

Roth Individual Retirement Custodial Account

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

Do not file
with the Internal
Revenue Service

The individual whose name appears on the attached Account Application (hereinafter referred to as the "Depositor" or the "Account Owner") is establishing a Roth Individual Retirement Account under section 408A of the Internal Revenue Code to provide for his or her retirement and for the support of his or her beneficiaries after death. The Custodian, Liberty Trust Company, Ltd. (the "Custodian") has given the Depositor the disclosure statement required under Regulations section 1.408-6. The Depositor and the Custodian make the following agreement:

Article I

1.01 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

2.01 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).

2.02 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

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

Article IV

4.01 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)).

4.02 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

5.01 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.

5.02 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.

5.03 If the depositor's surviving spouse is the designated beneficiary, such spouse will then be treated as the depositor.

Article VI

6.01 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).

6.02 The custodian agrees to submit to the IRS and depositor the reports prescribed by the IRS.

Article VII

7.01 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

8.01 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 on the Roth IRA Account Application.

Note: This Form 5305-RA is a model custodial account agreement that meets the requirements of section 408A. However, only Articles I through VIII have been reviewed by the IRS. As permitted under the IRS model Form 5305-RA, Article IX has been added by the Custodian.

Article IX

9.01 Powers and Duties of the Custodian

(a) **Passive Custodian; Not a Fiduciary:** The Custodian is a passive custodian and as such shall act only with the consent and direction of the Depositor or his authorized agent or representative with regard to the investment, management, and disbursement or disposition of the assets of the Custodial Account. The Depositor or his authorized agent or representative shall direct the Custodian in the investment and reinvestment of the Custodial Account. Neither the Custodian nor any of its agents is a fiduciary with regard to the Custodial Account. The Depositor understands, acknowledges and agrees that neither the Custodian nor any of its agents is a fiduciary with regard to the Custodial Account.

(b) Custodial Account:

(i) **General:** In connection with this agreement, the Custodian will establish a Custodial Account on behalf of the Depositor. The Custodial Account shall consist of (1) cash ("Cash Account") and (2) the investments made by the Custodian on behalf of and at the direction of the Depositor in accordance with 9.01(c).

(ii) **Cash Account:** With regard to the Cash Account, the Custodian shall provide one or more FDIC insured bank accounts to receive and hold cash deposits, including but not limited to, contributions, rollovers, transfers, dividends, capital gains and proceeds from the sale of investments. Each bank at which the bank account(s) is/are established ("Depository Bank") will be a member of the FDIC. The Depositor's cash in the Custodial Account held at the Depository Banks will be insured by the FDIC, subject to the aggregation limits of FDIC Regulation 330.14. The Depositor authorizes the Custodian to deposit or transfer any cash in the Cash Account into any FDIC insured account at any FDIC insured bank without approval or direction by the Depositor. The cash accounts may be non-interest bearing or interest bearing, (bearing interest at a rate published by the Custodian). Interest will be credited to the cash portion of the Custodial Account monthly in accordance with section 9.08(a), except any interest credited for the month during which the account is closed will be taken by the Custodian as part of the account termination fee.

(iii) **Availability of Funds:** In general, funds deposited into the Cash Account by check will be available on the sixth business day after deposit by the Custodian. Funds deposited into the Cash Account by wire, ACH, money order, or certified or cashier check will be available on the first business day after receipt by the Custodian. The Custodian may delay the availability of funds for various reasons, including but not limited to: repeated overdrafts by the Depositor; a returned check is returned unpaid; insufficient information is provided for the Custodian to determine the account and/or nature of the deposit; an event beyond the control of the Custodian, such as equipment failure or inclement weather.

(c) **Custodian is Authorized to Invest the Custodial Account at the Direction of the Depositor:** Pursuant to the written direction of the Depositor or the Depositor's authorized agent or representative, in a form acceptable to the Custodian, the Custodian is authorized to (1) invest the Custodial Account in any investment the Custodian deems administratively feasible to be held in the account, including, but not limited to, stocks, bonds, certificates of deposit, money market funds, real estate, mortgages, deeds of trust, promissory notes and interests in limited partnership and limited liability companies.; (2) receive cash contributions, transfers and rollovers into the Custodial Account; (3) receive in-kind transfers and rollovers into the Custodial Account; however, the Custodian may refuse to accept any asset that is part of an in-kind transfer or rollover; (4)

collect any income from the investments held under the Custodial Account and add such income to the Custodial Account; (5) pay expenses related to investments held under the Custodial Agreement; (6) make distributions and transfers, both cash and in-kind, from the Custodial Account; (7) sell, exchange, assign, convey, mortgage, pledge or otherwise encumber any investment held under the Custodial Account.

