damages, costs and expenses (including but not limited to legal fees) incurred by Custodian and arising out of any action taken or omitted to be taken by the Custodian hereunder or pursuant to any Instructions, including but not limited to (i) any taxes or other governmental charges, and any expenses related thereto, which may be imposed or assessed with respect to the asset/investment, and/or (ii) the Custodian or any nominee or agent of the Custodian, appearing as holder or holder of record of the asset/investment or any part thereof, but excluding those liabilities, losses, damages, costs and expenses which arise (whether through act or omission) as the result of fraud, willful default or gross negligence on the part of the Custodian in the performance of its duties under this Agreement.

### 3. General Terms

- a. Account.** The Custodian shall establish and maintain a separate Account in the name of the Account Owner. All deposits to the account shall be in cash. The Custodian's acceptance of in-kind assets will be in accordance with the Custodian's current policies and procedures. We recommend that you contact the Custodian or Third Party Administrator (TPA) for additional information. Neither the Account Owner nor a Beneficiary shall assign any portion of the Account Owners Account and the Custodian shall not recognize any such assignment. It is the Account Owner's sole responsibility not the Custodian's to determine the amount of permissible deposits and deposit timing as permissible by law. In addition, it is the Account Owner's not the Custodian's responsibility to determine and maintain records of the deductible portion of any deposit.

If the Account Owner is not an individual, Account Owner hereby warrants that the Account Owner has the power and authority to open and use the Custodial Account, that all necessary actions have been taken to authorize the use of the Custodial Account and that the signed of this Agreement have all proper authority to enter into the Agreement on behalf of the Account Owner. Account Owner also agrees to produce evidence of such authority if requested by Custodian and that the Custodian may act upon the instructions of any person the Custodian reasonably believe has the authority to act for the Account Owner.

- b. Uninvested Cash Funds.** From time to time you may deposit cash or digital assets with us, or we may receive funds in settlement of trades, that are not subject to a current Direction of Investment (or are awaiting your direction) (collectively referred to as "Uninvested Funds"). Digital Trust may place funds in one or more money markets, demand deposit accounts (savings or checking), including but not limited to Certificates of Deposit (CDs), investment grade bonds, "A" rated or higher life insurance companies (fixed annuities), municipal bonds, United States treasuries, fixed income annuities with our without life insurance companies, mortgage and real estate backed securities or collateralized investments, and/or Digital or Non Digital yield generating structured investments. Your account is credited with all Uninvested Funds. You agree that if we receive no other instructions, Uninvested Funds from your account shall be invested in account(s) of Custodian's choosing using a method designed to maintain liquidity of the Uninvested Funds.
- i. Specifically, you authorize and direct us to sweep Uninvested Cash Funds automatically into Custodian's designated account(s) until such time as further direction is received from you or your designated representative(s). If FDIC insurance applies to the investments purchased with Uninvested Cash Funds, the insurance will be subject to all applicable laws and regulations related to FDIC insurance limitations.
  - ii. We may adjust the method for investment between the accounts from time to time and we are not required to provide notice or obtain your consent.
  - iii. If we receive monies after hours or that otherwise cannot be immediately swept into an approved interest-bearing investment, such amounts may remain uninvested in our bank account overnight. In that case, we may also earn float on such amounts. In addition, if we issue a check on your behalf in connection with (1) distributions requested by you or (2) fees paid to third party service providers to your account, we debit your account the amount of the check and deposit the funds into a special disbursement account held by us. In that case, we will earn float on the amount of the check from the date it is issued until the date the check is presented and paid.
  - iv. Amounts held in our bank account or Digital Asset wallets are held in an omnibus account and are not segregated from other deposit funds.
- c. Investments—No Duty to Review or Monitor Investments.** The Custodian shall have no duty or responsibility to review any investment held in the Account or any investment under consideration by the Account Owner or any purchase directed by the Account Owner with respect to any issue, including but not limited to, its safety, risk, suitability or whether or not it should be registered as a security with

the appropriate government agencies and shall have no liability with respect to its safety, risk, suitability or whether or not it should be registered as a security with the appropriate government agencies. The Custodian shall not be responsible to investigate or perform any due diligence on any investment, investment sponsor or any principal involved with any investment. Further, the Custodian has no duty to monitor any investment held in the Account. Under this agreement the Custodian provides Self Directed Custody Services for the assets/investments selected by the Account Owner. Custodian acts on the Account Owner's Investment Decisions provided by the Account Owner and has no responsibility for any transactions made in accordance with Account Owner's Investment Decisions, including the performance, disclosure of any risks associated with the asset/investment, any due diligence, or suitability of the assets/investments selected by the Account Owner. **Account Owner agrees that Custodian has no responsibility on the outcome of self-directed investments including but not limited to total loss.**

- d. Acting on Direction.** The Custodian shall act on the Account Owner's Investment Decisions for transfers, investments and distributions of assets/ investments when the Account Owner has submitted directions in the manner required by Custodian. Custodian may also act on Account Owner's Investment Decisions submitted by your Authorized Agent and any other authority granted by the Account Owner in compliance with Custodian's then current policies and procedures. The Custodian is not responsible for losses or damages resulting from the delay of acting on an Account Owner's Investment Decision if the direction is unclear, incomplete and not in acceptable form to the Custodian. The Custodian has no responsibility to question any Account Owner's Investment Decisions received in good order from the Account Owner or your Authorized Agent. When the Custodian is directed to invest in assets in accordance with Account Owner's Investment Decisions, including assets that are not publicly traded, the Custodian shall not have any responsibility or liability of the entity or the broker/agent involved does not settle the trade in accordance with the trade executed by the account owner.
- e. Standard of Care/Liability.** Custodian will use commercially reasonable efforts in performing their obligations under this Agreement.
- i. Subject to the terms of this Agreement, Custodian shall not be responsible for any loss or damage suffered by Account Holder as a result of the Custodian performing such duties unless the same results from an act of fraud, willful default or gross negligence on the part of the Custodian. In such event the liability of the Custodian in connection with the asset/investment so affected by the Custodian's fraud, willful default or gross negligence shall not exceed the market value (as determined by the Custodian in any reasonable commercial manner) of such asset/investment at the time when Account Owner discovers such fraud, willful default or gross negligence.
  - ii. Custodian will be entitled to rely on and may act upon the advice of legal counsel and accountants or other agents with expertise in the relevant area, in relation to matters of law, regulation or market practice, and shall not be liable to Account Owner under this Agreement for any action taken or omitted pursuant to such advice, provided that Custodian has acted in good faith and with commercially reasonable efforts.
  - iii. Custodian shall not, save as stated above, be responsible for the title, validity or genuineness of any asset/investment (or any evidence of title thereto) received or delivered by it pursuant to this Agreement.
  - iv. Neither Custodian nor its affiliates shall be liable for any consequential, incidental, exemplary, punitive, special or indirect damages, whether or not the likelihood of such damages was known by Custodian or its affiliates.
  - v. Custodian shall not be liable to the Account Owner for any statements, representations, actions or inactions of any salesperson, broker or other third party provider of the investment purchased for this account.
  - vi. The Custodian may take any and all other actions which in its judgment may be necessary or appropriate for the proper administration of the assets of the Account. In the performance of its duties and responsibilities under this Agreement the Custodian may employ such agents and vendors as it feels appropriate without notice to the Account Owner.
- f. Statements and Reports.** It is the Account Owner's responsibility to prepare and file all required income tax returns. Custodian will provide to Account Owner at least once each year all information regarding the transactions executed under this Agreement that may reasonably be required for the preparation of Account Owner's income tax returns/ Account Owner is responsible for the payment of any and all accountant and attorney fees incurred in the preparation of Account Owner's tax return or resulting from the operation of this Agreement.
- g. Privacy and Subpoena.** Custodian shall use reasonable measures to maintain and protect the Account Owners personal data. Data will be shared only when necessary to fulfill the activities requested by the Account Owner. Custodian does reserve the right to respond to a subpoena or request from a regulator or law enforcement agency in accordance with the applicable law without your prior approval or notice.
- h. No Tax, Legal or Investment Advice.** Custodian is not responsible for providing legal, tax or investment advice. Account Owner should consult with their financial or tax advisor if such advice is required, The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the account. It is the Account Owner's responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
- i. Common Ownership.** Digital Trust, Alternative IRA Services, LLC dba BitcoinIRA, Rocket Dollar, Inc., Rocket Dollar Capital, Rocket Dollar Advisor, Inc, WAO Advisory, Inc., and/or Choiceapp.io are companies affiliated by common ownership, and that because these entities are under common ownership, the use of any of the entities may result in an indirect financial benefit to the owners of the entities.
- 4. Fees and Expenses.** Custodian shall be entitled to collect fees for their Custodial Services and the administration of the Account Owner's account in accordance with the Fee Schedule and this agreement. Custodian reserves the right to change the Fee Schedule from time to time and will notify Account Owner of such changes. All fees and expenses, including legal or other fees resulting from the administration of your account, will be collected by Custodian according to the payment method selected by Account Owner under this Agreement. If Account Owner has selected to have Custodian collect fees and expenses from the cash in the account, in the event there is not enough cash to cover the fees and expenses, the Account Owner authorizes the Custodian to sell or liquidate a portion of the assets in the account to collect the fees and expenses. If the Account Owner has selected the option to pay the Custodian fees and expenses by selling an asset in the account, the Custodian will sell a portion of the asset with the largest market value to collect such fees. Sales of assets to cover fees will be executed in or around the first week of every month. Sales for expenses will be executed as needed. The Custodian shall not incur any liability from initiating the sale or liquidation of assets to collect the fees and expenses. Custodian reserves the right to send Account Owner's debt to collections agents or resign as custodian for unpaid fees.
- 5. Amendments to Agreement.** From time to time the Custodian may amend this agreement for any reason deemed necessary by Custodian. Some amendments may be necessary to comply and abide by new laws and regulations. Any such amendment will be provided by providing

a copy of the amendment to Account Owner at your last known mailing or electronic address as shown in our records. Account Owner shall have thirty (30) calendar days to object to the Amendment. Such objection shall include the direction to terminate your account, termination and other fees will apply to the account closing. If no objection is received by Custodian, Custodian deems that Amendment is accepted and consented to by Account Owner

## 6. Notice, Delivery and Electronic Signature

- a. CONSENT FOR ELECTRONIC DISCLOSURES UNDER THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** The Account Application (Application) includes the Account Agreement provisions, the Fee Schedule and the Custodial Account Disclosures documents together as one which have been presented to the Account Owner prior to executing the Application. By completing this application online, you agree to be bound by all terms and conditions contained in the Application.
- b. Consent to Electronic Delivery of Statements and Other Communications.** By consenting to the terms and conditions of this Application, you agree to receive the following communications electronically: periodic statements, disclosures, notices (including Amendment changes), agreements, changes to terms and conditions, records, documents, tax statements, Privacy Notice, and all other information we provide to you. We may deliver these communications to you through your online access, by email or by using other electronic methods allowed pursuant to applicable laws and regulations. While electronic delivery and email notifications are provided free of charge, you may incur internet access and telephone charges. However, we reserve the right to deliver any communication to you as a paper copy, rather than electronically. Your consent remains in effect until you give us notice that you are withdrawing it and covers all communications, including those related to any product or service offered either now or in the future. Electronic documents will no longer be sent after the account is terminated and all regulatory reporting requirements have been satisfied.
- c. Withdrawal of Consent.** You may contact us in any of the ways described below to withdraw your consent to receive any future communication electronically. If you wish to receive electronic communications after you have withdrawn your consent, please contact Digital Trust at the phone number or address below. Please refer to the Fee Schedule for any fee that may apply for paper copies.
- d. Paper Delivery of Disclosures and Notices.** You have the right to receive a paper copy of any communication sent electronically. To receive a paper copy, you may request it in writing by sending your request to Digital Trust, 7336 W. Post Road, Suite #111, Las Vegas, Nevada 89113 or calling us at (800) 777-9878. You may have to pay a fee for the paper copy unless charging a fee is prohibited by law.
- e. IMPORTANT.** It is your responsibility to provide and maintain a current email and residential address with us. We may treat an invalid email address or the subsequent malfunction of a previously valid email address as a withdrawal of your consent to receive electronic communication. We will not impose a fee to process the withdrawal of your consent; however, fees may apply to paper copies mailed. Withdrawal of your consent to receive electronic communications will be effective only after we have a reasonable period of time to process your withdrawal. All communications in either electronic or paper format from us to you will be considered “in writing.”
- f. How to Update Your Records.** It is your responsibility to provide us with true, accurate and complete email address, contact, and other information related to your account. You must promptly notify us of any changes in this information. You can update your information via TPA's platform, by calling us, or by writing us at the address above.
- g. Equipment and Software Requirements.** In order to view and retain electronic communications that we make available to you, you must have:
- A PC or other device with an Internet browser that has “cookies” enabled and supports 128-bit encryption
  - An Internet connection
  - An email address
  - A PDF viewer (such as Adobe Reader)
  - A printer or computer with sufficient electronic storage space

All communications shall be delivered to the last address we have on file for the Account Owner. These notices will be sent through electronic delivery (email) and will be considered delivered the same day as sent. If you have opted out of electronic delivery, communications sent to you through the United States Postal Service are considered delivered 5 business days after the postmark date. It is the Account Owner's responsibility to notify the Custodian of any email address change or residential address change. Custodian will not be held liable for any losses or damages if the Account Owner has not provided Custodian with the most current address information. The electronically signed copy of this document should be considered equivalent to a printed hard copy form. It is considered a true and complete record of the document, admissible in arbitration and/or administrative hearings or proceedings. Your electronic signature on the Application and other electronic forms such as the Investment Direction are considered valid and the same as if the paper form or Application were physically signed.

