

**CONSTELLATION TRUST COMPANY**  
**Individual Retirement Custodial Account Agreement**  
(Under section 408(a) of the Internal Revenue Code)

This Traditional Individual Retirement Account Custodial Agreement (hereinafter called the "Agreement") is made between Constellation Trust Company, a Nebraska Trust Company (hereinafter called the "Custodian") and each individual (hereinafter called the "Depositor") who executes an Adoption Agreement, incorporating the terms of this Agreement, for the purpose of establishing an individual retirement account (hereinafter called the "custodial account") as described in Section 408(a) of the Internal Revenue Code of 1986, as amended, or any successor statute (hereinafter called the "Code"), upon the terms set forth herein

**Article I**

1.1. 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 \$3,000 per year for tax years 2002 through 2004. That contribution limit is increased to \$4,000 for tax years 2005 through 2007 and \$5,000 for 2008 and thereafter. For individuals who have reached the age of 50 before the close of the tax year, the contribution limit is increased to \$3,500 per year for tax years 2002 through 2004, \$4,500 for 2005, \$5,000 for 2006 and 2007, and \$6,000 for 2008 and thereafter. For tax years after 2008, the above limits will be increased to reflect a cost-of-living adjustment, if any.

**Article II**

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

**Article III**

3.1. 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)).

3.2. 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**

4.1. 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.

4.2. 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 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.

4.3. 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 (i) below or, if elected or there is no designated beneficiary, in accordance with (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 Depositor's death. If, however, the designated beneficiary is the Depositor's surviving spouse, then distribution is not required to begin before the end of the calendar year in which the Depositor would have reached age 70 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 (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 accordance with (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.

4.4. 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.

4.5. 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 4.2(b) for any year, beginning with the year the Depositor reaches age 70 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 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 4.3(a) and 4.3(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 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 4.3(a) and 4.3(b)(i)

- (c) The required minimum distribution for the year the Depositor reaches age 70 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.

4.6. 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**

5.1. 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.

5.2. The Custodian agrees to submit to the Internal Revenue Service (IRS) and Depositor the reports prescribed by the IRS.

**Article VI**

6.1. 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**

7.1. This Agreement will be amended as necessary to comply with the provisions of the Code and the related regulations. As permitted under the IRS model form, Constellation Trust Company has added all provisions which follow Article VII.

**Article VIII. Contributions**

8.1. All contributions made to the custodial account shall be in cash, except in the case of a rollover or transfer contribution.

8.2. For any year, Depositor may contribute to his or her IRA during the calendar year and not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

8.3. Except in the case of a Rollover IRA or a plan-to-plan transfer, contributions made by or on behalf of Depositor shall not be made during or after the calendar year in which Depositor attains age 70 1/2 years.

8.4. The Depositor assumes sole responsibility for determining that contributions to the custodial account do not exceed the limits specified in the Code. With respect to any contribution designated by the Depositor as a rollover contribution, the Depositor warrants:

- (a) that such amount is an "eligible rollover distribution" under Section 402 of the Code received from a qualified plan or 403(b) plan, another individual retirement account or annuity, or a U.S. retirement bond, and is rolled over directly from an eligible retirement plan, or contributed to the custodial account established hereunder within sixty (60) days of its receipt by Depositor.
- (b) that in case of a rollover from a qualified plan or 403(b) plan, the amount of such rollover contribution is an amount equal to or less than the

excess of the qualified total distribution or partial distribution over amounts contributed thereto by Depositor (other than qualified voluntary employee contributions as described in Section 219 (e) of the Code) and, if any portion of such rollover consists of property other than cash, such distribution to Depositor consisted of the same property being contributed to the custodial account established hereunder; and

(c) that, in the case of a rollover contribution from another individual retirement account or individual retirement annuity, such other account or annuity was not itself funded by a rollover contribution from another IRA within one (1) year of the date of the contribution to the custodial account established hereunder.

8.5. The Custodian will not be responsible for the computation and the collection of any contributions under this Agreement, and shall be under no duty to determine whether the nature or amount of any contributions is in accordance with this Agreement or the Code. In addition, the Custodian shall not be responsible for computing or maintaining a record of the deductible portion of any contribution.

#### ARTICLE IX. Investments

9.1. Depositor retains all responsibilities and duties for the selection, management, and retention of investments. At the direction of the Depositor, the Custodian shall invest all contributions to the account and earnings thereon. The Custodian shall be responsible for the execution of such orders and for maintaining adequate records thereof. If investment direction orders are not received as required, or, if received, are unclear in the opinion of the Custodian, all or a portion of the contribution may be held uninvested without liability for loss of income or appreciation and without liability for interest pending receipt of such orders or clarification. Upon death of the Depositor, the beneficiary(ies) and/or representative for the estate of the Depositor assume all rights and responsibilities for investment of the account.