- (d) **No Duty to Review or Monitor Investments:** The Custodian shall have no duty or responsibility to review any investment held in Custodial Account or any investment under consideration by the Depositor or any purchase directed by the Depositor with respect to any issue, including but not limited to, its safety, risk, advisability, 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, advisability, 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 Custodial Account. The Custodian is not a note or loan servicer and has no duty to provide collection or other services with respect to promissory notes or any other debt instrument. The custodian will not monitor payments or maturity dates or notify the Depositor of missed or late payments or of the default of a promissory note. The Custodian does not offer or provide and will not offer or provide note servicing. The Custodian is not responsible and shall not be held liable or accountable, in any way, for any loss or losses incurred in the Custodial Account due to the action or inaction of the Depositor or any broker, sales representative, investment sponsor or any other third party.
- (e) **Voting Rights:** The custodian will not exercise voting rights or other shareholder or ownership rights with respect to investments held in the Custodial Account unless the Depositor provides acceptable written direction to the Custodian.
- (f) **Excise Taxes and Unrelated Business Income Tax:** The Custodian shall have no responsibility for determining whether the Custodial Account is subject to excise taxes or for determining whether any investment made or held in the Custodial Account is or will be subject to Unrelated Business Income Tax. It is the Depositor's responsibility to determine if any excise tax is due and to pay such excise tax and file Form 5329, Form 5330 or other form if required. If unrelated business income is earned on any investment held in the Custodial Account, it is the Depositor's responsibility to obtain a taxpayer identification number for the Custodial Account and to file Form 990-T with the IRS under the taxpayer identification number for the IRA and not under the taxpayer identification number of the Custodian, when such unrelated business income is earned. Any unrelated business income tax that is due must be paid by the Custodial Account and not by the Depositor. The Depositor may submit the information to the Custodian for filing of Form 990-T; however the Custodian may charge the Custodial Account or the Depositor for the filing and shall have no obligation to verify the accuracy of the information. If the Depositor fails to file Form 990-T, or files Form 990-T with inaccurate information, or provides the Custodian with inaccurate information with respect to Form 990-T filed on behalf of the Custodial Account, the Depositor agrees to indemnify the Custodian for any liability incurred due to failure to file or inaccuracy of such filing.
- (g) **Reports to the IRS:** The Custodian shall submit to the IRS only those reports prescribed by the IRS, pursuant to Article 6.02. The Custodian shall have no responsibility to prepare or submit to the IRS or the Depositor or any other party Form 1098, Form 1099-INT, Form 1099-MISC or any form required as a result of any investment made by the Custodian on behalf of the IRA at the written direction of the Depositor. It is the Depositor's responsibility to determine which forms, if any, are required and to prepare and submit such forms to the IRS and any other party required to receive such forms. If such forms are required, the Depositor must obtain a taxpayer identification number for the IRA and file such forms with the IRS under the taxpayer identification number for the IRA and not under the taxpayer identification number of the Custodian.
- (h) **Subpoenas:** The Custodian or its agents may respond to any subpoena without prior notice to or approval by the Depositor.
- (i) **Custodian Does Not Endorse or Market Any Investment:** The Custodian does not endorse or market any investment. The fact that the Custodian agrees to act as custodian for or to purchase a specific asset within the Custodial Account at the direction of the Depositor shall in no way imply or be interpreted to mean that the Custodian or any of its agents endorses the asset. Further, the fact that the Custodian agrees act as custodian for to purchase a specific asset within the Custodial Account at the direction of the Depositor shall in no way imply or be interpreted to mean that the Custodian or any of its agents is acting as an agent or broker for the investment or investment sponsor or that the Custodian or any of its agents is marketing or raising capital for the investment or investment sponsor.
- (j) **Agents of the Custodian:** The Custodian may designate and engage agents to perform administrative and other related services in connection with this Custodial Account. The powers and duties delineated herein shall apply to each agent so engaged. The Custodian has engaged IRA Plus Southwest, LLC (the Administrator) as its agent for the purpose of administering Individual Retirement Accounts established under this Custodial Agreement.
- (k) **Registration of Assets:** Assets of the Custodial Account shall be registered in the name of the Custodian, the Administrator, or other agent or nominee designated by the Custodian. The Depositor acknowledges that the owner of any investment held in the Custodial Account is the Custodian, Administrator, other agent or nominee for the benefit of the Depositor's IRA and not the Depositor individually. The Depositor agrees to direct the Custodian to pay all expenses and/or capital calls associated with any investment in the Custodial Account from funds in the Custodial Account. Further, the Depositor agrees not to withdraw any funds or accept any funds from any investment held in the Custodial Account.
- (l) **No Advice:** Neither the Custodian nor the Administrator nor any of the Custodians agents offers investment, tax or legal advice.
- (m) **Not Liable for Acts or Omissions of Others:** The Custodian shall not be responsible for or incur any liability for any acts performed or omitted by the Depositor or his agent or representative, a former custodian or trustee, or any other third party, nor shall the Custodian have any duty or responsibility to inquire into, or take any action regarding or related to any such acts or omissions. The Custodian shall not be liable to the Depositor for any statements, representations, actions or inactions of any third party including but not limited to any broker or other salesperson or principal of any investment purchased for this Custodial Account.
- (n) **Not Responsible for Contributions, Distributions, etc:** The Custodian shall not be responsible for (1) determining the amount of contributions that the Depositor may make or for determining the deductibility of any contributions made by the Depositor; (2) determining the amount or deductibility of contributions that may be made to the Custodial Account on behalf of the Depositor by an employer pursuant to a Simplified Employee Pension or for the collection of such contributions; (3) determining the amount or timing of any distribution required to be made to the Depositor or his beneficiary(ies) in accordance with Article V of this agreement and/or Internal Revenue Code and regulations regarding RMDs, The Custodian will only make distributions, including RMDs, at the written request of the Depositor or beneficiary in a form acceptable to the Custodian.
- (o) **Right to Bring Suit Against Depositor or Custodial Account:** The Custodian and/or its agents shall have the right and authority to bring suit against the Depositor or the Custodial Account to recover any amounts owed Custodian or its agents under this Custodial Agreement, including, but not limited to, fees, costs or expenses paid or incurred by the Custodian or its agents in connection with this agreement, and amounts paid in error by Custodian or its agents. In the event of such suit, the Custodian and/or its agents shall also be entitled to recover from the Custodial Account or the Depositor all costs resulting from or related to such suit, including but not limited to court costs, attorney's fees and other legal expenses, and reasonable compensation for time spent by the Custodian and/or its agent(s) in such suit.
- (p) **Right to Conduct Litigation on Behalf of Custodial Account:** The Custodian or its agent shall have the right and authority, in its sole discretion, if indemnified to its satisfaction, to (1) initiate any litigation on behalf the Custodial Account and to defend the Custodial Account against any litigation that it deems necessary in the administration of the Custodial Account, (2) compound, abandon or otherwise settle all claims in favor of and demands against the Custodial Account, (3) withhold or retain and decline to make any payment from any funds subject to any dispute until final settlement or adjudication of such dispute.
- (q) **Right to Rely on Information Provided:** When making a payment or distribution under this Agreement, the Custodian may make such payment or distribution by mailing a check or other property to the payee at the address last furnished to the Custodian or if directed to make such payment by ACH or wire or other electronic transfer, by transmitting funds using the instructions last furnished to the Custodian and the Custodian shall have no liability for any consequence as a result of the use of an incorrect address or incorrect ACH, wire or other electronic transfer instructions if the Custodian acted in good faith with no actual knowledge of any changes.
- (r) **Right to Seek Legal Advice:** The Custodian may consult with or engage legal counsel, including counsel for the Custodian individually, for advice on matters regarding the Custodial Account, and the Custodian shall have no liability for actions taken or not taken, in good faith, upon the advice of counsel.
- (s) **Right to Employ Third Parties:** The Custodian may take whatever action or employ such agents, vendors or service providers which in its judgment may be necessary or appropriate to properly administer the Custodial Account, without notice to Depositor.
- (t) **Minimum Account Balance:** The Custodian may establish a policy requiring the Depositor to maintain a minimum balance in the custodial account. Such policy may permit the Custodian to distribute the entire balance of the account to the Depositor if the balance of the account falls below the minimum balance required under the policy.