- 7. Withdrawals/Distributions.** Account Owner will provide full and complete instructions for any Distributions out of the Account. Custodian offers no tax or legal advice and Account Owner should consult with their tax or financial advisor to understand the implications of the action requested. Instructions should be submitted to Custodian in a manner acceptable to the Custodian. Custodian will not under any circumstances be responsible for the timing, purpose or propriety of any distribution from the account, nor shall the Custodian incur any liability or responsibility for any tax or penalty imposed on account of any distribution or failure to make a required distribution. Custodian may make any payment or distribution required or authorized hereunder by mailing a check or other property or by ACH or Federal wire or other electronic transfer to the payee at the address last furnished to the Custodian. Custodian shall not be liable for any payment made in good faith without actual knowledge of any changed condition or status of any person receiving benefits hereunder.

Custodian may, but shall not be obligated to, pay any estate, inheritance, income, or other tax or assessment attributable to any property or interest held in the account out of the assets of the account upon such information or direction as it may require. Before payment of any benefit, Custodian may also require releases or other related documentation from the taxing authority and require indemnification from such payee as may be necessary for the Custodian's protection against tax liability.

- 8. Successor Custodian.** In the event that Digital Trust changes its name, reorganizes, is acquired by another organization, or if all or a portion of our entire organization is purchased by another organization, that organization will automatically become the trustee or custodian of your Account so long as the organization is authorized to serve as a trustee or custodian and satisfies the requirements of the IRS Code Section 408(a)(2).
- 9. Termination or Resignation.** Account Owner or Custodian may terminate this agreement at any time by giving written notice to the other. We can resign as Custodian at any time effective 30 days after we send written notice of our resignation to you. Upon receipt of that notice, you must make arrangements to transfer your account to another Custodian (Successor Custodian) or request a distribution of your

account. If you do not complete a distribution form or transfer your account within 30 days from the date we send the notice to you, we have the right to either a) transfer your assets to a successor trustee or custodian that we choose or b) we may distribute your Account to you in a single lump sum and/or re-register the assets to you in-kind. In the event of re-registration of the assets, the Custodian's authority to re-register the assets supersedes any and all conflicting instructions, directions, or authorities with respect to said assets contained in any investment documents. If this agreement is terminated, we may charge you a reasonable amount of money that is necessary to cover any costs associated with distributing or transferring your account, including but not limited to fees and expenses incurred and taxes. The Custodian shall not be liable for any taxes, penalties, or losses arising from any delays, omissions, acts, or other action or inaction of any other person(s) or entity, including the Account Owner in connection with transfer or distribution of the account. The Successor Custodian shall acquire all of the powers and authority conferred by the resigning Custodian. The transfer and delivery of assets to the Successor Custodian shall be a complete discharge and exoneration of any liability for the resigning Custodian unless the Account Owner or Successor Custodian notifies the resigning Custodian within forty-five (45) days from the date of resignation. Custodian may close the Account if it is not funded within ninety (90) days from Account opening.

- 10. Designation of Beneficiaries.** In the event of your death, any account balance will be paid to your beneficiary designation deemed legally valid by the Custodian. In the event that the beneficiary designated is a minor or not of sound mind, the Custodian may at its discretion make beneficiary payments to such person acting as a parent or guardian of said beneficiary.
- a. Validity.** A beneficiary designation is deemed legally valid when the Account Owner has provided a full complete and executed designation clearly providing if the Account Owner is adding to or changing a portion of the then current beneficiary designation form in a format approved by the Custodian. Any valid beneficiary designation shall be effective upon receipt by the Custodian. Upon opening your account, you can designate your beneficiaries, and while still living, you can change your beneficiaries by submitting a fully completed Change of Beneficiary form acceptable to the Custodian.
  - b. Beneficiary Designations and Change of Beneficiary.** In the event of marriage, divorce, death, adoption and the birth of children the Account Owner should evaluate the beneficiaries listed on the account and provide the Custodian with a fully completed Change of Beneficiary form to update the account. The Custodian reserves the right to reject or not accept a beneficiary designation not made to individuals or entities. If you do not live in a "community property" State, you are free to name any person or entity as your beneficiary, even if you are married. In "community property" States, Account Owners who earn monies contributed to their account during a legal marriage will be required to provide a spousal consent to designate a person or entity as beneficiary other than their spouse. (Subject to changes in law, "community property" States currently include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.)
  - c. Death Distributions.** Custodian will rely on a certified copy of the death certificate or other evidence deemed appropriate by the Custodian that certifies the Account Owner's death. The Custodian has no responsibility to search for beneficiaries if Account Owner does not provide beneficiary information for the account. By entering into this Agreement, you authorize Custodian to rely on any representation of facts made by the legal representative of your estate, any beneficiary, or any other person or source deemed appropriate by us, in determining the identity of unnamed beneficiaries. Your estate, and any unnamed beneficiaries further understand and agree that any information or instructions provided by such persons may be reviewed with counsel and Custodian may require further documentation to determine the beneficiaries. Prior to a distribution of assets to a beneficiary or the estate of the Account Owner, Custodian reserves the right to request from the beneficiary or the estate of the Account Owner, indemnification and discharge from any liability.
  - d. Distribution to Estate.** Custodian reserves the right to distribute the account to the estate of the Account Owner in the event that there is conflicting or incomplete information in determining the beneficiaries. In the event that there are no beneficiaries provided to Custodian or all beneficiaries renounce their rights to receive any benefit from the Account, or in the event that no beneficiaries survive the Account Owner, the account will be distributed to your estate.
- 11. Arbitration Agreement.** In the event any legal or equitable claims or disputes arise out of performance of this agreement, or a breach of this Agreement, the parties agree to attempt to resolve the claim or dispute through good faith negotiation. In the event the parties are unable to resolve or settle such claim or dispute through negotiations, the parties agree that the claim or dispute will be settled by binding arbitration. Any arbitration proceedings shall be conducted in Las Vegas, Nevada, in accordance with the Commercial Dispute Resolution Procedures of the American Arbitration Association (AAA) in effect at the time a demand for arbitration is made. The Account Owner expressly waives any right he or she may have to establish or conduct litigation or arbitration in any other forum or location, or before any other body. The Account Owner may only bring claims and disputes in his or her individual capacity and not as a plaintiff or class member. Any and all claims arising out of or relating to this Agreement are required to have an arbitration filed within two (2) years from the date that the Account Owner knew of the facts giving rise to such claim or claims. The arbitrator shall have the authority to award reasonable attorneys' fees and costs, including the costs of arbitration, to the prevailing party.
- 12. Governing Law.** This Agreement and all amendment hereto shall be governed by and construed in accordance with the laws of the State of Nevada and the federal laws of the United States of America, and the obligations hereunder shall be determined in accordance with such laws. If any provision of this Agreement or the application thereof to any person or circumstances shall be determined to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 13. Other Administrative Powers.** Anything in this Agreement to the contrary notwithstanding, the Custodian may choose to request direction from the Account Owner as to any specific action or situation that arises with the account. If a request for direction is made, the Custodian shall not incur any liability for following the Account Owner's direction or for taking no action if no such direction is furnished to the Custodian. The Custodian shall have the right, at the expense of the Account Owner, to seek a direction or approval of its accounts from a court of competent jurisdiction whenever the Custodian shall, in its sole discretion, deem it appropriate. The Custodian is not required to, but in its sole discretion may, exercise the full power and authority to settle, compound or abandon all claims and demands in favor of or against the account or Account Owner, including any claim that may be asserted for taxes under present or future laws; to maintain or defend any litigation necessary in its administration of the account if indemnified to its satisfaction against any expenses and liabilities sustained or anticipated in connection therewith; to retain any fiat subject to any dispute without liability for payment of interest or decline to make payment thereof, until final adjudication of such dispute by a court of competent jurisdiction.
- 14. Third Party Actions.** The Custodian shall not be liable to the Account Owner for (i) any statements, representations, actions or inactions of the Advisor or any broker or other salesperson or principal of any investment purchased for the Custodial Account and (ii) the use of account information provided to the Advisor or other third party as authorized or directed by the Account Owner.

**15. Digital Currency.** Custodian cannot and does not guarantee the value of digital currency or any other investment. Custodian shall not be responsible for any third-party services. Furthermore, Custodian or TPA cannot cancel or reverse a transaction involving digital currency. Once a transaction request has been made, Account Owner will subsequently not be able to cancel or otherwise modify the transaction request. Account Owner acknowledges and agrees that Custodian shall have no liability for losses you suffer in connection with any digital currency transaction initiated via the TPA Platform under this Agreement unless such losses are the direct result of Custodian's fraud, willful default or gross negligence. Custodian does not ensure that any transaction request you submit or cause to be submitted to a digital currency network via the TPA Platform will be completed by the applicable network. You acknowledge and agree that the transaction requests you authorize Custodian to submit for completion on a digital currency network may not be completed, or may be substantially delayed, by the digital currency network and Custodian is not responsible for any delay or any failure of completion caused by the digital currency network. When you complete a transaction request via the TPA Platform, this authorizes Custodian to submit the transaction request to the digital currency network in accordance with the instructions you provide.

