

Form **5305-A**

(Rev. April 2017)

Department of the Treasury  
Internal Revenue Service**Traditional Individual Retirement Custodial Account****(Under section 408(a) of the Internal Revenue Code)****Do not file  
with the Internal  
Revenue Service**

Name of depositor	Date of birth of depositor	Account number
Address of depositor		Check if amendment <input type="checkbox"/>
Name of custodian	Address or principal place of business of custodian	
Alto Trust Co.	320 Osuna Rd NE Unit G-1, Albuquerque, NM 87107	

The depositor named above is establishing a traditional individual retirement account under section 408(a) to provide for his or her retirement and for the support of his or her beneficiaries after death.

The custodian named above has given the depositor the disclosure statement required by Regulations section 1.408-6.

The depositor has assigned the custodial account \_\_\_\_\_ dollars (\$ \_\_\_\_\_) in cash.

The depositor and the custodian make the following agreement.

**Article I**

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

**Article II**

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

**Article III**

- 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)).
- No part of the custodial account funds may be invested in collectibles (within the meaning of section 408(m)) except as otherwise permitted by section 408(m)(3), which provides an exception for certain gold, silver, and platinum coins, coins issued under the laws of any state, and certain bullion.

**Article IV**

1. Notwithstanding any provision of this agreement to the contrary, the distribution of the depositor's interest in the custodial account shall be made in accordance with the following requirements and shall otherwise comply with section 408(a)(6) and the regulations thereunder, the provisions of which are herein incorporated by reference.

2. The depositor's entire interest in the custodial account must be, or begin to be, distributed not later than the depositor's required beginning date, April 1 following the calendar year in which the depositor reaches age 70<sup>1/2</sup>. 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 single sum or
  - Payments over a period not longer than the life of the depositor or the joint lives of the depositor and his or her designated beneficiary.
3. If the depositor dies before his or her entire interest is distributed to him or her, the remaining interest will be distributed as follows:
- If the depositor dies on or after the required beginning date and:

(i) The designated beneficiary is the depositor's surviving spouse, the remaining interest will be distributed over the surviving spouse's life expectancy as determined each year until such spouse's death, or over the period in paragraph (a)(iii) below if longer. Any interest remaining after the spouse's death will be distributed over such spouse's remaining life expectancy as determined in the year of the spouse's death and reduced by 1 for each subsequent year, or, if distributions are being made over the period in paragraph (a)(iii) below, over such period.

(ii) The designated beneficiary is not the depositor's surviving spouse, the remaining interest will be distributed over the beneficiary's remaining life expectancy as determined in the year following the death of the depositor and reduced by 1 for each subsequent year, or over the period in paragraph (a)(iii) below if longer.

(iii) There is no designated beneficiary, the remaining interest will be distributed over the remaining life expectancy of the depositor as determined in the year of the depositor's death and reduced by 1 for each subsequent year.

(b) If the depositor dies before the required beginning date, the remaining interest will be distributed in accordance with paragraph (i) below or, if elected or there is no designated beneficiary, in accordance with paragraph (ii) below.

(i) The remaining interest will be distributed in accordance with paragraphs (a)(i) and (a)(ii) above (but not over the period in paragraph (a)(iii), even if longer), starting by the end of the calendar year following the year of the depositor's death. If, however, the designated beneficiary is the depositor's surviving spouse, then this distribution is not required to begin before the end of the calendar year in which the depositor would have reached age 70<sup>1/2</sup>. But, in such case, if the depositor's surviving spouse dies before distributions are required to begin, then the remaining interest will be distributed in accordance with paragraph (a)(ii) above (but not over the period in paragraph (a)(iii), even if longer), over such spouse's designated beneficiary's life expectancy, or in accordance with paragraph (ii) below if there is no such designated beneficiary.

(ii) The remaining interest will be distributed by the end of the calendar year containing the fifth anniversary of the depositor's death.

4. If the depositor dies before his or her entire interest has been distributed and if the designated beneficiary is not the depositor's surviving spouse, no additional contributions may be accepted in the account.

5. The minimum amount that must be distributed each year, beginning with the year containing the depositor's required beginning date, is known as the "required minimum distribution" and is determined as follows.

(a) The required minimum distribution under paragraph 2(b) for any year, beginning with the year the depositor reaches age 70½, is the depositor's account value at the close of business on December 31 of the preceding year divided by the distribution period in the uniform lifetime table in Regulations section 1.401(a)(9)-9. However, if the depositor's designated beneficiary is his or her surviving spouse, the required minimum distribution for a year shall not be more than the depositor's account value at the close of business on December 31 of the preceding year divided by the number in the joint and last survivor table in Regulations section 1.401(a)(9)-9. The required minimum distribution for a year under this paragraph (a) is determined using the depositor's (or, if applicable, the depositor and spouse's) attained age (or ages) in the year.