- (u) **Minimum Cash Balance:** The Custodian may establish a policy requiring the Depositor to maintain a minimum uninvested cash balance in the custodial account.
- (v) **Right to Close Account:** The Custodian may close the custodial account without prior notice to the Depositor if the account contains uninvested cash only and the amount of cash is less than the amount of processing and termination fees necessary to close the account. In such case, the Custodian will debit the cash from the account as part of the account termination fee and bill the Depositor for the balance, if any. The Custodian may, but is not obligated to, waive part of or the entire processing and/or termination fee in such situation.

9.02 Investment of the Account

- (a) **Responsibility of Depositor, not Custodian:** It is the Depositor's responsibility, not the Custodian's, to select and monitor the investments in the Custodial Account. The Depositor has the sole responsibility, authority and discretion for the selection of any and all investments in the Custodial Account and accepts full and sole responsibility for such selection. Further, the Depositor is fully and solely responsible for monitoring any and all investments in the Custodial 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 Custodial Account. It is the Depositor's responsibility to investigate and understand the nature of the investments, the principals and risks involved with the investments chosen by the Depositor.
- (b) **The Depositor Must Direct the Custodian:** The Custodian shall only make investments in the Custodial Account upon written direction from the Depositor, or the Depositor's authorized agent, in a form acceptable to the Custodian. The Custodian shall have no responsibility to question, investigate or otherwise review any directions made by the Depositor or his authorized agent regarding any purchase, sale, expense payment or other transaction involving the Custodial Account. However, the Custodian, at its sole discretion, may refuse to hold or make any investment for any reason. If the directions to the Custodian are, in the opinion of the Custodian, unclear or are not in a form acceptable to the Custodian, the Custodian shall have no duty or obligation to take any action unless and until the Custodian receives clear and acceptable instructions from the Depositor or the Depositor's authorized agent and the Custodian shall not be responsible for and shall not be held liable or accountable, in any way, for any loss or losses incurred in the Custodial Account during the time the Custodian was not in receipt of clear and acceptable instructions.
- (c) **Authorized Agent.** The Depositor may appoint a third party as his authorized agent to direct the investment of 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 Depositor and shall recognize the agent as having the authority to direct the investment of the Custodial Account until such time as (i) the Depositor notifies the Custodian in writing that he has removed the authorized agent, or (ii) the Custodian is notified of the death of the Depositor.
- (d) **Not responsible for Investment Losses:** The Custodian is not responsible for and shall not be held liable or accountable, in any way, for any loss or losses incurred in the Custodial Account on any investment made by the Custodian pursuant to the Depositor's or his authorized agent's directions.
- (e) **Custodian not responsible to forward information received on investments:** It is the Depositor's responsibility to make arrangements with the investment sponsors or other parties for receiving communications regarding custodial account investments. Except where required by law, the Custodian has no responsibility to notify or forward to the Depositor or any other party any communication regarding custodial account investments received by the Custodian. Such communications include, but are not limited to, K-1s, capital calls, periodic statements, vendor invoices, legal documents and correspondence regarding the investments.
- (f) **Depositor's Responsibility to Comply with Changing Laws.** Although the law and regulations regarding IRAs may change from time to time, the Custodian may not be required to immediately amend this Custodial Agreement to reflect such changes. It is the Depositor's responsibility to consult with an attorney, CPA or other tax advisor regarding any matter related to the Custodial Account.
- (g) **Prohibited Transactions.** Certain types of transactions involving the Custodial Account and a disqualified person, either directly or indirectly, constitute prohibited transactions under Internal Revenue Code §4975 and related Regulations, resulting in adverse tax consequences to the Depositor and/or other parties. For example, if the Custodial Account holds real estate, such as a house, as an investment and the Depositor lives in the house, this would constitute a prohibited transaction, resulting in the entire Custodial Account being treated as a taxable distribution to the Depositor. The Custodian has no responsibility to determine whether any transaction anticipated or completed is a prohibited transaction. It is the responsibility of the Depositor to determine whether a transaction is a prohibited transaction and if a prohibited transaction occurs it is the responsibility of the Depositor to notify the Custodian and to direct and instruct the Custodian to report such prohibited transaction to the Depositor and the IRS. The Custodian reserves the right to require certification from the Depositor and/or