- a. Third Parties.** Digital Trust as custodian has a contractual agreement with Alternative IRA Services, LLC dba BitcoinIRA ("Bitcoin IRA") to act as a third-party servicer to your cryptocurrency or gold IRA account in conjunction with certain cryptocurrency service providers. You acknowledge Bitcoin IRA may change service providers at any time without notice. Those services performed by Bitcoin IRA include but are not limited to client servicing, hosting of the client platform, administrative functions necessary to open the IRA and facilitate the investment transactions including identity verification. Any issues or errors arising out of the use of the third-party platform are the responsibility of the third-party platform.
- b. Key Storage.** Custodian shall use commercially reasonable efforts to keep in safe custody on behalf of Account Holder all Custodial Coins received by Custodian. Custodian will use commercially reasonable efforts to keep all Keys to the Custodial Wallet held by Custodian secure and shall maintain at least one (1) backup Key. Custodian shall exercise all commercially reasonable efforts to prevent unauthorized access to or use of the Keys held by Custodian to the Custodial Wallet. Custodian shall not be held responsible for any prohibited transactions or tax liabilities or penalties related to the storage of keys.
- c. Asset Value Reporting Policy.** To value digital assets in your account, Custodian will electronically obtain USD equivalent prices from digital currency market data providers or other sources as of the last date of the statement to report on your account statement. Custodian does not guarantee the accuracy or timeliness of prices received and the prices are not to be relied upon for any investment decisions for your account.
- d. Trading, Transactions, and Residuals.**
  - i. Account Owner acknowledges and accepts the risk of trading, settlement and holding assets such as Digital Assets.
  - ii. Account Owner acknowledges that Custodian reserves the right to suspend or restrict transaction activity in the asset or account reasonably necessary to comply with Custodian's anti-money laundering programs and policies, any requirements under applicable law, to prevent fraud, prevent suspicious transactions, or for any security reasons. Account Owner acknowledges for digital asset transfers or withdrawals that the vault withdrawal timeframe may take up to forty-eight (48) hours to execute.
  - iii. Custodian will reflect in Account Owners Account market occurrences such as dividends, rewards, etc. when such activity occurs and after Custodian receives the proper information to reflect such activity.
  - iv. Upon liquidation of digital currency, Account Owner may incur negligible mining fees that are charged at an unknown rate by miners of blockchain based products. This fee will be the responsibility of Account Owner. The Bitcoin IRA Platform accounts for an estimation of this which is withheld upon liquidation. The withholding will be greater than the amount charged by the miners, leaving a residual referred to as *dust*. Account Owner acknowledges Custodian will use dust for payment and apply any residual to Account Owner's account for outstanding Custodial Fees or any cost associated with maintaining the wallet and/or account.
- e. Transaction Requests and Verification.** For transactions initiated by Account Owner, the Account Owner appoints the Custodian with the authority to request the movement of assets and perform the out of band transaction verification as required by then current policies and procedures (e.g. video ID verification) including movement of assets out of the Cold Wallet Storage for purposes of settling trades executed by the Account Owner. Authority is granted to Custodian, provided Account Owner has appropriately provided direction or instruction in accordance with the Custodian's current policy and procedures via the Bitcoin IRA Platform or other method acceptable to Custodian.
- f. Acknowledgement of Fork, Airdrop, and Token Support.** Account Owner agrees that all "airdrops" and "forks" will be handled by Custodian pursuant to its current policies and procedures. Account Owner acknowledges that Custodian is under no obligation to support any airdrops or forks, or handle them in any manner. Account Owner acknowledges that Custodian does not own or control the underlying software protocols which govern the operation of Digital Currencies. Digital Asset protocols are subject to changes in protocol rules (referred to as "forks"), and such forks may materially affect the value, function, or name of the Digital Asset. You acknowledge and agree (i) that Custodian is not responsible for operation of the underlying Digital Asset protocols and that Custodian makes no guarantee of their functionality, security, or availability; and (ii) if a fork occurs, Custodian may temporarily suspend the ability to transact in the Digital Asset affected, and Custodian may decide not to support the forked protocol entirely or may enable you to transfer the affected Digital Asset.

Account Owner further acknowledges that Custodian, at its sole discretion, may update the policies and procedures from time to time. Custodian is under no obligation to provide notification to Customer of any modification. Account Owner further acknowledges and agrees that Custodian may, from time to time, offer support for select ERC20 tokens or other tokens, metacoins, colored coins, side chains, or coins which enhance or interoperate with coins supported by Custodian (collectively, "Tokens"). Custodian will notify Account Owner and the general public if the Custodian supports a particular Token. Account Owner further acknowledges and agrees that, upon the occurrence of any event outside the control of Custodian resulting in the migration of any ERC20 token from Ethereum to another protocol, including but not limited to a "mainnet launch," (a "Migration Event") Custodian may immediately cease any and all support for such ERC20 token, and that Custodian will be under no obligation to provide support for any Token related to or resulting from such a Migration Event.

CUSTODIAN WILL HAVE NO RESPONSIBILITY OR LIABILITY IF CLIENT LOSES, BURNS, OR OTHERWISE CANNOT ACCESS OR CONTROL ANY TOKEN THAT CUSTODIAN DOES NOT SUPPORT.



## PURPOSE OF THIS DISCLOSURE STATEMENT

This custody account agreement (“Agreement”), is made by and between the individual(s) or entity executing the Digital Trust Custodial Account Adoption Agreement (hereinafter referred to, jointly and severally if more than one individual, as “Account Owner”) and Digital Trust (hereinafter referred to as “Custodian”).

Custodian hereby agrees to accept and hold such monies, securities and property (hereinafter referred to as “Property”) as may from time to time be delivered by or for Account Owner to Custodian, or added in the process of investing the Property, in a custody account (“Custodial Account” or “Account”) and to invest such Property, solely at the direction of the Account Owner or any duly appointed investment advisor and subject to the terms below.

## DISCLOSURES

1. **Important Information About Procedures for Opening a New Account.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver’s license or other identifying documents.
2. **Account Owner Responsibilities**
  - a. **Account Owner.** The Account Owner acknowledges that the Account is a non-interest bearing self-directed account. Where applicable, the custodian acts as a “fiduciary” for this account, as defined by the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), by the Internal Revenue Code or any other applicable local, state, or federal laws only in relation to its custodial services. The Custodian does not, and the Account Owner acknowledges that the Custodian does not assume fiduciary responsibilities for any Account Owner’s Investment Decisions associated with the account. The Account Owner also acknowledges that the account with the Custodian will be established in the name of the Custodian for the benefit of the Account Owner and Account Owner agrees that all transactions related to the account must go through the account held with the Custodian otherwise this could result in tax implications. It is the Account Owner’s responsibility (not the Custodian’s), to select and monitor the investments in the account. The Account Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the account and accepts full and sole responsibility for such selection (“Account Owner’s Investment Decisions”). The Custodian provides no investment, legal, or tax advice or recommendations related to your account. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the account and accepts full and sole responsibility for the success or failure of such investments. Assets in your account are not guaranteed by Digital Trust and are subject to investment risk, including the possible loss of your investment value.
  - b. **Authorized Agent.** The Account Owner may appoint a third party as their authorized agent to direct the investment of the account by notifying the Custodian in a form acceptable to the Custodian. The Custodian shall assume that the authorized agent is at all times qualified to act as agent for the Account Owner and shall recognize the agent as having the authority to direct the investment of the account until such time as 1.) the Account Owner notifies the Custodian in writing that he has removed the authorized agent, or 2.) the Custodian is notified of the death of the Account Owner. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement. Custodian shall bear no responsibility for any transactions in the account, or resultant losses or damages to Account Owner, caused by any acts or omissions of Authorized Agents. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement. Custodian and TPA shall bear no responsibility for any transactions in the Account, or resultant losses or damages to Account Owner, caused by any acts or omissions of Authorized Agents.
  - c. **Additional Information.** Account Owner agrees and acknowledges that, unless where required by law, the Custodian is not responsible for communicating, forwarding or notifying any party, including the Account Owner, with respect to communications or other matters which are received by or come to the attention of the Custodian with respect to assets in the account. It is the Account Owner’s responsibility to make arrangements to receive such information or monitor public sources for such information.
  - d. **Account Owner’s Representations.** Account Owner represents and warrants that any information given or any information that will be given in the future with respect to this account is complete and accurate. Account Owner also agrees that any directions Account Owner or Account Owner’s authorized agent give to the custodian, or any actions Account Owner or Account Owner’s authorized agent take will be proper under this Agreement and that the Custodian is entitled to rely upon any such information or directions. The Custodian shall not be responsible for losses of any kind that may result from such directions to the Custodian or from the Account Owner’s actions, or the Account Owner’s authorized agent’s actions, or failures to act of both. Account Owner agrees to reimburse the Custodian for any losses the Custodian may incur as a result of such directions, actions or failures to act.
  - e. **Owner Investment Responsibility.** The Account Owner has the full responsibility to review and investigate the assets they direct the Custodian to invest in for their account. It is the Account Owner’s responsibility, not the Custodian’s, to select and monitor the investments in the account. The Account Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the account and accepts full and sole responsibility for such selection. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the account and accepts full and sole responsibility for the success or failure of such investments. The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the account. It is the Account Owner’s responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
  - f. **Fair Market Valuations.** The valuation for investments must be provided to the Custodian on a timely basis by the Account Owner or another party chosen by the Account Owner for this purpose (“Valuation Agent”) and identified as such in a written document delivered to the Custodian. It is the Account Owner’s responsibility to determine and provide the valuation of Alternative Assets to the Custodian. The Custodian shall have no responsibility for acting on an FMV reported by the Account Owner or Valuation Agent. For

Alternative Assets such as investments in limited liability companies, limited partnerships, hedge funds, and other similar entities, the Account Owner directs the Custodian to obtain the FMV of the Account Owner's Alternative Assets from the investment entity itself and hereby appoints each such entity as the Valuation Agent for the Account's investment in the entity itself. Each Valuation Agent shall be required to sign such documents as the Custodian shall deem appropriate or necessary to confirm the understanding and agreement of the Valuation Agent to its obligation to provide such to the Custodian. Failure of the Account Owner or Valuation Agent to provide a timely valuation shall be the sole responsibility of the Valuation Agent or the Account Owner, as the case may be, and the Custodian shall not be required to take any further steps to secure an updated FMV for the Account. The Custodian shall not be responsible for the timeliness or the accuracy of any FMV of any Alternative Asset furnished by the Account Owner or a Valuation Agent. The Custodian shall reflect the latest valuation received on an asset in the Custodial Account's statements on a timely basis, but the Custodian shall have no duty to inform the Account Owner or to follow up with any Valuation Agent with respect to the status of any such additional valuations. The Custodian shall have no duty or responsibility to solicit any valuation from either the Account Owner or the Valuation Agent. If the Custodian does not receive an updated FMV for an Alternative Asset, the Custodian shall be entitled to use the last FMV provided to the Custodian, or if none, the original purchase price for the Alternative Asset in question (such last FMV or original purchase price, as the case may be, shall hereinafter be referred to as the "Last Value").

- g. Review of Statements.** Custodian, shall provide Account Owner with quarterly Account Statements containing the account assets and account activity within your account. Please review the statement carefully and if you identify any discrepancies please document in writing and provide to Custodian via email within forty-five (45) days of the statement issuance at [Operations@digitaltrust.com](mailto:Operations@digitaltrust.com) or via mail at the address listed on the statement. If the notice of discrepancies is not received within the forty-five (45) day time frame, it will signify your approval of the statement and precludes you from making future objections or exceptions regarding the information contained in this statement. Such approval by you shall be full acquittal and discharge of Custodian regarding the transactions and information on such statement. Issuance shall mean (1) the posting of your Account Statement within the online platform or (2) the date of mailing of a paper Account Statement.
- h. Indemnity.** Custodian shall be indemnified by Account Owner against any liabilities, losses, damages, costs and expenses (including but not limited to legal fees) incurred by Custodian and arising out of any action taken or omitted to be taken by the Custodian hereunder or pursuant to any Instructions, including but not limited to (i) any taxes or other governmental charges, and any expenses related thereto, which may be imposed or assessed with respect to the asset/investment, and/or (ii) the Custodian or any nominee or agent of the Custodian, appearing as holder or holder of record of the asset/investment or any part thereof, but excluding those liabilities, losses, damages, costs and expenses which arise (whether through act or omission) as the result of fraud, willful default or gross negligence on the part of the Custodian in the performance of its duties under this Agreement.

### 3. General Terms

- a. Account.** The Custodian shall establish and maintain a separate Account in the name of the Account Owner. All deposits to the account shall be in cash. The Custodian's acceptance of in-kind assets will be in accordance with the Custodian's current policies and procedures. We recommend that you contact the Custodian or Third Party Administrator (TPA) for additional information. Neither the Account Owner nor a Beneficiary shall assign any portion of the Account Owners Account and the Custodian shall not recognize any such assignment. It is the Account Owner's sole responsibility not the Custodian's to determine the amount of permissible deposits and deposit timing as permissible by law. In addition, it is the Account Owner's not the Custodian's responsibility to determine and maintain records of the deductible portion of any deposit.

If the Account Owner is not an individual, Account Owner hereby warrants that the Account Owner has the power and authority to open and use the Custodial Account, that all necessary actions have been taken to authorize the use of the Custodial Account and that the signed of this Agreement have all proper authority to enter into the Agreement on behalf of the Account Owner. Account Owner also agrees to produce evidence of such authority if requested by Custodian and that the Custodian may act upon the instructions of any person the Custodian reasonably believe has the authority to act for the Account Owner.