9.2. The Custodian shall retain in cash so much of the custodial account as the Depositor or his designated agent or representative directs or until other instructions are received from the Depositor or his agent, and is authorized to place such cash held in the custodial account in an interest-bearing instrument. The Custodian may perform subaccounting and interest posting functions related to the account as described in this Section, and may receive a fee directly from the investment sponsor for these services. Depositor agrees that such subaccounting services are necessary for the proper function of the custodial account and further agrees to such fees being paid to Custodian. Depositor understands that fees described in this Section are not to be borne by the Depositor. It is understood by the Depositor that any Investment Advisor (as defined in Section 9.3) of the Depositor may direct the Custodian to retain a specific amount of cash in the Depositor's account on deposit with the Custodian.

9.3. The Depositor may appoint an Investment Advisor, qualified under Section 3(38) of the Employee Retirement Income Security Act of 1974, to direct the investment of the custodial account. The Depositor shall notify the Custodian in writing of any such appointment by providing the Custodian a copy of the instruments appointing the Investment Advisor and evidencing the Investment Advisor's acceptance of such appointment, and an acknowledgment by the Investment Advisor that it is a fiduciary on the account. The Custodian shall comply with any directions furnished to it by the Investment Advisor, unless and until it receives written notification from the Depositor that the Investment Advisor's appointment has been terminated.

9.4. On a form acceptable to the Custodian, the Depositor may designate a representative for the purpose of communicating investment directions to the Custodian and receiving information on the account. Said Depositor's Representative (the "Representative") may be a registered representative of a broker/dealer organization, a financial advisor or other person as

may be acceptable to the Depositor. The Representative shall be the authorized agent of the Depositor, and not an agent of the Custodian. The Custodian shall construe any and all investment directions given by the Representative, whether written or oral, as having been authorized by the Depositor. The Depositor may appoint and/or remove a Representative by written notice to the Custodian provided that the Depositor's removal of a Representative shall not have the effect of canceling any notice, instruction, direction or approval received by the Custodian from the removed Representative before the Custodian receives said notice of removal from the Depositor.

9.5. On a form acceptable to the Custodian, the Depositor may authorize the Custodian to accept verbal investment directions from the Depositor or his Representative. Said verbal investment directions may be given by telephone or in person in the offices of the Custodian. Depositor agrees that Custodian is not responsible for verifying the propriety of any verbal investment direction which it may receive, other than requiring certain individual and account specific information of Depositor for identification purposes. Depositor further agrees that the Custodian is not responsible for unauthorized trades in the account which may be effected under this Section.

9.6. If publicly-traded securities are to be included in the specified investments, orders shall be executed through a securities broker/dealer registered under the Securities Exchange Act of 1934 designated by the Depositor upon such form as the Custodian may prescribe. Any brokerage account maintained in connection herewith shall be in the name of the Custodian for the benefit of the Depositor. The Custodian shall be authorized to honor transactions within the brokerage account without obligation to verify prior authorization of same by the Depositor. Any cash received by the brokerage account, whether as income or proceeds of transactions, shall be held by the brokerage account pending directions, and the Custodian shall have no obligation to direct the broker to remit such cash until directed to do so by the Depositor, but may receive remittances without direction if the same are made by the broker. Investments outside the brokerage account shall be made in accordance with the other provisions of this Article. Investment directions may be given directly to the designated broker by the Depositor (in such manner as the broker may require) and the broker shall be responsible for the execution of such orders. When securities are purchased within the brokerage account requiring that funds be remitted by the Custodian to make settlement, Depositor agrees to telephonically notify or instruct the broker or Representative to telephonically notify the Custodian on the trade date of the pending securities transaction, and to request delivery of the custodial account assets necessary to settle the trade. Depositor agrees to hold the Custodian harmless for any losses resulting from the Depositor's failure to notify the Custodian of the pending trade and request for settlement in the above prescribed manner.

9.7. Depositor may direct the Custodian to purchase "non-standard" investments which shall include but not be limited to investments which are individually negotiated by the Depositor or his Representative, or part of a private placement of securities offered in reliance upon exemptions provided by Sections 3(B) and 4(2) of the Securities Act of 1933 and Regulation D promulgated thereunder. The Custodian may identify investments or classes of investments which are unacceptable due to their posing an administrative burden, or potential for prohibited transactions on the Custodian. For such investments, the Custodian reserves the right to not follow the Depositor's or Representative's direction or process such an investment. The Custodian's decision to reject certain assets for reasons of administrative feasibility should not be construed as investment advice or an opinion of the Custodian as to the investment's prudence or viability. If the Depositor or his Representative should direct the Custodian to purchase a non-standard investment, as defined above, the following special certifications and provisions shall apply:

(a) Depositor agrees to submit or cause to be

submitted all offering documentation related to the non-standard investment for an administrative review by the Custodian. The Custodian reserves the right to charge a reasonable fee for such administrative review so requested by the Depositor or his Representative;