(b) The required minimum distribution under paragraphs 3(a) and 3(b)(i) for a year, beginning with the year following the year of the depositor's death (or the year the depositor would have reached age 70½, if applicable under paragraph 3(b)(i)) is the account value at the close of business on December 31 of the preceding year divided by the life expectancy (in the single life table in Regulations section 1.401(a)(9)-9) of the individual specified in such paragraphs 3(a) and 3(b)(i).

(c) The required minimum distribution for the year the depositor reaches age 70½ can be made as late as April 1 of the following year. The required minimum distribution for any other year must be made by the end of such year.

6. The owner of two or more traditional IRAs may satisfy the minimum distribution requirements described above by taking from one traditional IRA the amount required to satisfy the requirement for another in accordance with the regulations under section 408(a)(6).

**Article V**

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

2. The custodian agrees to submit to the Internal Revenue Service (IRS) and depositor the reports prescribed by the IRS.

**Article VI**

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

**Article VII**

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

**Article VIII**

Article VIII may be used for any additional provisions. If no other provisions will be added, draw a line through this space. If provisions are added, they must comply with applicable requirements of state law and the Internal Revenue Code and may not imply that they have been reviewed or pre-approved by the IRS.

Depositor's signature.....Date .....

Custodian's signature.....Date .....

Witness' signature.....Date .....

(Use only if signature of the depositor or the custodian is required to be witnessed.)

**General Instructions**

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

**Purpose of Form**

Form 5305-A is a model custodial account agreement that meets the requirements of section 408(a) However, only Articles I through VII have been reviewed by the IRS. A traditional individual retirement account (traditional IRA) is established after the form is fully executed by both the individual (depositor) and the custodian. To make a regular contribution to a traditional IRA for a year, the IRA must be established no later than the due date of the individual's income tax return for the tax year (excluding extensions). This account must be created in the United States for the exclusive benefit of the depositor and his or her beneficiaries.

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

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

**Definitions**

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

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

**Traditional IRA for Nonworking Spouse**

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

Contributions to an IRA custodial account for a nonworking spouse must be made to a

separate IRA custodial account established by the nonworking spouse.

**Specific Instructions**

**Article IV.** Distributions made under this article may be made in a single sum, periodic payment, or a combination of both. The distribution option should be reviewed in the year the depositor reaches age 70½ to ensure that the requirements of section 408(a)(6) have been met.

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

**The Provisions in Article VIII, Article IX, and Article X Have Not Been Pre-Approved by the IRS**

**ARTICLE VIII**

**8.01 - Applicable Law; Terminology:** This Custodian Agreement shall be governed by the laws of the jurisdiction where the Custodian is organized. The term Depositor also includes the Depositor's Beneficiary, where appropriate throughout this Agreement.

**8.02 - Administrator for the Custodian; Sub-Custodians:**

a) Custodian has delegated certain Custodial Account recordkeeping and administrative functions ("Administrative Services") to Alto Solutions, Inc. (d/b/a AltoIRA), a Delaware corporation (the "Administrator"). The Administrator may perform duties on behalf of the Custodian, as agreed from time to time between the Custodian and the Administrator, which may include, but are not limited to, executing applications, transfers, stock powers, escrow documents, purchase agreements, notes, deeds, reconveyances and liens, maintaining electronic records of Account assets, ensuring all assets are titled using such naming convention as Custodian may authorize, depositing Contributions and income, paying liabilities and distributions of the Account, and government reporting.

b) Custodian may delegate custodial functions and duties under this Agreement to any sub-custodian qualified to custody assets of the Account, subject to Custodian's right to revoke such delegation in Custodian's discretion. Custodian shall remain responsible for the performance of Custodian's duties under this Agreement with respect to the custody of assets of the Account held by any sub-custodian.

**8.03 - Revocation:** Depositor acknowledges and understands that within seven (7) days from the date Depositor first accepts this Form 5305 and the terms of the Account, Depositor may revoke the establishment of the Account by mailing or delivering a written notice to the Administrator at:

- Alto Solutions, Inc.  
500 11<sup>th</sup> Avenue North, Suite 790  
Nashville, TN 37203

If Depositor revokes this Agreement within the seven (7) calendar day period, the Account will be closed and any service fees charged in connection therewith by the Administrator will be refunded, together with the entire amount of contributions made to the Account without any adjustment for earnings or any administrative expenses. The Depositor agrees that if they exercise this revocation, the Administrator is still required to report contributions on Form 5498 (except transfers) and the revoked distribution on Form 1099-R.

**8.04 - Annual Accounting:** The Custodian or Administrator shall, at least annually, provide the Depositor or Beneficiary (in the case of death) with an accounting of the Custodial Account. Such accounting shall be deemed to be accepted by the Depositor or the Beneficiary, if the Depositor or Beneficiary does not object in writing within 60 days after the mailing of such accounting statement.

**8.05 - Amendment:** 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 prior 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 IRS. 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 in the Custodial Account.