- b. Uninvested Cash Funds.** From time to time you may deposit cash or digital assets with us, or we may receive funds in settlement of trades, that are not subject to a current Direction of Investment (or are awaiting your direction) (collectively referred to as "Uninvested Funds"). Digital Trust may place funds in one or more money markets, demand deposit accounts (savings or checking), including but not limited to Certificates of Deposit (CDs), investment grade bonds, "A" rated or higher life insurance companies (fixed annuities), municipal bonds, United States treasuries, fixed income annuities with our without life insurance companies, mortgage and real estate backed securities or collateralized investments, and/or Digital or Non Digital yield generating structured investments. Your account is credited with all Uninvested Funds. You agree that if we receive no other instructions, Uninvested Funds from your account shall be invested in account(s) of Custodian's choosing using a method designed to maintain liquidity of the Uninvested Funds.
- i. Specifically, you authorize and direct us to sweep Uninvested Cash Funds automatically into Custodian's designated account(s) until such time as further direction is received from you or your designated representative(s). If FDIC insurance applies to the investments purchased with Uninvested Cash Funds, the insurance will be subject to all applicable laws and regulations related to FDIC insurance limitations.
  - ii. We may adjust the method for investment between the accounts from time to time and we are not required to provide notice or obtain your consent.
  - iii. If we receive monies after hours or that otherwise cannot be immediately swept into an approved interest-bearing investment, such amounts may remain uninvested in our bank account overnight. In that case, we may also earn float on such amounts. In addition, if we issue a check on your behalf in connection with (1) distributions requested by you or (2) fees paid to third party service providers to your account, we debit your account the amount of the check and deposit the funds into a special disbursement account held by us. In that case, we will earn float on the amount of the check from the date it is issued until the date the check is presented and paid.
  - iv. Amounts held in our bank account or Digital Asset wallets are held in an omnibus account and are not segregated from other deposit funds.
- c. Investments—No Duty to Review or Monitor Investments.** The Custodian shall have no duty or responsibility to review any investment held in the Account or any investment under consideration by the Account Owner or any purchase directed by the Account Owner with respect to any issue, including but not limited to, its safety, risk, suitability or whether or not it should be registered as a security with

the appropriate government agencies and shall have no liability with respect to its safety, risk, suitability or whether or not it should be registered as a security with the appropriate government agencies. The Custodian shall not be responsible to investigate or perform any due diligence on any investment, investment sponsor or any principal involved with any investment. Further, the Custodian has no duty to monitor any investment held in the Account. Under this agreement the Custodian provides Self Directed Custody Services for the assets/investments selected by the Account Owner. Custodian acts on the Account Owner's Investment Decisions provided by the Account Owner and has no responsibility for any transactions made in accordance with Account Owner's Investment Decisions, including the performance, disclosure of any risks associated with the asset/investment, any due diligence, or suitability of the assets/investments selected by the Account Owner. **Account Owner agrees that Custodian has no responsibility on the outcome of self-directed investments including but not limited to total loss.**

- d. Acting on Direction.** The Custodian shall act on the Account Owner's Investment Decisions for transfers, investments and distributions of assets/ investments when the Account Owner has submitted directions in the manner required by Custodian. Custodian may also act on Account Owner's Investment Decisions submitted by your Authorized Agent and any other authority granted by the Account Owner in compliance with Custodian's then current policies and procedures. The Custodian is not responsible for losses or damages resulting from the delay of acting on an Account Owner's Investment Decision if the direction is unclear, incomplete and not in acceptable form to the Custodian. The Custodian has no responsibility to question any Account Owner's Investment Decisions received in good order from the Account Owner or your Authorized Agent. When the Custodian is directed to invest in assets in accordance with Account Owner's Investment Decisions, including assets that are not publicly traded, the Custodian shall not have any responsibility or liability of the entity or the broker/agent involved does not settle the trade in accordance with the trade executed by the account owner.
- e. Standard of Care/Liability.** Custodian will use commercially reasonable efforts in performing their obligations under this Agreement.
- i. Subject to the terms of this Agreement, Custodian shall not be responsible for any loss or damage suffered by Account Holder as a result of the Custodian performing such duties unless the same results from an act of fraud, willful default or gross negligence on the part of the Custodian. In such event the liability of the Custodian in connection with the asset/investment so affected by the Custodian's fraud, willful default or gross negligence shall not exceed the market value (as determined by the Custodian in any reasonable commercial manner) of such asset/investment at the time when Account Owner discovers such fraud, willful default or gross negligence.
  - ii. Custodian will be entitled to rely on and may act upon the advice of legal counsel and accountants or other agents with expertise in the relevant area, in relation to matters of law, regulation or market practice, and shall not be liable to Account Owner under this Agreement for any action taken or omitted pursuant to such advice, provided that Custodian has acted in good faith and with commercially reasonable efforts.
  - iii. Custodian shall not, save as stated above, be responsible for the title, validity or genuineness of any asset/investment (or any evidence of title thereto) received or delivered by it pursuant to this Agreement.
  - iv. Neither Custodian nor its affiliates shall be liable for any consequential, incidental, exemplary, punitive, special or indirect damages, whether or not the likelihood of such damages was known by Custodian or its affiliates.
  - v. Custodian shall not be liable to the Account Owner for any statements, representations, actions or inactions of any salesperson, broker or other third party provider of the investment purchased for this account.
  - vi. The Custodian may take any and all other actions which in its judgment may be necessary or appropriate for the proper administration of the assets of the Account. In the performance of its duties and responsibilities under this Agreement the Custodian may employ such agents and vendors as it feels appropriate without notice to the Account Owner.
- f. Statements and Reports.** It is the Account Owner's responsibility to prepare and file all required income tax returns. Custodian will provide to Account Owner at least once each year all information regarding the transactions executed under this Agreement that may reasonably be required for the preparation of Account Owner's income tax returns/ Account Owner is responsible for the payment of any and all accountant and attorney fees incurred in the preparation of Account Owner's tax return or resulting from the operation of this Agreement.
- g. Privacy and Subpoena.** Custodian shall use reasonable measures to maintain and protect the Account Owners personal data. Data will be shared only when necessary to fulfill the activities requested by the Account Owner. Custodian does reserve the right to respond to a subpoena or request from a regulator or law enforcement agency in accordance with the applicable law without your prior approval or notice.
- h. No Tax, Legal or Investment Advice.** Custodian is not responsible for providing legal, tax or investment advice. Account Owner should consult with their financial or tax advisor if such advice is required, The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the account. It is the Account Owner's responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
- i. Common Ownership.** Digital Trust, Alternative IRA Services, LLC dba BitcoinIRA, Rocket Dollar, Inc., Rocket Dollar Capital, Rocket Dollar Advisor, Inc, WAO Advisory, Inc., and/or Choiceapp.io are companies affiliated by common ownership, and that because these entities are under common ownership, the use of any of the entities may result in an indirect financial benefit to the owners of the entities.
- 4. Fees and Expenses.** Custodian shall be entitled to collect fees for their Custodial Services and the administration of the Account Owner's account in accordance with the Fee Schedule and this agreement. Custodian reserves the right to change the Fee Schedule from time to time and will notify Account Owner of such changes. All fees and expenses, including legal or other fees resulting from the administration of your account, will be collected by Custodian according to the payment method selected by Account Owner under this Agreement. If Account Owner has selected to have Custodian collect fees and expenses from the cash in the account, in the event there is not enough cash to cover the fees and expenses, the Account Owner authorizes the Custodian to sell or liquidate a portion of the assets in the account to collect the fees and expenses. If the Account Owner has selected the option to pay the Custodian fees and expenses by selling an asset in the account, the Custodian will sell a portion of the asset with the largest market value to collect such fees. Sales of assets to cover fees will be executed in or around the first week of every month. Sales for expenses will be executed as needed. The Custodian shall not incur any liability from initiating the sale or liquidation of assets to collect the fees and expenses. Custodian reserves the right to send Account Owner's debt to collections agents or resign as custodian for unpaid fees.
- 5. Amendments to Agreement.** From time to time the Custodian may amend this agreement for any reason deemed necessary by Custodian. Some amendments may be necessary to comply and abide by new laws and regulations. Any such amendment will be provided by providing

a copy of the amendment to Account Owner at your last known mailing or electronic address as shown in our records. Account Owner shall have thirty (30) calendar days to object to the Amendment. Such objection shall include the direction to terminate your account, termination and other fees will apply to the account closing. If no objection is received by Custodian, Custodian deems that Amendment is accepted and consented to by Account Owner

## 6. Notice, Delivery and Electronic Signature

- a. CONSENT FOR ELECTRONIC DISCLOSURES UNDER THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** The Account Application (Application) includes the Account Agreement provisions, the Fee Schedule and the Custodial Account Disclosures documents together as one which have been presented to the Account Owner prior to executing the Application. By completing this application online, you agree to be bound by all terms and conditions contained in the Application.
- b. Consent to Electronic Delivery of Statements and Other Communications.** By consenting to the terms and conditions of this Application, you agree to receive the following communications electronically: periodic statements, disclosures, notices (including Amendment changes), agreements, changes to terms and conditions, records, documents, tax statements, Privacy Notice, and all other information we provide to you. We may deliver these communications to you through your online access, by email or by using other electronic methods allowed pursuant to applicable laws and regulations. While electronic delivery and email notifications are provided free of charge, you may incur internet access and telephone charges. However, we reserve the right to deliver any communication to you as a paper copy, rather than electronically. Your consent remains in effect until you give us notice that you are withdrawing it and covers all communications, including those related to any product or service offered either now or in the future. Electronic documents will no longer be sent after the account is terminated and all regulatory reporting requirements have been satisfied.
- c. Withdrawal of Consent.** You may contact us in any of the ways described below to withdraw your consent to receive any future communication electronically. If you wish to receive electronic communications after you have withdrawn your consent, please contact Digital Trust at the phone number or address below. Please refer to the Fee Schedule for any fee that may apply for paper copies.
- d. Paper Delivery of Disclosures and Notices.** You have the right to receive a paper copy of any communication sent electronically. To receive a paper copy, you may request it in writing by sending your request to Digital Trust, 7336 W. Post Road, Suite #111, Las Vegas, Nevada 89113 or calling us at (800) 777-9878. You may have to pay a fee for the paper copy unless charging a fee is prohibited by law.
- e. IMPORTANT.** It is your responsibility to provide and maintain a current email and residential address with us. We may treat an invalid email address or the subsequent malfunction of a previously valid email address as a withdrawal of your consent to receive electronic communication. We will not impose a fee to process the withdrawal of your consent; however, fees may apply to paper copies mailed. Withdrawal of your consent to receive electronic communications will be effective only after we have a reasonable period of time to process your withdrawal. All communications in either electronic or paper format from us to you will be considered “in writing.”
- f. How to Update Your Records.** It is your responsibility to provide us with true, accurate and complete email address, contact, and other information related to your account. You must promptly notify us of any changes in this information. You can update your information via TPA's platform, by calling us, or by writing us at the address above.
- g. Equipment and Software Requirements.** In order to view and retain electronic communications that we make available to you, you must have:
- A PC or other device with an Internet browser that has “cookies” enabled and supports 128-bit encryption
  - An Internet connection
  - An email address
  - A PDF viewer (such as Adobe Reader)
  - A printer or computer with sufficient electronic storage space

All communications shall be delivered to the last address we have on file for the Account Owner. These notices will be sent through electronic delivery (email) and will be considered delivered the same day as sent. If you have opted out of electronic delivery, communications sent to you through the United States Postal Service are considered delivered 5 business days after the postmark date. It is the Account Owner's responsibility to notify the Custodian of any email address change or residential address change. Custodian will not be held liable for any losses or damages if the Account Owner has not provided Custodian with the most current address information. The electronically signed copy of this document should be considered equivalent to a printed hard copy form. It is considered a true and complete record of the document, admissible in arbitration and/or administrative hearings or proceedings. Your electronic signature on the Application and other electronic forms such as the Investment Direction are considered valid and the same as if the paper form or Application were physically signed.

- 7. Withdrawals/Distributions.** Account Owner will provide full and complete instructions for any Distributions out of the Account. Custodian offers no tax or legal advice and Account Owner should consult with their tax or financial advisor to understand the implications of the action requested. Instructions should be submitted to Custodian in a manner acceptable to the Custodian. Custodian will not under any circumstances be responsible for the timing, purpose or propriety of any distribution from the account, nor shall the Custodian incur any liability or responsibility for any tax or penalty imposed on account of any distribution or failure to make a required distribution. Custodian may make any payment or distribution required or authorized hereunder by mailing a check or other property or by ACH or Federal wire or other electronic transfer to the payee at the address last furnished to the Custodian. Custodian shall not be liable for any payment made in good faith without actual knowledge of any changed condition or status of any person receiving benefits hereunder.