- (b) If the non-standard investment(s) contains a provision for future contractual payments or assessments, including margin calls, Depositor acknowledges that such payments shall be borne solely by the custodial account, that authorization to make such payments shall come from Depositor or his Representative, and that making such payments may reduce or exhaust the value of the custodial account. Depositor further agrees to maintain sufficient liquid funds in his custodial account to cover any such payments or assessments, and agrees that the Custodian shall not be responsible for monitoring the balance of the account to verify compliance with this Section. Depositor agrees to indemnify the Custodian and hold it harmless for any and all payments or assessments which may result from holding the non-standard investment within the custodial account, and further agrees that the Custodian shall be under no obligation whatsoever to extend credit to the account or otherwise disburse payment beyond the cash balance of the account for any payment or assessment related to the nonstandard investment(s);
- (c) If the non-standard investment(s) contain administrative and/or management requirements or duties beyond the Custodian's capabilities or expertise to provide, then Depositor agrees to seek out suitable agents or counsel necessary to perform such duties and deliver a written service agreement acceptable to the Custodian for execution on behalf of the Depositor's custodial account;
- (d) If the Depositor directs the Custodian to enter into an individually-negotiated debt instrument, including a promissory note, deed of trust, real estate contract, mortgage note or debenture, then Depositor agrees to enter into a Note Servicing Agent Agreement with a third-party Agent or Depositor may serve as his own Note Servicing Agent, on a form acceptable to the Custodian. Said Note Servicing Agent shall be the agent of the Depositor and not of the Custodian, and shall be responsible for administering the terms of the debt instrument on behalf of the Depositor's Account. Should the Note Servicing Agent ever become unwilling or unable to perform the duties outlined in the Note Servicing Agent Agreement, then Depositor understands and agrees that all duties of the Note Servicing Agent shall revert to Depositor until a successor Agent is named. Should Depositor fail to appoint a Note Servicing Agent, Depositor understands that he/she becomes responsible for fulfilling the duties of the Note Servicing Agent until Depositor names a successor third party Note Servicing Agent. Depositor understands that Custodian does not offer or provide any servicing or collection duties with respect to any note or debt instrument, nor will Custodian monitor the maturity date or take any action with regards to the maturity of any note or debt unless specifically authorized by Depositor in writing. Should Depositor elect to renew or renegotiate the terms of any note or debt instrument, Depositor agrees to notify Custodian in writing and provide appropriate written instructions for Custodian to return any original note or debt instrument to debtor.
- (e) The Custodian shall have no duty to monitor the performance or actions of any investment or to monitor the sufficiency or adequacy of the Depositor's actions or duties or those of his heirs, successors, agents, or assigns, nor shall the Custodian be required to monitor the acts of any paid consultant to whom the Custodian may have contractually delegated any duties or responsibilities pursuant to Depositor's or his Representative's directions;
- (f) Depositor agrees to be responsible for any and all collection actions, including contracting with a collection agency or instituting legal action,

and bring any other suits or actions which may become necessary to protect the rights of the account as a result of the operation or administration of the investment(s); and

- (g) Depositor may not direct the purchase of a life insurance contract or a "collectible" as defined in Code Section 408(m).

9.8. The Custodian may value assets of the account on a quarterly basis utilizing various sources available to it. However, the Custodian shall not guarantee the accuracy of prices obtained from quotation services, independent appraisal services, investment sponsors, or parties related thereto or, any other sources. Values for brokerage accounts shall be equal to the total equity value of the account, and shall reflect only those assets which are priced by the brokerage firm. Individual assets held within the brokerage account shall not be listed individually on statements furnished by the Custodian.

In the absence of direction from the Secretary of the Treasurer or his authorized representative to the contrary, the value of illiquid assets such as limited partnerships, limited liability companies, or privately-held stock, shall be determined by a fair market value from the investment sponsor or other source chosen by Custodian in its sole discretion. Promissory notes and privately-offered corporate debt may have valuations reflected at the face value shown on the original note or debt instrument, or if the note is such that it is subject to an amortization schedule, valuation may be shown at amortized value.

If the investment sponsor is unwilling or unable to provide a fair market value, then the Custodian may list the value of the illiquid asset at its original acquisition cost or carry forward the last known value. Assets which are reported by the investment sponsor as having no market value, are in bankruptcy, or other relevant condition exists, may reflect a valuation of zero on the Custodian's periodic statement.

For investments that are not publicly tradeable on a securities exchange, the Custodian shall seek a valuation of such securities from the sponsor/issuer of the investment. If a value is not received within ninety (90) days after request, then, upon notice from the Custodian, it is the duty of the Depositor to provide the Custodian with the fair market value of the investment from the investment sponsor or from an independent appraisal service of the Depositor's choice, provided such appraisal service is acceptable to Custodian. Custodian reserves the right to resolve differences in values in any manner Custodian deems appropriate. If the Depositor fails to do so, within six (6) months after notice, then the Custodian shall be authorized, entitled and directed to distribute such investment in-kind at fair market value, which may be original acquisition cost or the last known value, to the Depositor.

9.9. If investment(s) selected by the Depositor or his Rep generate Unrelated Business Taxable Income (UBTI), Depositor understands that such income, when considered in conjunction with all such income from all custodial accounts, may be taxable to the IRA account to the extent that all UBTI for a given taxable year exceeds the threshold amount set by the IRS (currently \$1000). In such instances, the IRS requires that a Form 990-T be filed for the custodial account along with the appropriate amount of tax. Depositor understands that the Custodian does not monitor the amount of UBTI in the custodial account, and does not prepare Form 990-T. Depositor agrees to monitor UBTI for this and any other Custodian account which he may hold, and further agrees to prepare, or have prepared, the proper 990-T tax form and forward it to the Custodian for filing, along with authorization to pay any tax due from the custodial account.