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### **8.06 - Resignation and Removal of Custodian or Administrator:**

- a) The Custodian and Administrator may assign this Agreement and appoint any qualified successor trustee or custodian, or administrator, as the case may be, to serve under this Agreement. The successor trustee or custodian, and administrator, as the case may be, may rely on any information, including beneficiary designations, previously provided by the Depositor.
- b) Promptly upon appointment of a successor trustee or custodian, or administrator, the Custodian or Administrator shall (1) notify Depositor in writing of the appointment of such successor trustee or custodian, or administrator, and (2) deliver or cause to be delivered all the assets of the Account (whether in cash or personal or real property, wherever located, and regardless of value) and records of the Account to the successor trustee or custodian, and/or administrator, as the case may be.
- c) The Custodian or Administrator may resign and demand that the Depositor appoint a successor trustee or custodian, or administrator, of this IRA by giving the Depositor written notice at least 30 days prior to the effective date of such resignation. The Depositor shall then have 30 days from the date of such notice to designate a successor trustee or custodian, or administrator, notify the Custodian or Administrator of the name and address of the successor, and provide the Custodian or Administrator with appropriate evidence that such successor has accepted the appointment and is qualified to serve as trustee or custodian, or administrator, of an individual retirement account.
  1. If the Depositor designates a successor trustee or custodian, or administrator, and provides the Custodian evidence of the successor's acceptance of appointment and qualification within such 30-day period, the Custodian or Administrator shall then deliver all of the assets held by the Custodian in the Custodial Account (whether in cash or personal or real property, wherever located, and regardless of value) to the successor trustee or custodian, together with all records of the Account to the successor administrator, if any.
  2. If the Depositor does not notify the Custodian or Administrator of the appointment of a successor trustee or custodian, or administrator, within such 30 day period, then the Custodian or Administrator may distribute all of the assets held by the Custodian in the Custodial Account (whether in cash or personal or real property, wherever located, and regardless of value) to the Depositor, outright and free of trust, and the Depositor shall be wholly responsible for the tax consequences of such distribution.

In any event, the Custodian or Administrator may expend any assets in the Custodial Account to pay expenses of transfer (including re-registering the assets and preparation of deeds, assignments, and other instruments of transfer or conveyance) to the successor trustee or custodian, or administrator, or to the Depositor, as the case may be. In addition, the Custodian or Administrator may retain a reasonable portion of the assets as a reserve for payment of any anticipated remaining fees and expenses. Upon satisfaction of such fees and expenses, the Custodian or Administrator shall pay over any remainder of the reserve to the successor trustee or custodian or to the Depositor, as the case may be.

### **8.07 - Custodian's Fees and Expenses:**

- a) Custodian and Administrator have the right to charge an annual service fee and other fees relating to custody and administration of the Account (including, without limitation, transaction, wire transfer or termination fees) in accordance with the fee schedules provided by the Administrator to the Depositor. We reserve the right to modify fees and charge any additional fees upon at least 30 days' notice. Fees or commissions also may be paid to us by third parties for assistance in performing certain transactions or other services provided by us with respect to this Account.
- b) The Administrator charges certain administrative fees to Depositor which are paid by credit card. Depositor generally is prohibited from reimbursing the Account for any fees or costs associated with maintenance of the assets in the Account. Any funds paid by Depositor to the Account shall be treated as contributions.

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- c) The Depositor agrees to pay any expenses incurred by the Custodian and Administrator in the performance of their duties in connection with the Custodial Account. Such expenses include, but are not limited to, administrative expenses, such as legal and accounting fees, and any taxes of any kind whatsoever that may be levied or assessed with respect to such account.
- d) All such fees (including Custodial Fees), taxes, and other administrative expenses charged to the account shall be collected either from the assets in the account, the credit card on file as provided by Depositor, or any contributions to or distributions from such account if not paid by the Depositor, provided, however, the Depositor shall be responsible for any deficiency caused by such payments made from any contributions or distributions.
- e) In the event that for any reason the Custodian or Administrator is not certain as to who is entitled to receive all or part of the assets of the Custodial Account, the Custodian or Administrator reserves the right to withhold any payment from the Custodial Account, to request a court ruling to determine the disposition of the Custodial Account assets, and to charge the Custodial Account for any expenses incurred in obtaining such legal determination.

**8.08 - Withdrawal Requests:** All requests for withdrawal shall be in writing on a form provided by the Administrator or Custodian. Written notice of a withdrawal may include webforms provided by the Administrator or Custodian, wherein Depositor provides the information necessary to effect such withdrawal and certifies such withdrawal with his or her electronic signature. Such written notice must include the Depositor's personal identifying information, reason for the withdrawal, distribution amount, assets to be delivered, notice of federal and state tax withholding, delivery instructions for the transfer requested, and/or such other information as the Administrator or Custodian may require.