Custodian may, but shall not be obligated to, pay any estate, inheritance, income, or other tax or assessment attributable to any property or interest held in the account out of the assets of the account upon such information or direction as it may require. Before payment of any benefit, Custodian may also require releases or other related documentation from the taxing authority and require indemnification from such payee as may be necessary for the Custodian's protection against tax liability.

- 8. Successor Custodian.** In the event that Digital Trust changes its name, reorganizes, is acquired by another organization, or if all or a portion of our entire organization is purchased by another organization, that organization will automatically become the trustee or custodian of your Account so long as the organization is authorized to serve as a trustee or custodian and satisfies the requirements of the IRS Code Section 408(a)(2).
- 9. Termination or Resignation.** Account Owner or Custodian may terminate this agreement at any time by giving written notice to the other. We can resign as Custodian at any time effective 30 days after we send written notice of our resignation to you. Upon receipt of that notice, you must make arrangements to transfer your account to another Custodian (Successor Custodian) or request a distribution of your

account. If you do not complete a distribution form or transfer your account within 30 days from the date we send the notice to you, we have the right to either a) transfer your assets to a successor trustee or custodian that we choose or b) we may distribute your Account to you in a single lump sum and/or re-register the assets to you in-kind. In the event of re-registration of the assets, the Custodian's authority to re-register the assets supersedes any and all conflicting instructions, directions, or authorities with respect to said assets contained in any investment documents. If this agreement is terminated, we may charge you a reasonable amount of money that is necessary to cover any costs associated with distributing or transferring your account, including but not limited to fees and expenses incurred and taxes. The Custodian shall not be liable for any taxes, penalties, or losses arising from any delays, omissions, acts, or other action or inaction of any other person(s) or entity, including the Account Owner in connection with transfer or distribution of the account. The Successor Custodian shall acquire all of the powers and authority conferred by the resigning Custodian. The transfer and delivery of assets to the Successor Custodian shall be a complete discharge and exoneration of any liability for the resigning Custodian unless the Account Owner or Successor Custodian notifies the resigning Custodian within forty-five (45) days from the date of resignation. Custodian may close the Account if it is not funded within ninety (90) days from Account opening.

- 10. Designation of Beneficiaries.** In the event of your death, any account balance will be paid to your beneficiary designation deemed legally valid by the Custodian. In the event that the beneficiary designated is a minor or not of sound mind, the Custodian may at its discretion make beneficiary payments to such person acting as a parent or guardian of said beneficiary.
- a. Validity.** A beneficiary designation is deemed legally valid when the Account Owner has provided a full complete and executed designation clearly providing if the Account Owner is adding to or changing a portion of the then current beneficiary designation form in a format approved by the Custodian. Any valid beneficiary designation shall be effective upon receipt by the Custodian. Upon opening your account, you can designate your beneficiaries, and while still living, you can change your beneficiaries by submitting a fully completed Change of Beneficiary form acceptable to the Custodian.
  - b. Beneficiary Designations and Change of Beneficiary.** In the event of marriage, divorce, death, adoption and the birth of children the Account Owner should evaluate the beneficiaries listed on the account and provide the Custodian with a fully completed Change of Beneficiary form to update the account. The Custodian reserves the right to reject or not accept a beneficiary designation not made to individuals or entities. If you do not live in a "community property" State, you are free to name any person or entity as your beneficiary, even if you are married. In "community property" States, Account Owners who earn monies contributed to their account during a legal marriage will be required to provide a spousal consent to designate a person or entity as beneficiary other than their spouse. (Subject to changes in law, "community property" States currently include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.)
  - c. Death Distributions.** Custodian will rely on a certified copy of the death certificate or other evidence deemed appropriate by the Custodian that certifies the Account Owner's death. The Custodian has no responsibility to search for beneficiaries if Account Owner does not provide beneficiary information for the account. By entering into this Agreement, you authorize Custodian to rely on any representation of facts made by the legal representative of your estate, any beneficiary, or any other person or source deemed appropriate by us, in determining the identity of unnamed beneficiaries. Your estate, and any unnamed beneficiaries further understand and agree that any information or instructions provided by such persons may be reviewed with counsel and Custodian may require further documentation to determine the beneficiaries. Prior to a distribution of assets to a beneficiary or the estate of the Account Owner, Custodian reserves the right to request from the beneficiary or the estate of the Account Owner, indemnification and discharge from any liability.
  - d. Distribution to Estate.** Custodian reserves the right to distribute the account to the estate of the Account Owner in the event that there is conflicting or incomplete information in determining the beneficiaries. In the event that there are no beneficiaries provided to Custodian or all beneficiaries renounce their rights to receive any benefit from the Account, or in the event that no beneficiaries survive the Account Owner, the account will be distributed to your estate.
- 11. Arbitration Agreement.** In the event any legal or equitable claims or disputes arise out of performance of this agreement, or a breach of this Agreement, the parties agree to attempt to resolve the claim or dispute through good faith negotiation. In the event the parties are unable to resolve or settle such claim or dispute through negotiations, the parties agree that the claim or dispute will be settled by binding arbitration. Any arbitration proceedings shall be conducted in Las Vegas, Nevada, in accordance with the Commercial Dispute Resolution Procedures of the American Arbitration Association (AAA) in effect at the time a demand for arbitration is made. The Account Owner expressly waives any right he or she may have to establish or conduct litigation or arbitration in any other forum or location, or before any other body. The Account Owner may only bring claims and disputes in his or her individual capacity and not as a plaintiff or class member. Any and all claims arising out of or relating to this Agreement are required to have an arbitration filed within two (2) years from the date that the Account Owner knew of the facts giving rise to such claim or claims. The arbitrator shall have the authority to award reasonable attorneys' fees and costs, including the costs of arbitration, to the prevailing party.
- 12. Governing Law.** This Agreement and all amendment hereto shall be governed by and construed in accordance with the laws of the State of Nevada and the federal laws of the United States of America, and the obligations hereunder shall be determined in accordance with such laws. If any provision of this Agreement or the application thereof to any person or circumstances shall be determined to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 13. Other Administrative Powers.** Anything in this Agreement to the contrary notwithstanding, the Custodian may choose to request direction from the Account Owner as to any specific action or situation that arises with the account. If a request for direction is made, the Custodian shall not incur any liability for following the Account Owner's direction or for taking no action if no such direction is furnished to the Custodian. The Custodian shall have the right, at the expense of the Account Owner, to seek a direction or approval of its accounts from a court of competent jurisdiction whenever the Custodian shall, in its sole discretion, deem it appropriate. The Custodian is not required to, but in its sole discretion may, exercise the full power and authority to settle, compound or abandon all claims and demands in favor of or against the account or Account Owner, including any claim that may be asserted for taxes under present or future laws; to maintain or defend any litigation necessary in its administration of the account if indemnified to its satisfaction against any expenses and liabilities sustained or anticipated in connection therewith; to retain any fiat subject to any dispute without liability for payment of interest or decline to make payment thereof, until final adjudication of such dispute by a court of competent jurisdiction.
- 14. Third Party Actions.** The Custodian shall not be liable to the Account Owner for (i) any statements, representations, actions or inactions of the Advisor or any broker or other salesperson or principal of any investment purchased for the Custodial Account and (ii) the use of account information provided to the Advisor or other third party as authorized or directed by the Account Owner.

**15. Digital Currency.** Custodian cannot and does not guarantee the value of digital currency or any other investment. Custodian shall not be responsible for any third-party services. Furthermore, Custodian or TPA cannot cancel or reverse a transaction involving digital currency. Once a transaction request has been made, Account Owner will subsequently not be able to cancel or otherwise modify the transaction request. Account Owner acknowledges and agrees that Custodian shall have no liability for losses you suffer in connection with any digital currency transaction initiated via the TPA Platform under this Agreement unless such losses are the direct result of Custodian's fraud, willful default or gross negligence. Custodian does not ensure that any transaction request you submit or cause to be submitted to a digital currency network via the TPA Platform will be completed by the applicable network. You acknowledge and agree that the transaction requests you authorize Custodian to submit for completion on a digital currency network may not be completed, or may be substantially delayed, by the digital currency network and Custodian is not responsible for any delay or any failure of completion caused by the digital currency network. When you complete a transaction request via the TPA Platform, this authorizes Custodian to submit the transaction request to the digital currency network in accordance with the instructions you provide.

- a. Third Parties.** Digital Trust as custodian has a contractual agreement with Alternative IRA Services, LLC dba BitcoinIRA ("Bitcoin IRA") to act as a third-party servicer to your cryptocurrency or gold IRA account in conjunction with certain cryptocurrency service providers. You acknowledge Bitcoin IRA may change service providers at any time without notice. Those services performed by Bitcoin IRA include but are not limited to client servicing, hosting of the client platform, administrative functions necessary to open the IRA and facilitate the investment transactions including identity verification. Any issues or errors arising out of the use of the third-party platform are the responsibility of the third-party platform.
- b. Key Storage.** Custodian shall use commercially reasonable efforts to keep in safe custody on behalf of Account Holder all Custodial Coins received by Custodian. Custodian will use commercially reasonable efforts to keep all Keys to the Custodial Wallet held by Custodian secure and shall maintain at least one (1) backup Key. Custodian shall exercise all commercially reasonable efforts to prevent unauthorized access to or use of the Keys held by Custodian to the Custodial Wallet. Custodian shall not be held responsible for any prohibited transactions or tax liabilities or penalties related to the storage of keys.
- c. Asset Value Reporting Policy.** To value digital assets in your account, Custodian will electronically obtain USD equivalent prices from digital currency market data providers or other sources as of the last date of the statement to report on your account statement. Custodian does not guarantee the accuracy or timeliness of prices received and the prices are not to be relied upon for any investment decisions for your account.
- d. Trading, Transactions, and Residuals.**
  - i. Account Owner acknowledges and accepts the risk of trading, settlement and holding assets such as Digital Assets.
  - ii. Account Owner acknowledges that Custodian reserves the right to suspend or restrict transaction activity in the asset or account reasonably necessary to comply with Custodian's anti-money laundering programs and policies, any requirements under applicable law, to prevent fraud, prevent suspicious transactions, or for any security reasons. Account Owner acknowledges for digital asset transfers or withdrawals that the vault withdrawal timeframe may take up to forty-eight (48) hours to execute.
  - iii. Custodian will reflect in Account Owners Account market occurrences such as dividends, rewards, etc. when such activity occurs and after Custodian receives the proper information to reflect such activity.
  - iv. Upon liquidation of digital currency, Account Owner may incur negligible mining fees that are charged at an unknown rate by miners of blockchain based products. This fee will be the responsibility of Account Owner. The Bitcoin IRA Platform accounts for an estimation of this which is withheld upon liquidation. The withholding will be greater than the amount charged by the miners, leaving a residual referred to as *dust*. Account Owner acknowledges Custodian will use dust for payment and apply any residual to Account Owner's account for outstanding Custodial Fees or any cost associated with maintaining the wallet and/or account.
- e. Transaction Requests and Verification.** For transactions initiated by Account Owner, the Account Owner appoints the Custodian with the authority to request the movement of assets and perform the out of band transaction verification as required by then current policies and procedures (e.g. video ID verification) including movement of assets out of the Cold Wallet Storage for purposes of settling trades executed by the Account Owner. Authority is granted to Custodian, provided Account Owner has appropriately provided direction or instruction in accordance with the Custodian's current policy and procedures via the Bitcoin IRA Platform or other method acceptable to Custodian.
- f. Acknowledgement of Fork, Airdrop, and Token Support.** Account Owner agrees that all "airdrops" and "forks" will be handled by Custodian pursuant to its current policies and procedures. Account Owner acknowledges that Custodian is under no obligation to support any airdrops or forks, or handle them in any manner. Account Owner acknowledges that Custodian does not own or control the underlying software protocols which govern the operation of Digital Currencies. Digital Asset protocols are subject to changes in protocol rules (referred to as "forks"), and such forks may materially affect the value, function, or name of the Digital Asset. You acknowledge and agree (i) that Custodian is not responsible for operation of the underlying Digital Asset protocols and that Custodian makes no guarantee of their functionality, security, or availability; and (ii) if a fork occurs, Custodian may temporarily suspend the ability to transact in the Digital Asset affected, and Custodian may decide not to support the forked protocol entirely or may enable you to transfer the affected Digital Asset.