the Depositor's legal counsel that the completion of a transaction by the Custodian at the direction provided by the Depositor will not constitute a prohibited transaction and if such certification is not provided, the Custodian reserves the right to refuse to complete the transaction unless and until such certification is provided or take whatever action it deems appropriate, including but not limited to resigning as Custodian as provided under this Agreement. The fact that the Custodian completes a transaction without requesting such certification does not mean, and shall not be interpreted to mean, that the Custodian has examined the transaction and has concluded that no prohibited transaction exists.

9.03 Designation of Beneficiaries

- (a) **Depositor May Designate:** The Depositor may, in writing, in a form acceptable to Custodian, designate one or more beneficiaries who shall be paid the balance of the Custodial Account that is undistributed at the time of the Depositor's death. Any such beneficiary designation that is fully and unambiguously completed and executed shall be assumed to be legally valid and shall be effective upon receipt by the Custodian. The Depositor may revoke or modify any beneficiary designation at any time by completing and submitting a new beneficiary designation in a form acceptable to the Custodian. If the Custodian receives a valid completed and executed beneficiary designation in a form acceptable to the Custodian, all prior beneficiary designations bearing an earlier execution date shall be revoked upon receipt of such subsequent form by the Custodian. If the Depositor modifies a previous beneficiary designation by adding to, deleting from, or by making any other changes, such previous beneficiary designation shall not be revoked in its entirety if the changes are clear and unambiguous. If, in the opinion of the Custodian, the Depositor's designation is not clear, the Custodian may, at its discretion, refuse to accept such beneficiary designation and require the Depositor to submit a new beneficiary designation that revokes all prior beneficiary designations
- (b) **Default Beneficiaries:** If the Depositor dies and none of the Depositor's designated beneficiaries are living at the time of the Depositor's death, or if all beneficiaries disclaim their rights to any benefit otherwise payable to them from the Custodial Account, or if there is no valid beneficiary designation on file with the Custodian at the time of the Depositor's death, then for all purposes of this Custodial agreement, the Depositor's surviving spouse, if any, shall be deemed to be the Depositor's designated beneficiary; or if there is no surviving spouse, then, for all purposes of this Custodial Agreement, the surviving natural and adopted children, if any, of the Depositor shall be deemed to be the Depositor's designated beneficiaries in equal shares per capita; but if there are no such surviving children, then, for all purposes of this Custodial Agreement, the Depositor's estate shall be deemed to be the Depositor's designated beneficiary.
- (c) **Custodian Not Liable:** When making any distribution due to the death of the Depositor, the Custodian may rely on any source presumed to be knowledgeable of matters of the Depositor (such as a surviving spouse) and shall have no duty other than to act in good faith based on the information and instructions provided. The Custodian shall not be liable for any action taken or distribution made in reliance upon incorrect, incomplete or fraudulent information reported by any source assumed to be reliable. The Custodian shall have no responsibility to ascertain the validity of any individual's or entity's claim to be a beneficiary, or to inquire or ascertain whether there are any beneficiaries not reported to the Custodian. Once all distributions are made from the Custodial Account, the Custodian shall have no liabilities with regard to the Custodial Account.

9.04 Death of Depositor

- (a) **Surviving spouse is beneficiary:** If the Depositor dies and the Depositor's sole designated beneficiary is the surviving spouse, the surviving spouse may (1) transfer the decedent's Custodial Account into an Individual Retirement Account titled in the surviving spouse's name or (2) elect, in a form acceptable to Custodian, to treat the Custodial Account as his or her own and if such election is made, the surviving spouse shall thereafter be treated as the Depositor.
- (b) **Other beneficiary:** If the Depositor dies and the Depositor's surviving spouse is not the Depositor's sole designated beneficiary Depositor, then (1) pursuant to IRC §408(d)(3)(c), no additional contributions shall be made to the Custodial Account; (2) if there is more than one designated beneficiary, the Custodian shall divide the Custodial Account into subaccounts creating one subaccount for each designated beneficiary. The Custodian may, at its discretion, require the beneficiaries to establish separate Custodial Accounts as a condition of continuing to act as Custodian; (3) each designated beneficiary of the deceased Depositor may designate his or her own beneficiaries in a form acceptable to the Custodian, but until such time as such designations are made, the provisions of 9.03(b) shall apply to the beneficiary subaccount as if the subDepositor were the Depositor in 9.03(b); (4) any required minimum distribution with regard to the original Depositor that is undistributed at the time of his/her death shall be made or accounted for before the division of the Custodial Account into the beneficiary subaccounts; (5) each beneficiary shall be subject to and bound by the provisions of this Custodial Agreement as if the beneficiary were the Depositor.