9.10. The Depositor understands that certain transactions are prohibited for tax-exempt IRA accounts under Code Section 4975. Depositor further understands that the determination of whether a transaction directed by Depositor or his Representative is

prohibited depends on all of the relevant facts and circumstances surrounding the purchase. The Depositor acknowledges that the determination of whether a transaction directed by Depositor or his Representative is prohibited depends on all of the relevant facts and circumstances surrounding the purchase. The Depositor acknowledges that, should the custodial account engage in a prohibited transaction, that the fair market value of the account will become a taxable distribution to the Depositor in the taxable year in which the transaction was made. In addition, if the Depositor is under age 59 1/2, additional premature distribution penalty taxes may apply. Depositor hereby warrants that he will not enter into a transaction, or cause a transaction to be entered into, which is prohibited under Section 4975 of the Code. Depositor further warrants that, if a transaction is questionable due to Depositor's relationship to the investment sponsor, that he will consult with such counsel and advisors as Depositor may deem necessary prior to directing or causing the direction of that transaction.

9.11. Without limiting the generality of the foregoing, the Depositor understands and acknowledges that Custodian will act solely as agent for the Depositor, and under the instructions of the Depositor, with respect to the investment of the assets of the custodial account and, acting in that capacity, shall place orders for the purchases of securities providing the Depositor has sufficient funds in the custodial account or arranges to make funds available in advance for such purposes, and will also place orders for the sale of securities provided such securities are held by Custodian and in deliverable form. The Depositor authorizes the Custodian to charge the custodial account for the cost of all securities purchased or received from the securities sold or delivered against payment. If the Depositor directs the Custodian to place an order for a mutual fund investment and there are insufficient funds in the account to cover the settlement cost, Depositor agrees to deposit in the custodial account immediately (and in any event not later than the settlement date) sufficient liquid funds to cover the cost of the investment. Depositor agrees that the Custodian shall be under no obligation whatsoever to extend credit to the account or otherwise disburse payment beyond the cash balance of the custodial account for any purchase of a mutual fund investment. In the event Depositor fails to timely deposit sufficient funds in the custodial account to cover the cost of any such investment, the Custodian, at its option, may cancel the order for the investment or, if the investment already has been acquired, sell the investment and reimburse itself for any costs or expenses incurred by the Custodian in settling the purchase order. Depositor agrees that Custodian shall not be liable for any actions taken in accordance with this provision, and further agrees to indemnify and hold the Custodian harmless for its actions in canceling a purchase order for a mutual fund investment in the custodial account or selling the investment to reimburse itself as provided above.

#### ARTICLE X. Trust Accounts

10.1. It shall be the sole duty of the Custodian to maintain a custodial account in the name of the Depositor and to make payments and distributions as directed by the Depositor or his Representative. Pursuant to the directions of the Depositor or his Representative, the Custodian shall invest and reinvest the assets in the custodial account without any duty to diversify and without regard to whether such investment is authorized by the laws of any jurisdiction for custodial investment, in securities obtainable "over the counter" or on a recognized exchange, savings media and any other acceptable public or non-standard investment which in the sole judgment of the Custodian will not impose an unreasonable administrative burden (with such determination by the Custodian not to be construed in any respect as a judgment concerning the prudence or advisability of such investment). The custodial account shall reflect the amounts contributed by the Depositor, receipts, investments, distributions, disbursements, and all other transactions.

10.2. The Custodian shall have the following powers

and authority in the administration of the custodial account:

- (a) Pursuant to the Depositor's or his Representative's directions, to exercise or sell options, conversion privileges or rights to subscribe for additional securities and to make payments therefore.
- (b) To make, execute and deliver as Custodian any and all contracts, waivers, releases or other instruments necessary or proper for the exercise of any of the foregoing powers.
- (c) In the absence of specific investment instructions from the Depositor, to leave any property comprising the custodial account for safekeeping or on deposit, with or without interest, with such banks, brokers and other custodians as the Custodian may select.
- (d) To hold any securities in bearer form or in the name of banks, brokers and other custodians or in the name of the Custodian without qualifications or description or in the name of any nominee.
- (e) To employ suitable agents and counsel and to pay their reasonable expenses and compensation.
- (f) To do and perform all acts or things reasonably necessary or desirable to carry out the power and authority granted to the Custodian.

10.3. Custodian shall process investment directions and/or invest funds which it receives in accordance with Depositor's directions within seven (7) business days of receipt of such directions and/or funds plus necessary administrative and processing time. Custodian shall be under no duty to credit interest or earnings on the funds received, and Depositor agrees that Custodian shall not be liable for any market value adjustment which may occur during or after said processing time.