**8.09 - Age 72 Default Provisions:** If the Depositor does not choose any of the distribution methods under Article IV of this Agreement by the April 1st following the calendar year in which the Depositor reaches age 72 (*70 ½ if you reach 70 ½ before January 1, 2020*), distributions shall be determined based upon the distribution period in the uniform lifetime distribution period table in Regulation section 1.401(a)(9)-9(c). However, no payment will be made until the Depositor provides the Custodian (or the Administrator on behalf of the Custodian) with a proper distribution request acceptable to the Custodian or Administrator. In the event a beneficiary neglects to provide Custodian or Administrator a proper distribution request, outlining the beneficiary's personal identifying information, the distribution amount, assets to be delivered, notice of federal and state tax withholding and delivery instructions for the transfer, then beneficiary bears the burden of any tax or penalty associated with the failure to receive a timely distribution from the Account. Upon receipt by the Custodian (or the Administrator on behalf of the Custodian), of such a distribution request, the Depositor may switch to a joint life expectancy in determining the required minimum distribution if the Depositor's spouse was the sole beneficiary as of January 1st of the distribution calendar year and such spouse is more than 10 years younger than the Depositor pursuant to Regulation section 1.401(a)(9)-9(d).

### **8.10 - :**

Upon your death, your beneficiaries are required to take distributions according to IRC Sec. 401(a)(9) and Treasury Regulation 1.408-8. These requirements are described below.

1. **Death of IRA Owner Before January 1, 2020** – Your designated beneficiary is determined based on the beneficiaries designated as of the date of your death, who remain your beneficiaries as of September 30 of the year following the year of your death.

If you die on or after your required beginning date, distributions must be made to your beneficiaries over the longer of the single life expectancy of your designated beneficiaries, or your remaining life expectancy.

## **The Provisions in Article VIII, Article IX, and Article X Have Not Been Pre-Approved by the IRS**

If a beneficiary other than a person or qualified trust as defined in the Treasury Regulations is named, you will be treated as having no designated beneficiary of your IRA for purposes of determining the distribution period. If there is no designated beneficiary of your IRA, distributions will commence using your single life expectancy, reduced by one in each subsequent year.

If you die before your required beginning date, the entire amount remaining in your account will, at the election of your designated beneficiaries, either

- (a) be distributed by December 31 of the year containing the fifth anniversary of your death, or
- (b) be distributed over the remaining life expectancy of your designated beneficiaries.

If your spouse is your sole designated beneficiary, he or she must elect either option (a) or (b) by the earlier of December 31 of the year containing the fifth anniversary of your death, or December 31 of the year life expectancy payments would be required to begin. Your designated beneficiaries, other than a spouse who is the sole designated beneficiary, must elect either option (a) or (b) by December 31 of the year following the year of your death. If no election is made, distribution will be calculated in accordance with option (b). In the case of distributions under option (b), distributions must commence by December 31 of the year following the year of your death. Generally, if your spouse is the designated beneficiary, distributions need not commence until December 31 of the year you would have attained age 72 (age 70½ if you would have attained age 70½ before 2020), if later. If a beneficiary other than a person or qualified trust as defined in the Treasury Regulations is named, you will be treated as having no designated beneficiary of your IRA for purposes of determining the distribution period. If there is no designated beneficiary of your IRA, the entire IRA must be distributed by December 31 of the year containing the fifth anniversary of your death.

**2. Death of IRA Owner On or After January 1, 2020** – The entire amount remaining in your account will generally be distributed by December 31 of the year containing the tenth anniversary of your death unless you have an eligible designated beneficiary or you have no designated beneficiary for purposes of determining a distribution period. This requirement applies to beneficiaries regardless of whether you die before, on, or after your required beginning date.

If your beneficiary is an eligible designated beneficiary, the entire amount remaining in your account may be distributed (in accordance with the Treasury Regulations) over the remaining life expectancy of your eligible designated beneficiary (or over a period not extending beyond the life expectancy of such beneficiary).

An eligible designated beneficiary is any designated beneficiary who is

- your surviving spouse,
- your child who has not reached the age of majority,
- disabled (A physician must determine that your impairment can be expected to result in death or to be of long, continued, and indefinite duration.),
- an individual who is not more than 10 years younger than you, or
- chronically ill (A chronically ill individual is someone who (1) is unable to perform (without substantial assistance from another individual) at least two activities of daily living for an indefinite period due to a loss of functional capacity, (2) has a level of disability similar to the level of disability described above requiring assistance with daily living based on loss of functional capacity, or (3) requires substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.)

Note that certain trust beneficiaries (e.g., certain trusts for disabled and chronically ill individuals) may take distribution of the entire amount remaining in your account over the remaining life expectancy of the trust beneficiary.

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Generally, life expectancy distributions to an eligible designated beneficiary must commence by December 31 of the year following the year of your death. However, if your spouse is the eligible designated beneficiary, distributions need not commence until December 31 of the year you would have attained age 72, if later. If your eligible designated beneficiary is your minor child, life expectancy payments must begin by December 31 of the year following the year of your death and continue until the child reaches the age of majority. Once the age of majority is reached, the beneficiary will have 10 years to deplete the account.

If a beneficiary other than a person (e.g., your estate, a charity, or a certain type of trust) is named, you will be treated as having no designated beneficiary of your IRA for purposes of determining the distribution period. If you die before your required beginning date and there is no designated beneficiary of your IRA, the entire IRA must be distributed by December 31 of the year containing the fifth anniversary of your death. If you die on or after your required beginning date and there is no designated beneficiary of your IRA, distributions will commence using your single life expectancy, reduced by one in each subsequent year.