9.05 Distributions: The Custodian shall only make distributions, including required minimum distributions, from the Custodial Account upon receipt of written request of the Depositor, or the Depositor's beneficiary; however, the Custodian is authorized to make distributions without the Depositor's request or consent pursuant to a court

order or a valid, enforceable levy, including but not limited to an IRS levy and in such event the Custodian shall incur no liability for complying with such court order or levy.

9.06 Reports; Valuation of Custodial Account Assets

- (a) **Annual Statement:** The Custodian shall furnish the Depositor with a statement of the Account once per year, as of December 31. In addition, the Custodian may grant the Depositor online access to the Account through the internet. The Depositor shall be responsible for reviewing the statements for accuracy and shall have forty-five (45) days from the time the statement is mailed to the Depositor or posted online to report any inaccuracies to the Custodian in writing. If the Depositor fails to notify the Custodian of any inaccuracies in writing within the forty-five (45) day period, the statement shall be considered accurate and approved by the Depositor and the Depositor will be precluded from making future objections regarding the statement.
- (b) **Reports:** The Custodian shall submit reports to the Internal Revenue Service and the Depositor containing the information prescribed by the Internal Revenue Service at such time prescribed by the Internal Revenue Service.
- (c) **Valuation of Assets:** The Custodian is required to provide the Depositor with a statement reporting the fair market value ("FMV") of the Account as of December 31 of each year ("Year End FMV") and to report such Year End FMV to the IRS. This Year End FMV must be provided by the following January 31. This Year End FMV may be furnished to the Depositor in the Custodian's regular annual Account statement.

The Depositor is solely responsible for providing the Custodian with the Fair Market Value of the assets held in the Custodial Account and for the accuracy of the Fair Market Value. The Custodian is in no way responsible for the accuracy of the Fair Market Value reported to the Depositor or the IRS. The fact that the Custodian reports the FMV provided to it by the Depositor (or by a third party authorized by the Depositor to provide the FMV to the Custodian) to the Depositor, the IRS, or other party shall in no way imply or be interpreted to mean that the Custodian has independently determined the FMV being reported or that the Custodian is guaranteeing the FMV or that the asset can be sold for the FMV being reported. Further, the Custodian has no responsibility for the tax consequences of any taxable event based on the FMV of any asset held in the Account, including but not limited to required minimum distributions, normal or early distributions or Roth Conversions.

Unless the Depositor provides an alternate FMV in writing, the Custodian will use published closing prices to report the value of publicly traded investments, such as stocks, bonds, and mutual funds; however, the Custodian cannot guarantee their accuracy.

Unless the Depositor provides an alternate FMV in writing, the FMV report of a brokerage or futures account that is held as an asset of the Account shall reflect the total value provided to the Custodian by the brokerage firm or the Depositor.

Unless the Depositor provides an alternate FMV in writing, the FMV report of precious metals that are held as assets of the Account shall reflect the value provided to the Custodian by the precious metals depository.

Unless the Depositor provides an alternate FMV in writing, the Custodian shall report the FMV of a promissory note, mortgage or other similar debt instrument at its original amount less principal payments reported to and received by the Custodian.

If the Custodial Account holds assets that are not publicly traded or which do not have a readily determinable value on an established market, such as real estate, entities such as limited liability companies, limited partnerships, or other entities or assets, the Depositor must provide the FMV to the Custodian. If the investment sponsor or an agent of the investment sponsor provides the Custodian with a value for the asset, in a form acceptable to the Custodian, the Custodian may use such value as the FMV unless the Depositor provides a different FMV. A Form K-1 or similar tax document provided to the Custodian shall not, in and of itself, be considered as representing the value of the asset. The Custodian must receive the Year End FMV no later than the following January 15th. If the Custodian does not receive a Year End FMV for any asset by the following January 15th, the Custodian shall be entitled to use the Latest FMV (defined below) provided to the Custodian as that Year End FMV. The Latest FMV of an asset shall be the most recent updated FMV provided to the Custodian by the Depositor or third party. If no updated FMV has been provided, the Latest FMV shall be (1) the original purchase price if the asset was purchased through the Custodial Account, (2) the FMV reported to the Custodian by the prior custodian if the asset was transferred from another custodian, (3) the value reported to the Custodian by the Depositor if the asset was rolled over from a qualified plan or via a 60-day rollover or (4) in the case of a conversion or recharacterization involving the Custodial Account, the FMV at the time of the conversion or recharacterization.

If the Depositor fails to provide the Custodian with a Year End FMV for any asset for more than 36 months, the Custodian may, but shall not be required to, distribute such asset to the Depositor at the asset's Latest FMV. In such case, the Custodian shall not be responsible for and the Depositor agrees to hold the Custodian harmless for any loss, damage, tax, or other consequences due to or related to such distribution.

If a Fair Market Value of an asset is required due to a special circumstance, such as a court order, the Custodian may, but shall not be required to, obtain a valuation for

such asset from an independent third party. In such case, the cost of obtaining the valuation shall be paid by the Depositor or from the Custodial Account.