10.4. The Custodian shall have no duty other than to follow the directions of the Depositor, his Representative, or Investment Advisor, and shall be under no duty to question said instructions. The Custodian does not assume any responsibility for rendering advice with respect to the investment and reinvestment of the Depositor's account, and shall not be liable for any loss which results from the exercise of control over his account by the Depositor, his Representative, or Investment Advisor. Without limiting the generality of the foregoing, the Custodian is authorized to collect all interest, dividends, proceeds of the sale and other monies due and collectable that arise from the investment of the Assets (collectively, "Fund Income") and to credit such Fund Income to the Account and, upon Custodian's receipt, shall become part of the custodial account. In the case of any solicitation received by the Custodian with respect to the Depositor's account (including but not limited to third party tender offers with respect to limited partnership interests in the account), the Custodian will transmit such materials to the Depositor (or to his Representative or Investment Advisor, as directed by the Depositor); however, the Custodian must have at least ten (10) days from the date it receives instructions from the Depositor (or his Representative or Investment Advisor) to transmit such instructions to the soliciting party by the date specified in the solicitation. The Custodian shall have no obligation to transmit any solicitation received or instructions given with respect to the Depositor's account by other than regular mail, and shall not be responsible for any failure to respond to a solicitation by the deadline specified therein due to (i) delays in the mail or (ii) where the Custodian has less than ten (10) days from the date instructions are received from the Depositor (or his or her Representative or Investment Advisor) and the specified deadline for responding. Custodian need not honor offers or recognize communications that are not addressed to each Depositor's account by name. The Custodian shall not be responsible for any action taken by the Depositor or his Representative as a result of information concerning the account or any investment which may be transmitted or not transmitted to the Depositor or his Representative. The Custodian shall have no responsibility or duty to review or monitor any securities or other property held within the Custodian account, nor shall the

Custodian be held liable for its failure to act because of the absence of any directions from the Depositor. The Custodian shall not be liable for the actions or inactions of any prior trustee, custodian, or other service provider or agent of the Depositor which may have occurred prior to the transfer of the Custodian account. The Depositor shall indemnify and hold Custodian harmless for any losses resulting from the Custodian's action or inaction in relation to investment directions received from the Depositor, his Representative, or Investment Advisor, for the actions or inactions of Agents appointed by the Depositor, or by the Custodian at the direction of the Depositor, and for any tax consequences resulting from the Depositor's or Representative's direction to engage in any unauthorized transaction, including an investment in life insurance contracts, investment in collectibles, or engaging in a prohibited transaction as defined in Section 4975 of the Code.

#### **ARTICLE XI. Beneficiary Designation**

- 11.1. The Depositor may from time to time designate, upon such form as the Custodian shall prescribe, any person, trust or persons, contingently or successively, to whom the Custodian shall pay the Depositor's interest in the custodial account in the event of his death. Such primary and contingent beneficiary designation shall be effective when filed with the Custodian and shall revoke all prior beneficiary designations made before that date by Depositor.
- 11.2. If a Depositor fails to name a beneficiary in accordance with Section 11.1, or if all beneficiaries named by a Depositor predecease the Depositor, the remaining balance of the custodial account shall be payable to the spouse of the Depositor, or if there is no spouse living, then to the estate of the Depositor.
- 11.3. When and after distributions of the custodial account to the Depositor's beneficiary commence, all rights and obligations of the Depositor under this Agreement shall inure to, and be exercised by, such beneficiary.
- 11.4. If the beneficiary designated to receive payments hereunder is a minor or person of unsound mind, whether so formally adjudicated or not, the Custodian, in its discretion, may make such payment to such person as may be acting as parent, guardian, committee, conservator, custodian, or legal representative of such minor or incompetent and the receipt of any such person as selected by the Custodian shall be a full and complete discharge to the Custodian for any sums so paid.

#### **ARTICLE XII. Payout of Benefits**

- 12.1. If the Depositor has selected a distribution option involving life contingencies, the Depositor may direct the Custodian to utilize the amount in the custodial account which would otherwise be available as a lump sum distribution to purchase an annuity from such insurance company as the Depositor may select to satisfy the requirements of Article IV of this Agreement.
- 12.2. Depositor's election as to the method of distribution under Section 4.3 of this Agreement must be made at least thirty (30) days before the Required Beginning Date, which is defined as April 1 of the calendar year immediately following the calendar year in which the Depositor reaches age 70 1/2. If no election is made, the Custodian will make distributions over a period not to exceed the Depositor's single life expectancy.
- 12.3. When determining the amount to be distributed for the second distribution calendar year and subsequent distribution calendar years, the Depositor's life expectancy (or the joint life expectancy of the Depositor and his named beneficiary) shall not be recalculated unless such recalculation is elected by the Depositor on a form acceptable to the Custodian.

#### **ARTICLE XIII. Duties, Records, Reports**

- 13.1. The Custodian's sole duties to the Depositor regarding reporting shall be to send Depositor a copy or facsimile of IRS Form 5498 and/or an annual calendar year statement of the assets of the account

within time frames established by the IRS. In addition, the Custodian shall furnish Quarterly reports to the Depositor detailing transactions performed under this custodial account and the value of assets held within the account.