Account Owner further acknowledges that Custodian, at its sole discretion, may update the policies and procedures from time to time. Custodian is under no obligation to provide notification to Customer of any modification. Account Owner further acknowledges and agrees that Custodian may, from time to time, offer support for select ERC20 tokens or other tokens, metacoins, colored coins, side chains, or coins which enhance or interoperate with coins supported by Custodian (collectively, "Tokens"). Custodian will notify Account Owner and the general public if the Custodian supports a particular Token. Account Owner further acknowledges and agrees that, upon the occurrence of any event outside the control of Custodian resulting in the migration of any ERC20 token from Ethereum to another protocol, including but not limited to a "mainnet launch," (a "Migration Event") Custodian may immediately cease any and all support for such ERC20 token, and that Custodian will be under no obligation to provide support for any Token related to or resulting from such a Migration Event.

CUSTODIAN WILL HAVE NO RESPONSIBILITY OR LIABILITY IF CLIENT LOSES, BURNS, OR OTHERWISE CANNOT ACCESS OR CONTROL ANY TOKEN THAT CUSTODIAN DOES NOT SUPPORT.

## PURPOSE OF THIS DISCLOSURE STATEMENT

This custody account agreement (“Agreement”), is made by and between the individual(s) or entity executing the Digital Trust Custodial Account Adoption Agreement (hereinafter referred to, jointly and severally if more than one individual, as “Account Owner”) and Digital Trust (hereinafter referred to as “Custodian”).

Custodian hereby agrees to accept and hold such monies, securities and property (hereinafter referred to as “Property”) as may from time to time be delivered by or for Account Owner to Custodian, or added in the process of investing the Property, in a custody account (“Custodial Account” or “Account”) and to invest such Property, solely at the direction of the Account Owner or any duly appointed investment advisor and subject to the terms below.

## DISCLOSURES

1. **Important Information About Procedures for Opening a New Account.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver’s license or other identifying documents.
2. **Account Owner Responsibilities**
  - a. **Account Owner.** The Account Owner acknowledges that the Account is a non-interest bearing self-directed account. Where applicable, the custodian acts as a “fiduciary” for this account, as defined by the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), by the Internal Revenue Code or any other applicable local, state, or federal laws only in relation to its custodial services. The Custodian does not, and the Account Owner acknowledges that the Custodian does not assume fiduciary responsibilities for any Account Owner’s Investment Decisions associated with the account. The Account Owner also acknowledges that the account with the Custodian will be established in the name of the Custodian for the benefit of the Account Owner and Account Owner agrees that all transactions related to the account must go through the account held with the Custodian otherwise this could result in tax implications. It is the Account Owner’s responsibility (not the Custodian’s), to select and monitor the investments in the account. The Account Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the account and accepts full and sole responsibility for such selection (“Account Owner’s Investment Decisions”). The Custodian provides no investment, legal, or tax advice or recommendations related to your account. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the account and accepts full and sole responsibility for the success or failure of such investments. Assets in your account are not guaranteed by Digital Trust and are subject to investment risk, including the possible loss of your investment value.
  - b. **Authorized Agent.** The Account Owner may appoint a third party as their authorized agent to direct the investment of the account by notifying the Custodian in a form acceptable to the Custodian. The Custodian shall assume that the authorized agent is at all times qualified to act as agent for the Account Owner and shall recognize the agent as having the authority to direct the investment of the account until such time as 1.) the Account Owner notifies the Custodian in writing that he has removed the authorized agent, or 2.) the Custodian is notified of the death of the Account Owner. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement. Custodian shall bear no responsibility for any transactions in the account, or resultant losses or damages to Account Owner, caused by any acts or omissions of Authorized Agents. Client shall remain fully responsible for any acts or omissions of its Authorized Agent and shall ensure that Authorized Agents comply with the terms of this Agreement. Custodian and TPA shall bear no responsibility for any transactions in the Account, or resultant losses or damages to Account Owner, caused by any acts or omissions of Authorized Agents.
  - c. **Additional Information.** Account Owner agrees and acknowledges that, unless where required by law, the Custodian is not responsible for communicating, forwarding or notifying any party, including the Account Owner, with respect to communications or other matters which are received by or come to the attention of the Custodian with respect to assets in the account. It is the Account Owner’s responsibility to make arrangements to receive such information or monitor public sources for such information.
  - d. **Account Owner’s Representations.** Account Owner represents and warrants that any information given or any information that will be given in the future with respect to this account is complete and accurate. Account Owner also agrees that any directions Account Owner or Account Owner’s authorized agent give to the custodian, or any actions Account Owner or Account Owner’s authorized agent take will be proper under this Agreement and that the Custodian is entitled to rely upon any such information or directions. The Custodian shall not be responsible for losses of any kind that may result from such directions to the Custodian or from the Account Owner’s actions, or the Account Owner’s authorized agent’s actions, or failures to act of both. Account Owner agrees to reimburse the Custodian for any losses the Custodian may incur as a result of such directions, actions or failures to act.
  - e. **Owner Investment Responsibility.** The Account Owner has the full responsibility to review and investigate the assets they direct the Custodian to invest in for their account. It is the Account Owner’s responsibility, not the Custodian’s, to select and monitor the investments in the account. The Account Owner has the sole responsibility, authority and discretion for the selection of any and all investments in the account and accepts full and sole responsibility for such selection. Further, the Account Owner is fully and solely responsible for monitoring any and all investments in the account and accepts full and sole responsibility for the success or failure of such investments. The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the account. It is the Account Owner’s responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
  - f. **Fair Market Valuations.** The valuation for investments must be provided to the Custodian on a timely basis by the Account Owner or another party chosen by the Account Owner for this purpose (“Valuation Agent”) and identified as such in a written document delivered to the Custodian. It is the Account Owner’s responsibility to determine and provide the valuation of Alternative Assets to the Custodian. The Custodian shall have no responsibility for acting on an FMV reported by the Account Owner or Valuation Agent. For

Alternative Assets such as investments in limited liability companies, limited partnerships, hedge funds, and other similar entities, the Account Owner directs the Custodian to obtain the FMV of the Account Owner's Alternative Assets from the investment entity itself and hereby appoints each such entity as the Valuation Agent for the Account's investment in the entity itself. Each Valuation Agent shall be required to sign such documents as the Custodian shall deem appropriate or necessary to confirm the understanding and agreement of the Valuation Agent to its obligation to provide such to the Custodian. Failure of the Account Owner or Valuation Agent to provide a timely valuation shall be the sole responsibility of the Valuation Agent or the Account Owner, as the case may be, and the Custodian shall not be required to take any further steps to secure an updated FMV for the Account. The Custodian shall not be responsible for the timeliness or the accuracy of any FMV of any Alternative Asset furnished by the Account Owner or a Valuation Agent. The Custodian shall reflect the latest valuation received on an asset in the Custodial Account's statements on a timely basis, but the Custodian shall have no duty to inform the Account Owner or to follow up with any Valuation Agent with respect to the status of any such additional valuations. The Custodian shall have no duty or responsibility to solicit any valuation from either the Account Owner or the Valuation Agent. If the Custodian does not receive an updated FMV for an Alternative Asset, the Custodian shall be entitled to use the last FMV provided to the Custodian, or if none, the original purchase price for the Alternative Asset in question (such last FMV or original purchase price, as the case may be, shall hereinafter be referred to as the "Last Value").

- g. Review of Statements.** Custodian, shall provide Account Owner with quarterly Account Statements containing the account assets and account activity within your account. Please review the statement carefully and if you identify any discrepancies please document in writing and provide to Custodian via email within forty-five (45) days of the statement issuance at [Operations@digitaltrust.com](mailto:Operations@digitaltrust.com) or via mail at the address listed on the statement. If the notice of discrepancies is not received within the forty-five (45) day time frame, it will signify your approval of the statement and precludes you from making future objections or exceptions regarding the information contained in this statement. Such approval by you shall be full acquittal and discharge of Custodian regarding the transactions and information on such statement. Issuance shall mean (1) the posting of your Account Statement within the online platform or (2) the date of mailing of a paper Account Statement.
- h. Indemnity.** Custodian shall be indemnified by Account Owner against any liabilities, losses, damages, costs and expenses (including but not limited to legal fees) incurred by Custodian and arising out of any action taken or omitted to be taken by the Custodian hereunder or pursuant to any Instructions, including but not limited to (i) any taxes or other governmental charges, and any expenses related thereto, which may be imposed or assessed with respect to the asset/investment, and/or (ii) the Custodian or any nominee or agent of the Custodian, appearing as holder or holder of record of the asset/investment or any part thereof, but excluding those liabilities, losses, damages, costs and expenses which arise (whether through act or omission) as the result of fraud, willful default or gross negligence on the part of the Custodian in the performance of its duties under this Agreement.

### 3. General Terms

- a. Account.** The Custodian shall establish and maintain a separate Account in the name of the Account Owner. All deposits to the account shall be in cash. The Custodian's acceptance of in-kind assets will be in accordance with the Custodian's current policies and procedures. We recommend that you contact the Custodian or Third Party Administrator (TPA) for additional information. Neither the Account Owner nor a Beneficiary shall assign any portion of the Account Owners Account and the Custodian shall not recognize any such assignment. It is the Account Owner's sole responsibility not the Custodian's to determine the amount of permissible deposits and deposit timing as permissible by law. In addition, it is the Account Owner's not the Custodian's responsibility to determine and maintain records of the deductible portion of any deposit.

If the Account Owner is not an individual, Account Owner hereby warrants that the Account Owner has the power and authority to open and use the Custodial Account, that all necessary actions have been taken to authorize the use of the Custodial Account and that the signed of this Agreement have all proper authority to enter into the Agreement on behalf of the Account Owner. Account Owner also agrees to produce evidence of such authority if requested by Custodian and that the Custodian may act upon the instructions of any person the Custodian reasonably believe has the authority to act for the Account Owner.

- b. Uninvested Cash Funds.** From time to time you may deposit cash or digital assets with us, or we may receive funds in settlement of trades, that are not subject to a current Direction of Investment (or are awaiting your direction) (collectively referred to as "Uninvested Funds"). Digital Trust may place funds in one or more money markets, demand deposit accounts (savings or checking), including but not limited to Certificates of Deposit (CDs), investment grade bonds, "A" rated or higher life insurance companies (fixed annuities), municipal bonds, United States treasuries, fixed income annuities with our without life insurance companies, mortgage and real estate backed securities or collateralized investments, and/or Digital or Non Digital yield generating structured investments. Your account is credited with all Uninvested Funds. You agree that if we receive no other instructions, Uninvested Funds from your account shall be invested in account(s) of Custodian's choosing using a method designed to maintain liquidity of the Uninvested Funds.
- i. Specifically, you authorize and direct us to sweep Uninvested Cash Funds automatically into Custodian's designated account(s) until such time as further direction is received from you or your designated representative(s). If FDIC insurance applies to the investments purchased with Uninvested Cash Funds, the insurance will be subject to all applicable laws and regulations related to FDIC insurance limitations.
  - ii. We may adjust the method for investment between the accounts from time to time and we are not required to provide notice or obtain your consent.
  - iii. If we receive monies after hours or that otherwise cannot be immediately swept into an approved interest-bearing investment, such amounts may remain uninvested in our bank account overnight. In that case, we may also earn float on such amounts. In addition, if we issue a check on your behalf in connection with (1) distributions requested by you or (2) fees paid to third party service providers to your account, we debit your account the amount of the check and deposit the funds into a special disbursement account held by us. In that case, we will earn float on the amount of the check from the date it is issued until the date the check is presented and paid.
  - iv. Amounts held in our bank account or Digital Asset wallets are held in an omnibus account and are not segregated from other deposit funds.
- c. Investments—No Duty to Review or Monitor Investments.** The Custodian shall have no duty or responsibility to review any investment held in the Account or any investment under consideration by the Account Owner or any purchase directed by the Account Owner with respect to any issue, including but not limited to, its safety, risk, suitability or whether or not it should be registered as a security with



the appropriate government agencies and shall have no liability with respect to its safety, risk, suitability or whether or not it should be registered as a security with the appropriate government agencies. The Custodian shall not be responsible to investigate or perform any due diligence on any investment, investment sponsor or any principal involved with any investment. Further, the Custodian has no duty to monitor any investment held in the Account. Under this agreement the Custodian provides Self Directed Custody Services for the assets/investments selected by the Account Owner. Custodian acts on the Account Owner's Investment Decisions provided by the Account Owner and has no responsibility for any transactions made in accordance with Account Owner's Investment Decisions, including the performance, disclosure of any risks associated with the asset/investment, any due diligence, or suitability of the assets/investments selected by the Account Owner. **Account Owner agrees that Custodian has no responsibility on the outcome of self-directed investments including but not limited to total loss.**