The Depositor hereby agrees and affirms to the Custodian that the Custodian may rely, for all purposes, on the FMV of an asset provided to the Custodian as an accurate FMV, whether such FMV was provided directly by the Depositor, the investment sponsor, or other third party or whether no updated valuation was provided and Latest FMV was used. Further, the Depositor agrees to hold the Custodian harmless for any loss, damage, tax, or other consequences due to the Custodian's reporting such FMV or transaction dependent upon such FMV.

9.07 Hold Harmless and Indemnification

The Custodian shall not be responsible for and shall have no liability for any taxes, penalties, judgments, expenses or any other costs incurred by the Custodial Account or the Depositor. The Depositor, his authorized agents and/or representatives, and designated beneficiaries shall at all times fully indemnify the Custodian, its agents, including but not limited to the Administrator, their affiliates, successors and assigns and hold them harmless from and against any and all liabilities and/or damages that may arise in connection with this agreement, including but not limited to those arising from any action taken by the Custodian, its agents, their affiliates, successors or assigns at the direction of the Depositor, his authorized agents and/or representatives, or designated beneficiaries, except liabilities or damages arising from the gross negligence or willful misconduct of the Custodian, its agents, their affiliates, successors or assigns. Damages shall include but shall not be limited to losses, expenses, costs, including court costs and attorney's fees, taxes and penalties, including taxes and penalties imposed because of prohibited transactions or disqualification of the Custodial Account.

9.08 Expenses and Fees

- (a) The Custodian and its agents shall be entitled to and may charge the Depositor or the Custodial Account fees for custodial or administrative services provided under this agreement, including, but not limited to, the fees provided for in the Custodian's fee schedule and reasonable fees for services requested and directed by the Depositor or this authorized representative which are not included in the Custodian's schedule of services and fees. Such fees may be paid from the Custodial Account or they may be paid by the Depositor. By signing the IRA Account Application, the Depositor acknowledges that he/she has had the opportunity to review the Custodian's fee schedule and agrees to such fees, regardless of whether the Depositor has signed the fee agreement. The Custodian may change its fee schedule at any time. Any such change shall be effective after thirty (30) days written notice to the Depositor. The Custodian and its agents may charge the Depositor or the Custodial Account a reasonable fee for its services related to, and for all reasonable costs and expenses incurred by the Custodian or its agents in connection with any litigation, mediation, arbitration, investigation, subpoena, or request for information by a government or regulatory agency involving the Custodial Account or any investment or asset ever held in the Custodial Account. Such fees shall be paid from the Custodial Account or, if not paid, they shall be paid by the Depositor. A first lien is established against the IRA account for any and all unpaid fees and expenses due the Custodian and/or its agents. At its discretion, the Custodian and/or its agents may cease providing services to the IRA account including but not limited to the execution of any and all transaction requests, until all fees and expenses are paid. At its discretion, the Custodian or any of its agents may sell any or all of the investments in the Custodial Account for payment of any unpaid fees and expenses due and the Depositor agrees not to hold the Custodian or its agents liable for any losses or other resulting consequences. In the event that any fees remain unpaid, Custodian shall have the right to bring suit against the Custodial Account and/or the Depositor pursuant to Section 9.01(o) of this agreement. **In addition, the Custodian will receive fees from the interest paid by the Depository Bank(s) for providing subaccounting and recordkeeping services related to the Cash Account. The interest earned on the Cash Account will be allocated monthly as follows: All interest up to the Base Rate (as defined below) will be credited to the Cash Account. All interest, if any, in excess of the Base Rate will be retained by the Custodian. The Base Rate is the rate published by the FDIC for a Non-Jumbo one month CD for the week that contains the last day of the prior month. FDIC rates are published on FDIC website <http://www.fdic.gov/regulations/resources/rates/index.html>.**

- (b) The Custodian or Administrator may, at its discretion, allow for payment of fees with a valid credit card. In such case, and if the Depositor so chooses, the Depositor shall furnish the Custodian or Administrator with a valid credit card account and information and authorize the Custodian or its agents to charge its fees and expenses as provided in a separate agreement.
- (c) The Custodian or Administrator, may, at its discretion, allow for payment of fees by debiting the Depositor's bank account. In such case, and if the Depositor so chooses, the Depositor shall furnish the Custodian or Administrator the Depositor's bank account information and authorize the Custodian or its agents to charge its fees and expenses as provided in a separate agreement.

9.09 Amendments

Custodian shall notify the Depositor of amendments to this agreement in accordance with section 9.11. Custodian may provide amended provisions to Depositor by posting the amended agreement on the Custodian's website and notifying the Depositor that the amended agreement may be obtained from the Custodian's website but that a

copy will be provided to the Depositor upon request. Unless the Depositor notifies the Custodian in writing no later than thirty (30) days after the date of notification that he/she does not consent to the amendment(s), the Depositor will be deemed to have consented to the amendment(s).

9.10 Resignation or Removal of Custodian; Appointment of Successor Custodian

(a) **Resignation of Custodian:** The Custodian may resign as custodian by giving thirty (30) days prior written notice to the Depositor or to the Depositor's beneficiaries. For purposes of this Section 9.09, the term Depositor shall also include the beneficiary or beneficiaries of the Depositor. Upon the resignation of the Custodian, the Depositor may appoint a Successor Custodian and request and direct a transfer of the Custodial Account to the Successor Custodian or request and direct the Custodian to distribute the Custodial Account to the Depositor. If, after the thirty (30) days written notice, the Depositor fails to request and direct a transfer to a Successor Custodian or to request and direct a distribution to the Depositor, the Custodian is hereby authorized: (1) to distribute the Custodial Account to the Depositor regardless of the tax consequences to the Depositor and the Custodian shall incur no liability for any consequences, tax or otherwise, of such distribution, or (2) to appoint a successor custodian and transfer the assets in the Custodial Account to such successor custodian.

