

# **TCG 457(b) Program Terms & Conditions**

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**TCG ADMINISTRATORS, LP**  
**CLIENT SERVICES AGREEMENT**  
**INDIVIDUAL TAX DEFERRED INVESTMENT PARTICIPANT**

This client services agreement (“Agreement”) is between TCG Administrators, LP (“TCG”) and each person named as a client (“Client”) on the application for the individual investment tax deferred program in which the Client has indicated he or she wishes to participate on the application (the “Program”).

Each Client is referred to herein as “Client” or “You” or “Participant” or “Investor.” This Agreement is effective only when TCG accepts and approves it.

**Services**

TCG is a duly authorized third party administrator engaged in the business of providing administration of retirement plans and individual participant accounts in such plans. TCG’s sole compensation for providing services to the Client or Investor shall be those fees specified in this Agreement. Compensation to TCG will not vary based upon investment options selected by the Investor, nor shall TCG accept, if allowed to choose such acceptance, any additional fees, commissions, or other benefits from selected mutual fund companies whose funds are utilized by the Program. In the event that TCG or any of its affiliates receive any form of compensation from mutual funds or other investments utilized by the Program, such compensation shall be used to offset fees paid by participants in the Program. TCG, through the Program, offers investment advisory services solely for the administrative purpose of allowing investors to purchase certain mutual funds and in such instances TCG (and its affiliates) shall function purely in a clerical and ministerial capacity.

**Application Process/Portfolio Selection**

You will complete your application via the Program’s website. You, as Client, understand and acknowledge that TCG is relying upon your accurate completion of the application. You acknowledge that the purchase of shares in such mutual funds are at risk and TCG offers no investment advice concerning mutual funds (or any other registered investment) for you to purchase nor is TCG acting as your investment advisor. If you are an individual investment client of TCG Advisory Services, LLC (an affiliate of TCG and a registered investment advisor), then upon specific request TCG Advisory Services, LLC will provide you with investment advice regarding the Program. To receive such investment advice, you must complete separate agreements (not part of this Agreement), required for an individual to be such a client and provide an acknowledgement of the separate capacities in which TCG Administrators and TCG Advisory Services, LLC operate.

TCG reserves the right to use subcontractors, third party vendors or other services to assist in managing the Program.

You can change your fund choices in the future. A customer service representative of TCG will be available by telephone to respond to your questions.

**Investment Management Services**

TCG will provide mutual fund options in the Program from which you can select. All investment activity will be supervised by TCG Advisory Services, LLC, an affiliate of TCG. Where applicable and to the extent that any securities transaction occurs, then TCG Advisory Services, LLC shall conduct and execute same. TCG will pay the fees charged by TCG Advisory Services, LLC, if any, for this service.

Changes may be made to the fund options at any time at the discretion of TCG and TCG Advisory Services, LLC, including adding new options or removing previous options.

The Program website is updated anytime there is a change in the funds offered.

**Suitability**

You understand and agree that the Program is an online process and relies on information provided by you. You acknowledge that you will be responsible for all investment decisions about your account in the Program and that this program is considered Self Directed.

You acknowledge that any assistance you may receive from a TCG representative is for educational purposes only or to assist you in managing your account for administrative purposes only. You also acknowledge that you are solely responsible for enrolling in the Program and choosing your funds, that TCG is not responsible for your decisions and TCG will not offer you investment advice of any kind unless you are an individual investment client of TCG Advisory Services, LLC as provided in "Application Process/Portfolio Selection" herein. TCG will not provide specific security advice as part of this Program.

TCG makes no representation or warranty about how your account will perform with the Program, and your account values may increase or decrease over time.

### **Consent to Electronic Delivery**

Any notice, correspondence, or other communication required in connection with this Agreement will be deemed effective upon receipt. As a condition of this Program, you agree to receive communications from us electronically (including, without limitation, prospectuses, Forms ADV, brochure supplements, our privacy policy, account statements, and other reports) (1) via e-mail at the address listed in your application; (2) by access to a website that we will designate in an e-mail notice we send to you at the time the information is available; and/or (3) to the extent permissible by law, by access to a website that we will generally designate in advance for such purpose. Accordingly, it is important that you maintain an up-to-date email address with TCG and this will be a responsibility of the Client herein.