A spouse who is the sole designated beneficiary of your entire IRA will be deemed to elect to treat your IRA as his or her own by either (1) making contributions to your IRA or (2) failing to timely remove a required minimum distribution from your IRA. Regardless of whether or not the spouse is the sole designated beneficiary of your IRA, a spouse beneficiary may roll over his or her share of the assets to his or her own IRA.

If we so choose, for any reason (e.g., due to limitations of our charter or bylaws), we may require that a beneficiary of a deceased IRA owner take total distribution of all IRA assets by December 31 of the year following the year of death.

If your beneficiary fails to remove a required minimum distribution after your death, an additional penalty tax of 50 percent is imposed on the amount of the required minimum distribution that should have been taken but was not. Your beneficiary must file IRS Form 5329 along with his or her income tax return to report and remit any additional taxes to the IRS.

In the event a beneficiary neglects to provide Custodian or Administrator a proper distribution request, outlining the beneficiary's personal identify information, the distribution amount, assets to be delivered, notice of federal and state tax withholding and delivery instructions for the transfer, then the beneficiary bears the burden of any tax or penalty associated with the failure to receive a timely distribution from the Account.

### **8.11 - Designation of Beneficiary:**

- a) Except as may be otherwise required by the laws of the applicable state, in the event of the Depositor's death, the balance in the Account shall be paid to the beneficiary or beneficiaries designated by the Depositor on a beneficiary designation form acceptable to and filed with the Custodian or Administrator. The Depositor may change the Depositor's beneficiary or beneficiaries at any time by filing a new beneficiary designation with the Custodian or Administrator. If no beneficiary designation is in effect, if none of the named beneficiaries survive the Depositor, or if the Custodian or Administrator cannot locate any of the named beneficiaries after reasonable search, any balance in the Custodial Account will be payable to the Depositor's estate.
- b) If the Custodian or Administrator permits, in the event of the Depositor's death, any beneficiary may name a subsequent beneficiary, or beneficiaries, to receive the balance of the Custodial Account to which such beneficiary is entitled upon the death of the original beneficiary by filing a Subsequent Beneficiary Designation Form acceptable to and filed with the Custodian or Administrator. Payments

## **The Provisions in Article VIII, Article IX, and Article X Have Not Been Pre-Approved by the IRS**

to such subsequent beneficiary, or beneficiaries, shall be distributed in accordance with the payment schedule applicable to the original beneficiary or more rapidly if the subsequent beneficiary requests. In no event can any subsequent beneficiary be treated as a designated beneficiary of the Depositor. The preceding sentence shall not apply with respect to the subsequent beneficiary, or beneficiaries, if any, designated by the original spouse beneficiary where the Depositor dies before his or her required beginning date. In that case, the original spouse beneficiary shall be treated as the Depositor. If the balance of the Custodial Account has not been completely distributed to the original beneficiary and such beneficiary has not named a subsequent beneficiary or no named subsequent beneficiary is living on the date of the original beneficiary's death, such balance shall be payable to the estate of the original beneficiary.

**8.12 - Responsibilities:** Depositor represents and warrants that all information and instructions given to the Custodian or Administrator by the Depositor is complete and accurate and agrees that the Custodian or Administrator shall not be responsible for any incomplete or inaccurate information provided by the Depositor or Depositor's beneficiary, or beneficiaries. Depositor and Depositor's beneficiary, or beneficiaries, agree to be responsible, jointly and severally, for all tax consequences arising from contributions to and distributions from the Custodial Account and acknowledges that no tax advice has been provided by the Custodian or Administrator.

**8.13 - Investment Provisions:** All contributions shall be invested and reinvested by the Administrator or Custodian as directed by the Depositor, Depositor's Investment Advisor or other representative, provided that Depositor has filed a form acceptable to the Custodian or Administrator granting such investment authority to a designated advisor. *(Please see Article IX; Self-Directed IRA Provisions.)* It is understood and acknowledged by Depositor that the Custodian and Administrator shall assume no responsibility, expressed or implied, for any loss or diminution of account and Depositor indemnifies and holds harmless Custodian and Administrator, without limitation, against any and all losses, costs, expenses or liabilities of any nature whatsoever incurred as a result of Custodian's and/or Administrator's execution of Depositor's investment instructions. Depositor agrees that any cash in the Account as to which the Depositor has not given investment direction may remain uninvested, or may be deposited in interest bearing accounts of financial institutions, which may include the Custodian itself, United States government securities and securities that are insured or guaranteed by the United States government. The Custodian and Administrator shall have no duty other than to follow the written investment directions of the Depositor, and shall be under no duty to question said instructions and shall not be liable for any investment losses sustained by the Depositor.