(b) **Removal of Custodian:** The Depositor may remove the Custodian by giving thirty (30) days prior written notice to the Custodian, in a form acceptable to the Custodian. Such written notice must indicate that the Depositor either (1) requests and directs that all the assets of the Custodial Account be transferred to a Successor Custodian that is qualified and willing to act as Custodian and receive the assets or (2) requests and directs a total distribution of all the assets of the Custodial Account to the Depositor. Upon receipt of such written direction from the Depositor, the Custodian shall distribute or transfer the assets as directed. If the IRS determines the Custodian is no longer qualified to act as Custodian and requires the Depositor to appoint a Successor Custodian, the thirty (30) days prior written notice shall not be required.

(c) **Transition to Successor Custodian:** The terminating Custodian (i.e., the Custodian that is resigning or being removed) shall continue to be permitted to exercise the powers granted under this Agreement as necessary to transfer the assets of the Custodial Account to the Successor Custodian or to distribute such assets to the Depositor. The terminating Custodian shall be entitled to withhold from the assets being transferred or distributed amounts to provide for (1) payment of unpaid fees due the Custodian or its agents, (2) payment of any fees charged by the Custodian related to the removal of the Custodian, including, but not limited to account termination fees, fees for re-registration of assets, check fees, and wire fees, (3) payment of any expenses incurred by the Custodian or the Custodial Account related to the replacement of the Custodian and settlement of the account, including, but not limited to charges by transfer agents or other third parties, (4) payment of any taxes owed by the Custodial Account, such as withholding amounts. If the funds in the Custodial Account are insufficient to provide for the payment of fees and expenses due the terminating Custodian, the Depositor shall be responsible for and shall pay any deficiency prior to transfer or distribution of the assets of the Custodial Account; however, if the assets of the Custodial Account are transferred or distributed without payment of such deficiency, the Depositor or Successor Custodian shall be responsible for payment and shall be obligated to pay such deficiency. If funds or assets are received by the terminating Custodian after the Custodial Account has been closed or after the assets have been transferred or distributed, the terminating Custodian may withhold reasonable fees for handling such funds or assets. The Successor Custodian, whether appointed by the terminating Custodian or the Depositor, shall not be liable for any action taken or not taken by the terminating Custodian or any other predecessor custodian. If a Successor Custodian has been appointed by the terminating custodian, the Successor Custodian shall assume and acquire all the powers and duties conferred under this Agreement. Upon transfer or distribution of all the assets of the Custodial Account, the terminating custodian shall have fully and completely discharged its duties and obligations and shall be released and free of any and all liability with regard to the Custodial Account, unless the Depositor or Successor Custodian notifies the terminating Custodian of any outstanding issues regarding the account within forty-five (45) days of the notice of terminating Custodian's removal or resignation.

(d) **Sale, Merger or Consolidation of Custodian:** If the Custodian ceases to operate as an entity because of a merger into, acquisition by, or consolidation with another entity, then such other entity shall become the Custodian of the Custodial Account without the Depositor's approval, provided such entity is qualified to act as Custodian.

9.11 Notices

Any and all notices or other communications provided to the Depositor by the Custodian shall be sent (1) by regular mail to the last known address of the Depositor or (2) if the Depositor has provided an e-mail address to the Custodian, by e-mail to the most recent email address provided by the Depositor and shall be considered delivered as of the date of the mailing or e-mail for the purposes of this Agreement. The Depositor shall be responsible to notify the Custodian in writing of any change of address. Any and all notices or other communications directed and given to the Custodian under this Agreement shall be deemed delivered only when actually

received, in writing, by the Custodian. Such notices or communications must be sent by US Mail, delivery or courier service or hand delivered in person. The Custodian may, at its discretion accept delivery by e-mail or facsimile.

9.12 Applicable Law

Except to the extent that it is governed by or subject to the Internal Revenue Code and Regulations or other federal law, this agreement shall be governed by the laws of the State of South Dakota. In the event that any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this agreement, but this agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein, unless the deletion of such provision or provisions would result in such a material change so as to cause completion of the transactions contemplated herein to be unreasonable.

9.13 Depositor's Representations

(a) The Depositor represents and warrants that any information that the Depositor or his authorized agent or representative has given or will give with respect to this Custodial Account is or will be complete and accurate and that the Custodian is entitled to rely upon such information.

(b) The Depositor represents and warrants that any directions provided to the Custodian by the Depositor, or Depositor's authorized agent or representative, or any actions that the Depositor, or Depositor's authorized agent takes will be proper under this Agreement.

9.14 Depositor's Acknowledgements and Agreements

By signing the account application, the Depositor acknowledges and agrees to all the provisions of this Custodian Agreement. For purposes of emphasis and reminder, the Depositor's acknowledgment and agreement with certain provisions are summarized and reiterated in this Section 9.14. Any provision that appears elsewhere in this Custodian Agreement but not in this Section 9.14 shall still apply and shall not be deemed to have been deleted or nullified because it is not included in this Section 9.14.

(a) The Depositor acknowledges and agrees that the Custodian is entitled to rely upon any directions provided to the Custodian by the Depositor or the Depositor's authorized agent or representative.