- 13.2. The Custodian shall have no liability or responsibility for transactions reported or not reported on any periodic or annual statement unless the Depositor or his Representative file written exceptions or objections within 60 days after receipt of the report or statement. Upon receipt of written notification under this Section, the Custodian's liability and responsibility shall be to fully investigate the exceptions or objections, and make any adjustments, correct any entries, or otherwise reconcile the account as may be necessary. If any such adjustments or corrections are required, the Custodian shall issue a revised statement for the reporting period(s) in question.

#### **ARTICLE XIV. Fees and Expenses**

- 14.1. THE DEPOSITOR SHALL BE CHARGED BY THE CUSTODIAN FOR ITS SERVICES HEREUNDER IN ACCORDANCE WITH THE CURRENT POSTED FEE SCHEDULE OF THE CUSTODIAN AS IT MAY BE AMENDED FROM TIME TO TIME. ANY INCOME TAXES OR OTHER TAXES OF ANY KIND WHATSOEVER THAT MAY BE LEVIED UPON OR IN RESPECT OF THE CUSTODIAL ACCOUNT, ANY TRANSFER TAXES INCURRED IN CONNECTION WITH THE INVESTMENT AND REINVESTMENT OF ASSETS IN THE CUSTODIAL ACCOUNT, AND ALL OTHER ADMINISTRATIVE EXPENSES INCURRED BY THE CUSTODIAN IN THE PERFORMANCE OF ITS DUTIES, INCLUDING FEES FOR LEGAL SERVICES RENDERED TO THE CUSTODIAN AND COMPENSATION OF THE CUSTODIAN SHALL BE PAID BY THE DEPOSITOR AND THE DEPOSITOR HEREBY COVENANTS AND AGREES TO PAY THE SAME.
- 14.2. In the event the Depositor shall at any time fail to discharge any liability under this Article, such liability shall be charged to the custodial account, and the Custodian may liquidate such of the assets of the custodial account for such purposes as in its sole discretion it shall determine. Notwithstanding any provisions of this Agreement, all payments under this Section and the liquidations of assets to obtain funds therefore may be made without the approval or direction of the Depositor. If the custodial account is not sufficient to satisfy such liability, the Depositor shall be liable for any deficiency.
- 14.3. THE CUSTODIAN'S CURRENT POSTED FEE SCHEDULE MAY BE AMENDED AT ANY TIME UPON 30 DAYS' WRITTEN NOTICE TO THE DEPOSITOR. THE CUSTODIAN RESERVES THE RIGHT TO CHARGE FEES IN ADDITION TO ITS POSTED FEE SCHEDULE FOR EXTRAORDINARY OR SPECIAL SERVICES, OR FOR UNFORESEEN EXPENSES TO THE ACCOUNT, INCLUDING LEGAL EXPENSES INCURRED BY THE CUSTODIAN. THE CUSTODIAN DOES NOT PRORATE FEES. ON A FORM ACCEPTABLE TO THE CUSTODIAN, THE DEPOSITOR MAY ELECT TO PAY FEES DIRECTLY, OR HAVE THEM WITHDRAWN FROM THE ASSETS OF THE ACCOUNT. TERMINATION FEES ARE DUE AND PAYABLE UPON DISTRIBUTION TO THE DEPOSITOR OR UPON TRANSFER TO ANOTHER TRUSTEE OR CUSTODIAN.



#### **ARTICLE XV. Amendment and Termination**

- 15.1. The Depositor irrevocably delegates to the Custodian the right and power to amend this Agreement. Except as hereafter provided, the Custodian will give the Depositor 30 days' written notice of any amendment. In case of a retroactive amendment required by law, the Custodian will provide written notice to the Depositor of the amendment within 30 days after the amendment is made, or if later, by the time that notice of the amendment is required to be given under regulations or other guidance provided by the Code. The Depositor shall be deemed to have

consented to any such amendment unless the Depositor notifies the Custodian to the contrary within 30 days after notice to the Depositor and requests a distribution or transfer of the balance of the account. The Custodian's termination fee shall be applicable to any account so distributed or transferred.

- 15.2. The Depositor may terminate this agreement at any time by delivery of written notice of such termination to the Custodian. Upon such termination, the Custodian shall continue to hold the assets and distribute them in accordance with the previous instructions of the Depositor and the provisions of this Agreement unless the Custodian receives other instructions from the Depositor (such as those involving a rollover) which the Custodian may follow, without liability and without any duty to ascertain whether such payout is proper under the provisions of the Code or of any other plan.
- 15.3. Upon request of the Depositor in writing to the Custodian, the Custodian shall transfer all assets in the custodial account to the Depositor, to a qualified retirement plan, or to another individual retirement account established by the Depositor. The Custodian is authorized, however, to reserve such sum of money or property as it may deem advisable for payment of all its fees, compensation, costs and expenses, or for any other liabilities constituting a charge against the assets of the custodial account or against the Custodian, with any balance of such reserve remaining after the payment of all such items to be paid over to the successor custodian or custodian.