**8.14 - IRA Contribution Limits and Rollovers:** Depositor can make annual contributions to an IRA up to the annual limit, or 100% for their compensation or earned income, whichever is less. Click [here](#) for further details. Depositor assumes sole responsibility for determining that contributions to the Account do not exceed the limits established by the Internal Revenue Code or IRS regulations. Further, Depositor assumes sole responsibility for determining the eligibility for rollover distributions from another qualified plan or retirement account, whether performed as a trustee-to-trustee transfer or indirect rollover. Depositor additionally acknowledges that Depositor is restricted to one (1) indirect rollover transfer, per annum, to the Account established hereunder.

**8.15 - Excess Contributions:** Depositor assumes full responsibility as to any IRA contribution which exceeds the applicable contribution limits, and such contribution's earnings as determined by calculating its Net Attributable Income, and acknowledges such excess contribution is subject to a 6% excise tax penalty on the principal amount of the excess each year until the excess is corrected. The Depositor assumes full responsibility to remove or recharacterize any excess contribution, or otherwise file IRS Form 5329 to report this excise tax.



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**8.16 - Limitations and restrictions on the deduction:** Depositor acknowledges their contribution to a traditional IRA may or may not be deductible on their federal income tax return. The deduction may be limited if the Depositor or their spouse is covered by a retirement plan at work and their income exceeds certain levels. The following IRS link denotes the income range (Adjusted Gross Income or "AGI") in which Depositor's deduction may be disallowed if they or their spouse participates in a retirement plan at work: Click [here](#) for further details.

**8.17 - Required Minimum Distributions:** Depositor acknowledges that Traditional IRAs are subject to IRS required minimum distribution (RMD) rules starting when the Depositor reaches age 72 (*70 ½ if you reach 70 ½ before January 1, 2020*). Depositor acknowledges and agrees that if Depositor is now subject to the RMD rules with respect to the Account, or will become subject to those rules during the term of their investment, the Depositor represents that Depositor has verified either that investments in the Account will provide income or distributions sufficient to cover each RMD, or that there are other assets in the Account or in other accounts of Depositor that are sufficiently liquid (including cash) from which Depositor will be able to withdraw their RMDs. Depositor acknowledges and agrees that failure to take RMDs may result in a tax penalty of 50% of the amount that was required to be withdrawn.

Depositor acknowledges that the Custodian or Administrator may provide the Depositor by January 31 of the calendar year he or she attains age 72 with either: (1) a statement indicating the RMD amount for the Depositor's IRA and the date by which such amount must be distributed, or (2) a statement showing that a RMD is required for the calendar year and the date by which the RMD must be distributed, and an offer to calculate, upon request, the amount of the RMD.

Depositor understands that they should consult with their own tax or financial advisor with regard to the calculation of the amount of RMD each year, and that it is their responsibility to make sure that this requirement is met. Depositor acknowledges and agrees that neither the Custodian nor Administrator is required to advise them about RMDs and will process a withdrawal from their account only in accordance with their specific instructions.

The Administrator or Custodian shall bear no burden to effect an RMD, distribution or withdrawal from the Account, in or with respect to any given year after the Depositor's required beginning date, and Depositor releases, indemnifies, and holds harmless the Administrator and Custodian for any failure to distribute an RMD.

**8.18 - IRA Distributions before age 59 ½:** Depositor acknowledges and understands that an additional tax of 10 percent is imposed by section 408(f) of the Internal Revenue Code on distributions (including amounts deemed distributed as the result of a prohibited loan or use as security for a loan) made before the Depositor has attained age 59 ½, unless such distribution is made on account of death or disability, or unless a rollover contribution is made with such distribution. A number of exceptions apply to this rule and the Depositor should consult with tax advisor or attorney prior requesting a distribution before the benefited individual has attained age 59 ½.

**8.19 - Borrowing:** Depositor acknowledges and agrees that should they borrow any money under, or by use of, an annuity or endowment contract, then, under section 408(e)(3), such annuity or endowment contract loses its section 408(b) classification, and the owner must include in gross income, for the taxable year during which the owner borrows any money under, or by use of, such annuity or endowment contract, the fair market value of the annuity or endowment contract.

## **The Provisions in Article VIII, Article IX, and Article X Have Not Been Pre-Approved by the IRS**

**8.20 - Pledging / Security:** Depositor acknowledges and agrees that should they pledge any portion of the Account as collateral for a loan, the amount so pledged will be treated as a distribution and will be included in their gross income for that year. Such distributions may be subject to additional tax as explained in Section 8.18 herein if the Depositor has yet to attain the age of 59 ½.

**8.21 - Rollovers and Conversions:** Depositor's IRA: may be rolled over to another IRA owned by the Depositor, or the Depositor's spouse in the event of the Depositor's death; may receive rollover contributions; or may be converted to a Roth IRA; provided, in any case, that all of the applicable rollover and conversion rules are followed. Rollover is a term used to describe a movement of cash or other property to your IRA from another IRA. Conversion is a term used to describe the movement of Traditional IRA assets to a Roth IRA. A conversion generally is a taxable event. These transactions are often complex. The Custodian and Administrator shall not be responsible for determining whether you made a proper rollover contribution, but the Custodian or Administrator may request a certification that the funds represent a qualified rollover to ensure the accuracy of the Custodian's and Administrator's records. Depositor should consult a tax advisor or attorney prior to any rollover election. To obtain additional information regarding IRAs, contact any District Office of the IRS. See in particular IRS Publication 590 (Individual Retirement Arrangements). Click [here](#) for further details.