You acknowledge that communications from TCG will only be delivered electronically. By sending or receiving sensitive or confidential electronic communications, you accept the risks and possible lack of confidentiality over the internet. You agree to hold us (TCG) and our affiliates, successors and assigns free from any damages related to or arising from the delivery of electronic communications.

By entering into this Agreement, you acknowledge that the Program is offered only online.

### **Custodian**

Matrix Trust will act as the 457(b)(7) qualified custodian for your account ("Custodian"). As the Custodian, Matrix Trust will be responsible for trade execution. TCG may change the Custodian without notice to you at its sole discretion and such change shall be automatically incorporated herein by this reference.

By entering into this Agreement, you authorize and instruct TCG to use Matrix Trust (or any other Custodian selected by TCG) and its agents to execute all investment transactions for your account. Under this Agreement, you acknowledge and agree that for administrative purposes TCG can give instructions for transactions to Matrix Trust for your account.

You acknowledge that the fees payable to the Custodian are separate and apart from the fees payable under this Agreement to TCG. Please see the Program Website and the Fee Appendix for more information on the fees payable to the Custodian.

### **Administration Fee**

TCG charges a fee for the services provided under this Agreement. The fee ("Administration Fee") shall be disclosed in the Fee Appendix and will be assessed as a percentage of the value of the assets held in your account and/or as a fixed dollar amount. The Administration Fee shall be paid quarterly, in arrears, and the percentage of asset fee shall be based upon the value of the assets on the last day of the previous quarter, as valued by Matrix Trust and TCG Administrators, an affiliate of TCG Advisory Services, LLC, or as set forth on the most recent statement made available to us.

You hereby direct and authorize TCG Advisory Services, LLC to direct TCG and/or Matrix Trust to deduct the Advisory Fee from your account and TCG to deduct the Administration Fee from your account. You acknowledge that it is your responsibility to verify the accuracy of the calculation of the Advisory and Administration Fees and

that TCG and/or the Custodian will make a good faith effort to determine whether the Advisory Fee is accurate and properly calculated, but neither TCG, TCG Advisory Services, LLC nor the Custodian can guarantee the accuracy of the calculation. You acknowledge that there may be redemption fees or other sales charges on the sale of such securities.

### **Proxies and Related Matters**

You acknowledge that TCG will be sent certain issuer and issuer-related communications (proxies, tender offers, proposed mergers, rights offerings, exchange offers and warrants, among other things) that may require a voting decision or other action regarding investments held in your account (collectively, "Proxies"). TCG will not vote any Proxies, including those voting Proxies sent to TCG. You will not be sent informational copies of these communications. Certain other issuer and issuer-related communications regarding investments held in your account may still be sent to me. You will be responsible for providing TCG any applicable instructions or directions on those items, if you choose to do so. By signing this Agreement, you agree to delegate your proxy voting authority.

### **Receipt of Disclosures**

You hereby acknowledge receipt of our Privacy Policy Notice and a copy of our written disclosure statement as set forth on Part 2 of Form ADV.

### **No Tax Advice**

You agree that TCG has not provided, and does not and will not provide, any tax advice. You acknowledge that you, and not TCG, are responsible for any tax implications and/or tax obligations resulting from your decision to enroll in the Program, from your choice of portfolio. You further acknowledge that you have had the opportunity to, and should in the future, consult with your own professional tax counselor with respect to tax matters.

### **Investment Restrictions**

If you elect to impose investment restrictions on the management of your Account, you understand that this may result in delays in the management of your account and that you may be notified that your account cannot be managed with those investment restrictions.

### **Trade Aggregation**

You acknowledge and agree that TCG may, but will be under no obligation to, aggregate purchase or sale orders for your account with purchase or sale orders in a particular security for other accounts in the Program. Any communication of a trade execution or related matter by TCG or its affiliates shall be in a purely clerical and ministerial capacity.

### **Amendment**

TCG may, in its sole discretion and at any time, modify or amend this Agreement upon prior or concurrent written notice to the Client. Once you are sent such notice, you may terminate this Agreement. Termination of this Agreement will not affect your obligations arising before such termination is effective. Termination of this Agreement will automatically un-enroll your account from the Program.

### **Termination**

You may revoke or terminate all authorizations or designations conferred herein at any time upon at least three (3) business days' notice by notifying TCG by email or written notice sent by U.S. mail, a delivery service or fax that you wish to un-enroll from the Program. It is your responsibility to follow up with TCG to assure that your notice has been received. Any revocation or termination will not affect obligations resulting from transactions initiated prior to the effective time of the termination.