(b) The Depositor agrees that the Custodian shall not be responsible for any losses of any kind that may result from Custodian's following directions given to the Custodian by the Depositor or the Depositor's authorized agent.

(c) The Depositor acknowledges and agrees that the Custodian shall not be responsible any losses of any kind resulting from the actions or failure to act on the part of the Depositor or the Depositor's authorized agent or representative.

(d) The Depositor acknowledges and agrees that neither the Custodian nor any of its agents provides investment management or investment, legal or tax advice.

(e) The Depositor acknowledges and agrees that neither the Custodian nor any of its agents is a fiduciary with regard to the Custodial Account.

(f) The Depositor acknowledges and agrees that the Depositor has the sole responsibility for the investment of the Custodial Account assets with the Custodian and that the Custodian and its agents shall have NO LIABILITY for any losses, expenses, damages (of any kind), costs, including court costs and attorney fees, or taxes, including tax resulting from prohibited transactions or disqualification of the Custodial Account resulting from transactions executed by the Custodian or its agents and authorized by the Depositor or the Depositor's power of attorney or other authorized agent or representative.

(g) The Depositor acknowledges and agrees that it is solely the responsibility of the Depositor to perform the due diligence with regard to any investment or investment sponsor, including but not limited to, obtaining and reading any applicable prospectus, private placement memorandum, offering circular or similar document prior to authorizing the Custodian and/or its agents to make any investment on behalf of the Custodial Account.

(h) The Depositor acknowledges and agrees **that neither the Custodian nor any of its agents has any duty to review, monitor or evaluate any investment or any sponsor of any investment anticipated or made on behalf of the Custodial Account.** The Depositor further acknowledges and agrees that **neither the Custodian nor any of its agents will review, monitor or evaluate any investment or any sponsor of any investment anticipated or made on behalf of the Custodial Account.**

(i) The Depositor agrees to defend and indemnify the Custodian and its agents and to hold them harmless from and against **all losses, expenses, damages (of any kind), costs, including court costs and attorney fees, or taxes, including tax resulting from prohibited transactions or disqualification of the Custodial Account** resulting from transactions executed by the Custodian and/or its agents and authorized by the Depositor, his/her power of attorney or other authorized representative in connection with any investment held in the Custodial Account.

- (j) The Depositor acknowledges and agrees that it is solely the responsibility of the Depositor to understand and comply with the eligibility requirements for establishing an IRA, making rollover contributions or transfers and for making all of the investments that are held in the Custodial Account or that will be made in the future.
- (k) The Depositor acknowledges and agrees that neither the Custodian nor any of its agents has any responsibility for tax consequences due to additions to or distributions from the Custodial Account.
- (l) The Depositor acknowledges and agrees that (1) the Depositor is solely responsible for providing the Custodian with the Fair Market Value of the assets held in the Custodial Account and for the accuracy of the Fair Market Value; (2) the Custodian is in no way responsible for the accuracy of the Fair Market Value reported to the Depositor or the IRS; (3) the fact that the Custodian reports the FMV provided to it by the Depositor (or by a third party authorized by the Depositor to provide the FMV to the Custodian) to the Depositor, the IRS, or other party shall in no way imply or be interpreted to mean that the Custodian has independently determined the FMV being reported or that the Custodian is guaranteeing the FMV or that the asset can be sold for the FMV being reported; (4) the Custodian has no responsibility for the tax consequences of any taxable event based on the FMV of any asset held in the Account, including but not limited to required minimum distributions, normal or early distributions or Roth Conversions.
- (m) The Depositor agrees to notify the Custodian if a prohibited transaction occurs with regard to the Custodial Account.
- (n) The Depositor acknowledges and agrees that it is the Depositor's responsibility to provide the Custodian with the Year End FMV (fair market value) for each investment in the Custodial Account.
- (o) The Depositor represents that he/she understands the requirements of Internal Revenue Code Section 401(a)(9) Required Minimum Distributions with respect to IRAs, including the severe penalties (50% excise tax) for not making timely Required Minimum Distributions.
- (p) The Depositor acknowledges and agrees that the Depositor is solely responsible for determining the amount of any Required Minimum Distribution and for requesting timely distribution of any Required Minimum Distributions.
- (q) The Depositor acknowledges and agrees that the Depositor is solely responsible for determining whether any Unrelated Business Taxable Income is generated by any investment in the Custodial Account that Depositor is responsible for the proper filing of Form 990-T and payment of any required tax and that the tax must be paid by the Custodial Account and not by the Depositor.
- (r) The Depositor acknowledges and agrees that, except to the extent that it is governed by or subject to the Internal Revenue Code and Regulations or other federal law, this agreement shall be governed by the laws of the State of South Dakota.
- (s) Under penalty of perjury, the Depositor declares and certifies that this agreement is identical, word for word, to the agreement provided by the Custodian, via its website or by any other means, and has not been altered in any manner whatsoever by the Depositor, or to the knowledge of the Depositor, by any third party. In the event that this agreement has been modified, with or without of the Depositor's knowledge, the Depositor agrees that any such modification shall be null and void and that the language of the agreement as it was provided by the Custodian shall override any conflicting language.

General Instructions

(Section references are to the Internal Revenue Code unless otherwise noted.)

Purpose of Form

Form 5305-RA is a model custodial account agreement that meets the requirements of section 408A. 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.

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 59½ 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 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. Attach additional pages if necessary.