### **ARTICLE IX SELF-DIRECTED IRA PROVISIONS**

**9.01 - Investment of Contributions:** As provided in Sections 8.12 and 8.13, at the direction of the Depositor, the Administrator or Custodian shall invest all contributions to the Custodial Account and earnings thereon in investments, provided that such investments are considered administratively feasible by the Custodian. Such investments may include but are not limited to private placement offerings, cryptocurrencies, real estate, promissory notes, limited partnership interests, and other investments to which the Custodian consents, in such amounts as are specifically selected and specified by Depositor in orders to the Administrator or Custodian in such form as may be acceptable to the Custodian or Administrator, without any duty to diversify and without regard to whether such property is authorized by the laws of any jurisdiction as a trust investment. The Custodian or Administrator shall be responsible for the execution of such orders and for maintaining adequate records thereof. However, if any such orders are not received as required, or, if received, are unclear in the opinion of the Custodian or Administrator, 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, or the contribution may be returned. The Custodian may, but need not, establish programs under which cash deposits and uninvested funds in excess of a minimum set by it will be periodically and automatically invested in government insured interest-bearing investment funds or accounts. The Custodian shall have no duty other than to follow the written investment directions of the Depositor, or the Depositor's designated Investment Advisor or other representative, and shall be under no duty to question said instructions and shall not be liable for any investment losses sustained by the Depositor under any circumstances.

**9.02 - Indemnification:** The Custodian or Administrator shall have no duty regarding the investments in the Custodial Account other than to follow the written investment directions of the Depositor, or the Depositor's designated Investment Advisor or other representative, as the case may be, and shall be under no duty to question said instructions and shall not be liable for any investment losses sustained by the Depositor, or any resulting costs or liabilities, under any circumstances. Depositor agrees to indemnify Custodian and Administrator for any losses, costs, or fees (including reasonable attorney's fees) that are incurred by Custodian or Administrator in connection with any such investments or related directions by Depositor.

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**9.03 - Registration:** All assets of the Account shall be registered in the name of the Custodian, or in the name of the Administrator who shall be the agent of the Custodian for purposes of holding assets of the Custodial Account. The same Administrator may be the agent of the Custodian with respect to the holding of assets of other investors whether or not held under agreements similar to this one or in any capacity whatsoever; and the Custodian may commingle the assets so held to the extent permitted by law. However, the Custodial Account and each other account or asset so held shall each be separate and distinct; a separate account or subaccount therefor shall be maintained by the Custodian (or by the Administrator on behalf of the Custodian). The assets of the Account may be held by the Custodian in individual or bulk segregation, in vaults, electronic or digital repositories, accounts or wallets, maintained by the Custodian or Custodian's authorized sub-custodians, agents or administrators, or, to the extent the Custodian agrees to hold publicly traded securities in the Custodial Account, through brokerage accounts of entities permitted to hold assets of the applicable type under the Securities Exchange Act of 1934 or the Commodities Exchange Act.

**9.04 - Investment Advisors:** The Depositor may appoint one or more Investment Advisors, qualified under Section 3(38) of the Employee Retirement Income Security Act of 1974, to direct the investment of the Custodial Account, or any specified portion of the Custodial Account. The Depositor shall notify the Custodian or Administrator in writing of any such appointment by providing the Custodian or Administrator a copy of the instruments appointing the Investment Advisor and evidencing the Investment Advisor's acceptance of such appointment, an acknowledgment by the Investment Advisor that it is a fiduciary of the Custodial Account, and a certificate evidencing the Investment Advisor's current registration under the Investment Advisers Act of 1940. The Custodian or Administrator shall comply with any investment 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. The Custodian or Administrator shall have no duty other than to follow the written investment directions of such Investment Advisor and shall be under no duty to question said instructions, and the Custodian or Administrator shall not be liable for any investment losses sustained by the Depositor, under any circumstances. Depositor agrees to indemnify Custodian and Administrator for any losses, costs, or fees (including reasonable attorney's fees) that are incurred by Custodian or Administrator in connection with appointment, directions, acts or omissions of any such Investment Advisor.

**9.05 - No Investment Advice:** The Custodian or Administrator does not assume any responsibility for rendering advice with respect to the investment and reinvestment of Custodial Account and shall not be liable for any loss that results from directions or exercise of control by Depositor or his or her agents over his or her Custodial Account under any circumstances. The Custodian or Administrator and Depositor may specifically agree in writing that the Custodian or Administrator shall render such advice, but the Depositor shall still have and exercise exclusive responsibility for decisions and control over the investment of the assets of his or her Custodial Account, and the Custodian or Administrator shall not have any duty to question his or her investment directives.