- d. Acting on Direction.** The Custodian shall act on the Account Owner's Investment Decisions for transfers, investments and distributions of assets/ investments when the Account Owner has submitted directions in the manner required by Custodian. Custodian may also act on Account Owner's Investment Decisions submitted by your Authorized Agent and any other authority granted by the Account Owner in compliance with Custodian's then current policies and procedures. The Custodian is not responsible for losses or damages resulting from the delay of acting on an Account Owner's Investment Decision if the direction is unclear, incomplete and not in acceptable form to the Custodian. The Custodian has no responsibility to question any Account Owner's Investment Decisions received in good order from the Account Owner or your Authorized Agent. When the Custodian is directed to invest in assets in accordance with Account Owner's Investment Decisions, including assets that are not publicly traded, the Custodian shall not have any responsibility or liability of the entity or the broker/agent involved does not settle the trade in accordance with the trade executed by the account owner.
- e. Standard of Care/Liability.** Custodian will use commercially reasonable efforts in performing their obligations under this Agreement.
- i. Subject to the terms of this Agreement, Custodian shall not be responsible for any loss or damage suffered by Account Holder as a result of the Custodian performing such duties unless the same results from an act of fraud, willful default or gross negligence on the part of the Custodian. In such event the liability of the Custodian in connection with the asset/investment so affected by the Custodian's fraud, willful default or gross negligence shall not exceed the market value (as determined by the Custodian in any reasonable commercial manner) of such asset/investment at the time when Account Owner discovers such fraud, willful default or gross negligence.
  - ii. Custodian will be entitled to rely on and may act upon the advice of legal counsel and accountants or other agents with expertise in the relevant area, in relation to matters of law, regulation or market practice, and shall not be liable to Account Owner under this Agreement for any action taken or omitted pursuant to such advice, provided that Custodian has acted in good faith and with commercially reasonable efforts.
  - iii. Custodian shall not, save as stated above, be responsible for the title, validity or genuineness of any asset/investment (or any evidence of title thereto) received or delivered by it pursuant to this Agreement.
  - iv. Neither Custodian nor its affiliates shall be liable for any consequential, incidental, exemplary, punitive, special or indirect damages, whether or not the likelihood of such damages was known by Custodian or its affiliates.
  - v. Custodian shall not be liable to the Account Owner for any statements, representations, actions or inactions of any salesperson, broker or other third party provider of the investment purchased for this account.
  - vi. The Custodian may take any and all other actions which in its judgment may be necessary or appropriate for the proper administration of the assets of the Account. In the performance of its duties and responsibilities under this Agreement the Custodian may employ such agents and vendors as it feels appropriate without notice to the Account Owner.
- f. Statements and Reports.** It is the Account Owner's responsibility to prepare and file all required income tax returns. Custodian will provide to Account Owner at least once each year all information regarding the transactions executed under this Agreement that may reasonably be required for the preparation of Account Owner's income tax returns/ Account Owner is responsible for the payment of any and all accountant and attorney fees incurred in the preparation of Account Owner's tax return or resulting from the operation of this Agreement.
- g. Privacy and Subpoena.** Custodian shall use reasonable measures to maintain and protect the Account Owners personal data. Data will be shared only when necessary to fulfill the activities requested by the Account Owner. Custodian does reserve the right to respond to a subpoena or request from a regulator or law enforcement agency in accordance with the applicable law without your prior approval or notice.
- h. No Tax, Legal or Investment Advice.** Custodian is not responsible for providing legal, tax or investment advice. Account Owner should consult with their financial or tax advisor if such advice is required, The Custodian has no responsibility, authority, or discretion for the selection, purchase, sale, monitoring, or continued holding of any investment in the account. It is the Account Owner's responsibility to investigate and understand the nature of the investments and risks involved with the investments chosen by the Account Owner.
- i. Common Ownership.** Digital Trust, Alternative IRA Services, LLC dba BitcoinIRA, Rocket Dollar, Inc., Rocket Dollar Capital, Rocket Dollar Advisor, Inc, WAO Advisory, Inc., and/or Choiceapp.io are companies affiliated by common ownership, and that because these entities are under common ownership, the use of any of the entities may result in an indirect financial benefit to the owners of the entities.
- 4. Fees and Expenses.** Custodian shall be entitled to collect fees for their Custodial Services and the administration of the Account Owner's account in accordance with the Fee Schedule and this agreement. Custodian reserves the right to change the Fee Schedule from time to time and will notify Account Owner of such changes. All fees and expenses, including legal or other fees resulting from the administration of your account, will be collected by Custodian according to the payment method selected by Account Owner under this Agreement. If Account Owner has selected to have Custodian collect fees and expenses from the cash in the account, in the event there is not enough cash to cover the fees and expenses, the Account Owner authorizes the Custodian to sell or liquidate a portion of the assets in the account to collect the fees and expenses. If the Account Owner has selected the option to pay the Custodian fees and expenses by selling an asset in the account, the Custodian will sell a portion of the asset with the largest market value to collect such fees. Sales of assets to cover fees will be executed in or around the first week of every month. Sales for expenses will be executed as needed. The Custodian shall not incur any liability from initiating the sale or liquidation of assets to collect the fees and expenses. Custodian reserves the right to send Account Owner's debt to collections agents or resign as custodian for unpaid fees.
- 5. Amendments to Agreement.** From time to time the Custodian may amend this agreement for any reason deemed necessary by Custodian. Some amendments may be necessary to comply and abide by new laws and regulations. Any such amendment will be provided by providing

a copy of the amendment to Account Owner at your last known mailing or electronic address as shown in our records. Account Owner shall have thirty (30) calendar days to object to the Amendment. Such objection shall include the direction to terminate your account, termination and other fees will apply to the account closing. If no objection is received by Custodian, Custodian deems that Amendment is accepted and consented to by Account Owner

## 6. Notice, Delivery and Electronic Signature

- a. CONSENT FOR ELECTRONIC DISCLOSURES UNDER THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** The Account Application (Application) includes the Account Agreement provisions, the Fee Schedule and the Custodial Account Disclosures documents together as one which have been presented to the Account Owner prior to executing the Application. By completing this application online, you agree to be bound by all terms and conditions contained in the Application.
- b. Consent to Electronic Delivery of Statements and Other Communications.** By consenting to the terms and conditions of this Application, you agree to receive the following communications electronically: periodic statements, disclosures, notices (including Amendment changes), agreements, changes to terms and conditions, records, documents, tax statements, Privacy Notice, and all other information we provide to you. We may deliver these communications to you through your online access, by email or by using other electronic methods allowed pursuant to applicable laws and regulations. While electronic delivery and email notifications are provided free of charge, you may incur internet access and telephone charges. However, we reserve the right to deliver any communication to you as a paper copy, rather than electronically. Your consent remains in effect until you give us notice that you are withdrawing it and covers all communications, including those related to any product or service offered either now or in the future. Electronic documents will no longer be sent after the account is terminated and all regulatory reporting requirements have been satisfied.
- c. Withdrawal of Consent.** You may contact us in any of the ways described below to withdraw your consent to receive any future communication electronically. If you wish to receive electronic communications after you have withdrawn your consent, please contact Digital Trust at the phone number or address below. Please refer to the Fee Schedule for any fee that may apply for paper copies.
- d. Paper Delivery of Disclosures and Notices.** You have the right to receive a paper copy of any communication sent electronically. To receive a paper copy, you may request it in writing by sending your request to Digital Trust, 7336 W. Post Road, Suite #111, Las Vegas, Nevada 89113 or calling us at (800) 777-9878. You may have to pay a fee for the paper copy unless charging a fee is prohibited by law.
- e. IMPORTANT.** It is your responsibility to provide and maintain a current email and residential address with us. We may treat an invalid email address or the subsequent malfunction of a previously valid email address as a withdrawal of your consent to receive electronic communication. We will not impose a fee to process the withdrawal of your consent; however, fees may apply to paper copies mailed. Withdrawal of your consent to receive electronic communications will be effective only after we have a reasonable period of time to process your withdrawal. All communications in either electronic or paper format from us to you will be considered “in writing.”
- f. How to Update Your Records.** It is your responsibility to provide us with true, accurate and complete email address, contact, and other information related to your account. You must promptly notify us of any changes in this information. You can update your information via TPA's platform, by calling us, or by writing us at the address above.
- g. Equipment and Software Requirements.** In order to view and retain electronic communications that we make available to you, you must have:
- A PC or other device with an Internet browser that has “cookies” enabled and supports 128-bit encryption
  - An Internet connection
  - An email address
  - A PDF viewer (such as Adobe Reader)
  - A printer or computer with sufficient electronic storage space

All communications shall be delivered to the last address we have on file for the Account Owner. These notices will be sent through electronic delivery (email) and will be considered delivered the same day as sent. If you have opted out of electronic delivery, communications sent to you through the United States Postal Service are considered delivered 5 business days after the postmark date. It is the Account Owner's responsibility to notify the Custodian of any email address change or residential address change. Custodian will not be held liable for any losses or damages if the Account Owner has not provided Custodian with the most current address information. The electronically signed copy of this document should be considered equivalent to a printed hard copy form. It is considered a true and complete record of the document, admissible in arbitration and/or administrative hearings or proceedings. Your electronic signature on the Application and other electronic forms such as the Investment Direction are considered valid and the same as if the paper form or Application were physically signed.

- 7. Withdrawals/Distributions.** Account Owner will provide full and complete instructions for any Distributions out of the Account. Custodian offers no tax or legal advice and Account Owner should consult with their tax or financial advisor to understand the implications of the action requested. Instructions should be submitted to Custodian in a manner acceptable to the Custodian. Custodian will not under any circumstances be responsible for the timing, purpose or propriety of any distribution from the account, nor shall the Custodian incur any liability or responsibility for any tax or penalty imposed on account of any distribution or failure to make a required distribution. Custodian may make any payment or distribution required or authorized hereunder by mailing a check or other property or by ACH or Federal wire or other electronic transfer to the payee at the address last furnished to the Custodian. Custodian shall not be liable for any payment made in good faith without actual knowledge of any changed condition or status of any person receiving benefits hereunder.

Custodian may, but shall not be obligated to, pay any estate, inheritance, income, or other tax or assessment attributable to any property or interest held in the account out of the assets of the account upon such information or direction as it may require. Before payment of any benefit, Custodian may also require releases or other related documentation from the taxing authority and require indemnification from such payee as may be necessary for the Custodian's protection against tax liability.