#### **ARTICLE XVI. Resignation or Removal of Custodian**

- 16.1. Upon written notice to the Custodian, the Depositor may remove it from its office hereunder. Such notice, to be effective, shall designate a successor custodian or custodian and shall be accompanied by the successor's written acceptance. The Custodian may at any time resign upon thirty (30) days' written notice to Depositor, whereupon the Depositor shall appoint a successor to the Custodian. In the event of resignation of the Custodian and failure to appoint a qualified successor, the Custodian may appoint a successor trustee or custodian, or distribute the assets of the custodial account to the Depositor.
- 16.2. The successor trustee or custodian shall be a bank, insured credit union, or other person satisfactory to the Secretary of the Treasury pursuant to Section 408(a)(2) of the Code. Upon receipt by the Custodian of written acceptance by its successor of such successor's appointment, the Custodian shall transfer and pay over to such successor the assets of the custodial account and all records (or copies thereof) of Custodian pertaining thereto. The Custodian is authorized, however, to reserve such sum of money or property as it may deem advisable for payment of all its fees, compensation, costs and expenses, or for payment of any other liabilities constituting a charge on or against the assets of the custodial account or on or against the Custodian, with any balance of such reserve remaining after the payment of all such items to be paid over to the successor trustee or custodian.
- 16.3. The Custodian shall not be liable for the acts or omissions of its successor.

#### **ARTICLE XVII. Miscellaneous**

- 17.1. Neither the Depositor nor any beneficiary of the Depositor shall have any right to pledge, hypothecate, anticipate or in any way create a lien upon any assets or part of the custodial account. Distributions to the Depositor, his beneficiaries, spouse, heirs-at-law, or legal representatives, excepting minors and persons under legal disability, shall be made only to them and upon their personal receipts and endorsements and no interest in the custodial account, or any part thereof, shall be assignable in anticipation of payment either by voluntary or involuntary act, or by operation of law, or be liable in any way for the debts or defaults of such Depositor, his beneficiaries, spouse, or heirs-at-law. The provisions of this paragraph shall not apply to the extent that they violate any applicable law.

17.2. The custodial account created hereunder is created for the exclusive benefit of the Depositor or his beneficiaries, and at no time shall it be possible for any part of the assets of the custodial account to be used for or diverted to purposes other than for the exclusive benefit of the Depositor or his beneficiaries.

17.3. Notwithstanding the provisions of Sections 17.1 and 17.2 above, in the event the Depositor and the Depositor's spouse obtain a Separation Instrument, as described in Section 408(d)(6) of the Code, the Depositor may direct the Custodian in writing to transfer the appropriate portion of the assets in the Depositor's account directly to the Depositor's former spouse or to an IRA maintained by the Depositor's former spouse, provided the transfer is in accordance with the Separation Instrument, a copy of which shall be furnished to the Custodian. The transfer of assets to the Depositor's former spouse may be in cash or in-kind, pursuant to directions contained in the Separation Instrument.

17.4. THE CUSTODIAN SHALL BE UNDER NO DUTIES WHATSOEVER EXCEPT SUCH DUTIES AS ARE SPECIFICALLY SET FORTH IN THIS AGREEMENT. THE CUSTODIAN SHALL BE FULLY PROTECTED IN ACTING UPON ANY INSTRUMENT, CERTIFICATE, OR PAPER BELIEVED BY IT TO BE GENUINE AND TO BE SIGNED OR PRESENTED BY THE PROPER PERSON OR PERSONS, AND THE CUSTODIAN SHALL BE UNDER NO DUTY TO MAKE ANY INVESTIGATION OR INQUIRY AS TO ANY STATEMENT CONTAINED IN ANY SUCH WRITING BUT MAY ACCEPT THE SAME AS CONCLUSIVE EVIDENCE OF THE TRUTH AND ACCURACY OF THE STATEMENTS THEREIN CONTAINED. THE DEPOSITOR SHALL AT ALL TIMES INDEMNIFY AND HOLD HARMLESS THE CUSTODIAN FROM ANY LIABILITY WHICH MAY ARISE HEREUNDER EXCEPT LIABILITY ARISING FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CUSTODIAN.

17.5. THE PARTIES AGREE THAT, UPON THE REQUEST OF EITHER DEPOSITOR OR THE CUSTODIAN, WHETHER MADE BEFORE OR AFTER THE INSTITUTION OF ANY LEGAL PROCEEDING, ALL CLAIMS AND DISPUTES OF EVERY TYPE AND MATTER WHICH MAY ARISE BETWEEN DEPOSITOR AND THE CUSTODIAN SHALL BE SUBMITTED TO BINDING ARBITRATION BEFORE A PANEL OF ARBITRATORS (AS DESCRIBED BELOW), OF AND PURSUANT TO THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA"); THAT SUCH ARBITRATION HEARINGS AND PROCEEDINGS SHALL TAKE PLACE ONLY IN DOUGLAS COUNTY, NEBRASKA OR