**9.06 - Prohibited Transactions:** Depositor acknowledges and agrees to abide by the provisions of § 4975 of the Internal Revenue Code and the related Treasury regulations pertaining to "Prohibited Transactions," and acknowledges that adverse tax consequences to the Depositor may result from any investment or other use of the Custodial Account in a way that constitutes such a Prohibited Transaction. Depositor understands that by engaging in a prohibited transaction as described in §4975(c) (such as any sale, exchange, borrowing, or leasing of any property between you and your IRA; or any other interference with the independent status and exclusive benefit of the account), the account will lose its exemption from any preferential tax treatment and be deemed distributed in full in the tax year in which Depositor or the beneficiary, as applicable, engaged in the prohibited transaction. Such distribution may also be subject to additional penalties including a 10% penalty tax if Depositor has not attained age 59 1/2 in the year of the

## **The Provisions in Article VIII, Article IX, and Article X Have Not Been Pre-Approved by the IRS**

prohibited transaction. See Publication 590-B [here](#) for further instructions on calculating taxable gain, reporting amounts in income and prohibited transaction penalty taxes.

Depositor assumes full responsibility for and agrees to release and hold the Custodian and Administrator harmless for Prohibited Transactions entered into, either knowingly or without knowledge, at the direction of the Depositor. Without limiting the generality of the foregoing, and notwithstanding anything contained in this Agreement to the contrary, the Depositor shall not direct the Custodian or Administrator to lend directly or indirectly any part of the corpus or income of the Custodial Account to; pay any compensation for personal services rendered to the Custodial Account to; make any part of its services available on a preferential basis to; acquire for the Custodial Account any property, other than cash, from; or sell any property to any Depositor, certain members of a Depositor's family as outlined in IRC § 4975(e), or a corporation controlled by any Depositor through the ownership, directly or indirectly, of 50 percent or more of the total combined voting power of all classes of stock entitled to vote, or of 50 percent or more of the total value of shares of all classes of stock of such corporation. Depositor should consult with a tax advisor or attorney with respect to any adverse tax consequences that may result from a Prohibited Transaction entered into by an IRA.

**9.07 - Taxes and Reports Provided by Depositor:** Depositor assumes complete responsibility for the tax consequences of any and all contributions, transfers, rollovers, investments, distributions and other transactions involving the Custodial Account. Depositor agrees to obtain and timely report to Administrator in writing the fair market value of each asset held in the Custodial Account as of December 31st each year. If the Depositor directs investment of the Custodial Account in any investment or asset which generates or results in unrelated business taxable income, it shall be the responsibility of the Depositor to so advise the Custodian or Administrator and to provide the Custodian or Administrator with all information necessary to file any required returns or reports for the Custodial Account. It shall be the responsibility of the Depositor to produce such returns and provide to the Custodian or Administrator the information necessary to file such returns. The Custodian and Administrator are authorized to file such returns and reports, and to apply assets of the Custodial Account to the payment of any taxes that are owed, in connection with or as a result of such transactions, investments and/or unrelated business taxable income.

**9.08 - Gift and Estate Taxes:** Depositor acknowledges that Sections 2039(e) (relating to exemption from estate tax of annuities under certain trusts and plans) and 2517 (relating to exemption from gift tax of specified transfers of certain annuities under qualified plans) apply (including the manner in which such sections apply) to the account, annuity, or endowment contract. Depositor should consult with tax advisor or attorney with respect to the application of estate and gift tax issues relating to an IRA.

**9.09 - Special Tax Treatment:** Capital gains treatment and 10-year income averaging authorized by IRC Sec. 402 do not apply to Traditional, Roth, Simple, IRA distributions.

**9.10 - Additional Taxes – Form 5329:** The Depositor acknowledges that they must file Form 5329 (Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts) with the Internal Revenue Service for each taxable year during which the Account is subject to tax, including for taxable distributions or excess contributions. Click [here](#) for further details .

**9.11 - Disclosures and Voting:** The Custodian or Administrator may deliver, or cause to be executed and delivered, to Depositor all notices, prospectuses, financial statements, proxies and proxy soliciting materials relating to assets credited to the Custodial Account. The Custodian and Administrator shall not vote any shares of stock or take any other action, pursuant to such documents, with respect to such assets except upon receipt by the Custodian or Administrator of adequate written instructions from Depositor.

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**9.12 - Miscellaneous Expenses:** In addition to those expenses set out in this Agreement, the Depositor agrees to pay any and all expenses incurred by the Custodian or Administrator in connection with the investment of the Custodial Account, including but not limited to all legal expenses connected with the Custodial Account, and expenses of preparation and filing any returns and reports with regard to unrelated business income, including taxes and estimated taxes, as well as any transfer taxes incurred in connection with the investment or reinvestment of the assets of the account.

**ARTICLE X SEVERABILITY**

**If any provision of this Custodian Agreement is found to be illegal, invalid, void or unenforceable such provision shall be severed and such illegality or invalidity shall not affect the remaining provisions which shall remain in full force and effect.**