- 8. Successor Custodian.** In the event that Digital Trust changes its name, reorganizes, is acquired by another organization, or if all or a portion of our entire organization is purchased by another organization, that organization will automatically become the trustee or custodian of your Account so long as the organization is authorized to serve as a trustee or custodian and satisfies the requirements of the IRS Code Section 408(a)(2).
- 9. Termination or Resignation.** Account Owner or Custodian may terminate this agreement at any time by giving written notice to the other. We can resign as Custodian at any time effective 30 days after we send written notice of our resignation to you. Upon receipt of that notice, you must make arrangements to transfer your account to another Custodian (Successor Custodian) or request a distribution of your

account. If you do not complete a distribution form or transfer your account within 30 days from the date we send the notice to you, we have the right to either a) transfer your assets to a successor trustee or custodian that we choose or b) we may distribute your Account to you in a single lump sum and/or re-register the assets to you in-kind. In the event of re-registration of the assets, the Custodian's authority to re-register the assets supersedes any and all conflicting instructions, directions, or authorities with respect to said assets contained in any investment documents. If this agreement is terminated, we may charge you a reasonable amount of money that is necessary to cover any costs associated with distributing or transferring your account, including but not limited to fees and expenses incurred and taxes. The Custodian shall not be liable for any taxes, penalties, or losses arising from any delays, omissions, acts, or other action or inaction of any other person(s) or entity, including the Account Owner in connection with transfer or distribution of the account. The Successor Custodian shall acquire all of the powers and authority conferred by the resigning Custodian. The transfer and delivery of assets to the Successor Custodian shall be a complete discharge and exoneration of any liability for the resigning Custodian unless the Account Owner or Successor Custodian notifies the resigning Custodian within forty-five (45) days from the date of resignation. Custodian may close the Account if it is not funded within ninety (90) days from Account opening.

- 10. Designation of Beneficiaries.** In the event of your death, any account balance will be paid to your beneficiary designation deemed legally valid by the Custodian. In the event that the beneficiary designated is a minor or not of sound mind, the Custodian may at its discretion make beneficiary payments to such person acting as a parent or guardian of said beneficiary.
- a. Validity.** A beneficiary designation is deemed legally valid when the Account Owner has provided a full complete and executed designation clearly providing if the Account Owner is adding to or changing a portion of the then current beneficiary designation form in a format approved by the Custodian. Any valid beneficiary designation shall be effective upon receipt by the Custodian. Upon opening your account, you can designate your beneficiaries, and while still living, you can change your beneficiaries by submitting a fully completed Change of Beneficiary form acceptable to the Custodian.
  - b. Beneficiary Designations and Change of Beneficiary.** In the event of marriage, divorce, death, adoption and the birth of children the Account Owner should evaluate the beneficiaries listed on the account and provide the Custodian with a fully completed Change of Beneficiary form to update the account. The Custodian reserves the right to reject or not accept a beneficiary designation not made to individuals or entities. If you do not live in a "community property" State, you are free to name any person or entity as your beneficiary, even if you are married. In "community property" States, Account Owners who earn monies contributed to their account during a legal marriage will be required to provide a spousal consent to designate a person or entity as beneficiary other than their spouse. (Subject to changes in law, "community property" States currently include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.)
  - c. Death Distributions.** Custodian will rely on a certified copy of the death certificate or other evidence deemed appropriate by the Custodian that certifies the Account Owner's death. The Custodian has no responsibility to search for beneficiaries if Account Owner does not provide beneficiary information for the account. By entering into this Agreement, you authorize Custodian to rely on any representation of facts made by the legal representative of your estate, any beneficiary, or any other person or source deemed appropriate by us, in determining the identity of unnamed beneficiaries. Your estate, and any unnamed beneficiaries further understand and agree that any information or instructions provided by such persons may be reviewed with counsel and Custodian may require further documentation to determine the beneficiaries. Prior to a distribution of assets to a beneficiary or the estate of the Account Owner, Custodian reserves the right to request from the beneficiary or the estate of the Account Owner, indemnification and discharge from any liability.
  - d. Distribution to Estate.** Custodian reserves the right to distribute the account to the estate of the Account Owner in the event that there is conflicting or incomplete information in determining the beneficiaries. In the event that there are no beneficiaries provided to Custodian or all beneficiaries renounce their rights to receive any benefit from the Account, or in the event that no beneficiaries survive the Account Owner, the account will be distributed to your estate.
- 11. Arbitration Agreement.** In the event any legal or equitable claims or disputes arise out of performance of this agreement, or a breach of this Agreement, the parties agree to attempt to resolve the claim or dispute through good faith negotiation. In the event the parties are unable to resolve or settle such claim or dispute through negotiations, the parties agree that the claim or dispute will be settled by binding arbitration. Any arbitration proceedings shall be conducted in Las Vegas, Nevada, in accordance with the Commercial Dispute Resolution Procedures of the American Arbitration Association (AAA) in effect at the time a demand for arbitration is made. The Account Owner expressly waives any right he or she may have to establish or conduct litigation or arbitration in any other forum or location, or before any other body. The Account Owner may only bring claims and disputes in his or her individual capacity and not as a plaintiff or class member. Any and all claims arising out of or relating to this Agreement are required to have an arbitration filed within two (2) years from the date that the Account Owner knew of the facts giving rise to such claim or claims. The arbitrator shall have the authority to award reasonable attorneys' fees and costs, including the costs of arbitration, to the prevailing party.
- 12. Governing Law.** This Agreement and all amendment hereto shall be governed by and construed in accordance with the laws of the State of Nevada and the federal laws of the United States of America, and the obligations hereunder shall be determined in accordance with such laws. If any provision of this Agreement or the application thereof to any person or circumstances shall be determined to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 13. Other Administrative Powers.** Anything in this Agreement to the contrary notwithstanding, the Custodian may choose to request direction from the Account Owner as to any specific action or situation that arises with the account. If a request for direction is made, the Custodian shall not incur any liability for following the Account Owner's direction or for taking no action if no such direction is furnished to the Custodian. The Custodian shall have the right, at the expense of the Account Owner, to seek a direction or approval of its accounts from a court of competent jurisdiction whenever the Custodian shall, in its sole discretion, deem it appropriate. The Custodian is not required to, but in its sole discretion may, exercise the full power and authority to settle, compound or abandon all claims and demands in favor of or against the account or Account Owner, including any claim that may be asserted for taxes under present or future laws; to maintain or defend any litigation necessary in its administration of the account if indemnified to its satisfaction against any expenses and liabilities sustained or anticipated in connection therewith; to retain any fiat subject to any dispute without liability for payment of interest or decline to make payment thereof, until final adjudication of such dispute by a court of competent jurisdiction.
- 14. Third Party Actions.** The Custodian shall not be liable to the Account Owner for (i) any statements, representations, actions or inactions of the Advisor or any broker or other salesperson or principal of any investment purchased for the Custodial Account and (ii) the use of account information provided to the Advisor or other third party as authorized or directed by the Account Owner.

**15. Digital Currency.** Custodian cannot and does not guarantee the value of digital currency or any other investment. Custodian shall not be responsible for any third-party services. Furthermore, Custodian or TPA cannot cancel or reverse a transaction involving digital currency. Once a transaction request has been made, Account Owner will subsequently not be able to cancel or otherwise modify the transaction request. Account Owner acknowledges and agrees that Custodian shall have no liability for losses you suffer in connection with any digital currency transaction initiated via the TPA Platform under this Agreement unless such losses are the direct result of Custodian's fraud, willful default or gross negligence. Custodian does not ensure that any transaction request you submit or cause to be submitted to a digital currency network via the TPA Platform will be completed by the applicable network. You acknowledge and agree that the transaction requests you authorize Custodian to submit for completion on a digital currency network may not be completed, or may be substantially delayed, by the digital currency network and Custodian is not responsible for any delay or any failure of completion caused by the digital currency network. When you complete a transaction request via the TPA Platform, this authorizes Custodian to submit the transaction request to the digital currency network in accordance with the instructions you provide.

- a. Third Parties.** Digital Trust as custodian has a contractual agreement with Alternative IRA Services, LLC dba BitcoinIRA ("Bitcoin IRA") to act as a third-party servicer to your cryptocurrency or gold IRA account in conjunction with certain cryptocurrency service providers. You acknowledge Bitcoin IRA may change service providers at any time without notice. Those services performed by Bitcoin IRA include but are not limited to client servicing, hosting of the client platform, administrative functions necessary to open the IRA and facilitate the investment transactions including identity verification. Any issues or errors arising out of the use of the third-party platform are the responsibility of the third-party platform.
- b. Key Storage.** Custodian shall use commercially reasonable efforts to keep in safe custody on behalf of Account Holder all Custodial Coins received by Custodian. Custodian will use commercially reasonable efforts to keep all Keys to the Custodial Wallet held by Custodian secure and shall maintain at least one (1) backup Key. Custodian shall exercise all commercially reasonable efforts to prevent unauthorized access to or use of the Keys held by Custodian to the Custodial Wallet. Custodian shall not be held responsible for any prohibited transactions or tax liabilities or penalties related to the storage of keys.
- c. Asset Value Reporting Policy.** To value digital assets in your account, Custodian will electronically obtain USD equivalent prices from digital currency market data providers or other sources as of the last date of the statement to report on your account statement. Custodian does not guarantee the accuracy or timeliness of prices received and the prices are not to be relied upon for any investment decisions for your account.
- d. Trading, Transactions, and Residuals.**
  - i. Account Owner acknowledges and accepts the risk of trading, settlement and holding assets such as Digital Assets.
  - ii. Account Owner acknowledges that Custodian reserves the right to suspend or restrict transaction activity in the asset or account reasonably necessary to comply with Custodian's anti-money laundering programs and policies, any requirements under applicable law, to prevent fraud, prevent suspicious transactions, or for any security reasons. Account Owner acknowledges for digital asset transfers or withdrawals that the vault withdrawal timeframe may take up to forty-eight (48) hours to execute.
  - iii. Custodian will reflect in Account Owners Account market occurrences such as dividends, rewards, etc. when such activity occurs and after Custodian receives the proper information to reflect such activity.
  - iv. Upon liquidation of digital currency, Account Owner may incur negligible mining fees that are charged at an unknown rate by miners of blockchain based products. This fee will be the responsibility of Account Owner. The Bitcoin IRA Platform accounts for an estimation of this which is withheld upon liquidation. The withholding will be greater than the amount charged by the miners, leaving a residual referred to as *dust*. Account Owner acknowledges Custodian will use dust for payment and apply any residual to Account Owner's account for outstanding Custodial Fees or any cost associated with maintaining the wallet and/or account.
- e. Transaction Requests and Verification.** For transactions initiated by Account Owner, the Account Owner appoints the Custodian with the authority to request the movement of assets and perform the out of band transaction verification as required by then current policies and procedures (e.g. video ID verification) including movement of assets out of the Cold Wallet Storage for purposes of settling trades executed by the Account Owner. Authority is granted to Custodian, provided Account Owner has appropriately provided direction or instruction in accordance with the Custodian's current policy and procedures via the Bitcoin IRA Platform or other method acceptable to Custodian.
- f. Acknowledgement of Fork, Airdrop, and Token Support.** Account Owner agrees that all "airdrops" and "forks" will be handled by Custodian pursuant to its current policies and procedures. Account Owner acknowledges that Custodian is under no obligation to support any airdrops or forks, or handle them in any manner. Account Owner acknowledges that Custodian does not own or control the underlying software protocols which govern the operation of Digital Currencies. Digital Asset protocols are subject to changes in protocol rules (referred to as "forks"), and such forks may materially affect the value, function, or name of the Digital Asset. You acknowledge and agree (i) that Custodian is not responsible for operation of the underlying Digital Asset protocols and that Custodian makes no guarantee of their functionality, security, or availability; and (ii) if a fork occurs, Custodian may temporarily suspend the ability to transact in the Digital Asset affected, and Custodian may decide not to support the forked protocol entirely or may enable you to transfer the affected Digital Asset.

Account Owner further acknowledges that Custodian, at its sole discretion, may update the policies and procedures from time to time. Custodian is under no obligation to provide notification to Customer of any modification. Account Owner further acknowledges and agrees that Custodian may, from time to time, offer support for select ERC20 tokens or other tokens, metacoins, colored coins, side chains, or coins which enhance or interoperate with coins supported by Custodian (collectively, "Tokens"). Custodian will notify Account Owner and the general public if the Custodian supports a particular Token. Account Owner further acknowledges and agrees that, upon the occurrence of any event outside the control of Custodian resulting in the migration of any ERC20 token from Ethereum to another protocol, including but not limited to a "mainnet launch," (a "Migration Event") Custodian may immediately cease any and all support for such ERC20 token, and that Custodian will be under no obligation to provide support for any Token related to or resulting from such a Migration Event.

CUSTODIAN WILL HAVE NO RESPONSIBILITY OR LIABILITY IF CLIENT LOSES, BURNS, OR OTHERWISE CANNOT ACCESS OR CONTROL ANY TOKEN THAT CUSTODIAN DOES NOT SUPPORT.