ANOTHER SITE SELECTED BY CUSTODIAN IN ITS SOLE DISCRETION; THAT THIS ARBITRATION PROVISION AND THE ARBITRATION SHALL BE ADMINISTERED BY THE AAA PURSUANT TO AND CONSTRUED AND ENFORCED UNDER THE FEDERAL ARBITRATION ACT (TITLE 9 OF THE UNITED STATES CODE) ("FAA"); HOWEVER, IF THE FAA IS INAPPLICABLE FOR ANY REASON, SUCH ARBITRATION SHALL BE CONDUCTED PURSUANT TO NEBRASKA LAW; THAT THERE SHALL BE NO CLASS ACTION, CLASS OR CONSOLIDATED ARBITRATION; THAT THE PREVAILING PARTY IN ANY CLAIM OR DISPUTE OF ANY TYPE BETWEEN THE DEPOSITOR AND THE CUSTODIAN SHALL RECOVER REASONABLE ATTORNEYS' FEES, COSTS AND EXPENSES, INCLUDING WITHOUT LIMITATION, ARBITRATION FILING FEES, ARBITRATORS' FEES, AND OTHER ARBITRATION FEES; AND THAT THIS ARBITRATION AGREEMENT SHALL GOVERN ANY DISPUTES INVOLVING DEPOSITOR AND THE CUSTODIAN NOTWITHSTANDING ANY PROVISIONS, INCLUDING AND WITHOUT LIMITATION VENUE OR ARBITRATION PROVISIONS, CONTAINED IN ANY AGREEMENT SIGNED BY CUSTODIAN IN ITS CUSTODIAL CAPACITY. ANY ARBITRATION PROCEEDING SHALL BE CONDUCTED BY A PANEL OF THREE NEUTRAL ARBITRATORS SELECTED BY THE PARTIES UNLESS THE PARTIES AGREE OTHERWISE. IF ARBITRATION IS REQUESTED AS DESCRIBED ABOVE, THE PARTIES EXPRESSLY WAIVE ANY RIGHT TO INSTITUTE OR CONDUCT LITIGATION OR ARBITRATION BEFORE ANY OTHER BODY OR TRIBUNAL. THE PARTIES FURTHER AGREE THAT IF A PARTY IS REQUIRED TO ENFORCE THIS ARBITRATION AGREEMENT AGAINST THE OTHER PARTY AND/OR TO COMPEL THE OTHER PARTY TO ARBITRATION PURSUANT TO THIS AGREEMENT, THE PARTY SHALL RECOVER FROM THE OTHER PARTY REASONABLE ATTORNEYS' FEES, COSTS AND EXPENSES SO INCURRED. ARBITRATION SHALL BE FINAL AND BINDING UPON THE PARTIES.

17.6. The custodial account created hereunder may be utilized by an employer in conjunction with IRS FORM 5305-SEP or other approved prototype or individually-designed document to establish a Simplified Employee Pension (SEP) Plan.

17.7. Any notice or statement which the Custodian is required to give hereunder shall be deemed given when mailed to the intended recipient at his last known address. Any notice or statement to be given to the Custodian shall be deemed given only when

actually received by the Custodian.

Depositor may elect to have notices delivered electronically. These notices include but are not limited to the following: account statements, reports, advisory fee statements, marketing literature, prospectuses and other correspondence. By electing to receive electronic notices, Depositor acknowledges that (i) electronic delivery is not a condition to retaining Custodian's services; (ii) all notices shall be provided by Custodian in written form upon the Depositor's request and for no additional charge; however, Depositor may incur certain expenses in connection with electronic receipt of notices (e.g., fees charged by an internet service provider or telephone company, and printing); (iii) electronic delivery entails certain risks (e.g., misdelivery, interception and system outages and delays); and (iv) it is Depositor's responsibility to ensure Depositor's e-mail address remains current in Custodian's records. Depositor understands that when a notice is available which contains confidential information, Depositor will receive an e-mail with instructions to enter a secure web site to access the notice, and Depositor will be required to enter a user identification and password (provided by Custodian) before viewing the notice. Depositor's consent for electronic delivery of notices is effective until revoked and may be revoked by Depositor at any time by providing Custodian written notice.

17.8. Words used in the masculine shall apply to the feminine where applicable and wherever the context of this Agreement indicates the plural shall be read as the singular, and the singular as the plural.

17.9. The captions of Articles and Sections in this Agreement are included for convenience only and shall not be considered a part of, or an aid to, the construction of this Agreement.

17.10. This Agreement is intended to qualify under Section 408(a) of the Code and if any term or provision hereof is subject to more than one interpretation or construction, such ambiguity shall be resolved in favor of that interpretation or construction which is consistent with that intent.

17.11. This Agreement is accepted by the Custodian in, and administered under, the laws of the State of Nebraska. All contributions to the Custodian shall be deemed to take place in the State of Nebraska. THIS AGREEMENT AND ALL AMENDMENTS HERETO SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEBRASKA APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED THEREIN.

**Schedule A - Schedule of Fees and Other Charges**

<b>Service</b>	<b>Fee</b>
Establishment Fee	No Charge
Annual Custodial Fee*	No Charge
Scheduled Periodic Distributions (limited to 1 per month)	No Charge
Unscheduled Periodic Distributions	\$ 12.50
Wire fee	\$ 12.50
Cash Transfers	No Charge
Other non-managed Assets	\$ 85.00
Transfer out fee	The greater of \$100.00 or \$25.00 per position

\* The annual custodial fee will be borne by your Authorized Investment Adviser.

Additional fees may be charged for services not set forth above.