If you have any questions about the terms and conditions of the Program, you agree to consult with a TCG representative via web, email or by phone.

You may be terminated from the Program by TCG for withdrawing assets from your account such that that withdrawal(s) brings your account balance below the TCG determined minimum, if any, and including but not limited to the following reasons: (i) failure to maintain a valid email address with TCG for electronic delivery of documents; or (ii) requesting paper versions of documents. Depending on the reason for the termination, you may have the opportunity to make a change to resolve the reason for the termination. If you are unable to remedy the reason for my termination, your account will be unenrolled from the Program and the assets in the account will no longer be managed through the Program.

### **Verification**

You authorize TCG to inquire from any source, including a consumer reporting agency, as to your identity (as required by federal law) or to obtain any other material information required to administer this account.

### **Force Majeure**

TCG will not be liable for any loss, damages, delay in, or failure of performance of this Agreement arising from causes beyond its reasonable control, including delay or cessation of services under this Agreement, or any damages to clients resulting therefrom, as a result of any strike, power or other mechanical failure, computer virus, computer failure on your part or on TCG's part, natural disaster or adverse acts of nature, governmental action, communications disruption or failure, acts of terrorism, war or acts of God.

### **Assignment**

TCG may assign this Agreement to a successor to or purchaser of TCG by notifying you in advance of such assignment. You have the right to terminate this Agreement and your participation in the Program if you do not wish to allow such assignment.

### **Arbitration Disclosures and Agreement**

This Agreement contains a predispute arbitration clause. By signing an arbitration agreement, the parties agree as follows:

- All parties to this Agreement are giving up the right to sue each other in court, including the right to a trial by jury, except as provided by the rules of the arbitration forum in which a claim is filed.
- Arbitration awards are generally final and binding; a party's ability to have a court reverse or modify an arbitration award is very limited.
- The ability of the parties to obtain documents, witness statements and other discovery is generally more limited in arbitration than in court proceedings.
- The arbitrators do not have to explain the reason(s) for their award unless, in an eligible case, a joint request for an explained decision has been submitted by all parties to the panel at least 20 days prior to the first scheduled hearing date.
- The panel of arbitrators will typically include a minority of arbitrators who were or are affiliated with the securities industry.
- The rules of some arbitration forums may impose time limits for bringing a claim in arbitration. In some cases, a claim that is ineligible for arbitration may be brought in court.
- The rules of the arbitration forum in which the claim is filed, and any amendments thereto, shall be incorporated into this Agreement.

No person shall bring a putative or certified class action to arbitration, nor seek to enforce any predispute arbitration agreement against any person who has initiated in court a putative class action; or who is a member of a putative class who has not opted out of the class for any claims encompassed by the putative class action until:

1. The class certification is denied;
2. The class is decertified; or

3. The customer is excluded from the class by the court.

Such forbearance to enforce an agreement to arbitrate shall not constitute a waiver of any rights under this Agreement except to the extent stated herein.

**Arbitration Agreement.** Any controversy or claim arising out of or relating to (i) this Agreement, any other agreement with TCG, any instruction or authorization provided to TCG or the breach of any such agreements, instructions, or authorizations; (ii) your Account, any other TCG account or services; (iii) transactions in your Account or any other TCG account; (iv) your relationship with TCG, their parent company, subsidiaries, affiliates, officers, directors, employees, agents or service providers (“Related Third Parties”), including any controversy over the arbitrability of a dispute, will be settled by arbitration.

This arbitration agreement will be binding upon and inure to the benefit of the parties hereto and their respective representatives, attorneys-in-fact, heirs, successors, assigns and any other persons having or claiming to have a legal or beneficial interest in your Account, including court-appointed trustees and receivers. This arbitration agreement will also inure to the benefit of third-party service providers that assist TCG in providing services (“Third-Party Service Providers”) and such Third-Party Service Providers are deemed to be third-party beneficiaries of this arbitration agreement.

The parties agree that this arbitration agreement will apply even if the application to open your Account is denied and will survive the closure of your Account and/or the termination of services rendered under this Agreement.

Such arbitration will be conducted by, and according to the rules and regulations then in effect of, the American Arbitration Association (“AAA”). If arbitration before the AAA is unavailable or impossible for any reason, or the parties agree not to use the rules of AAA, then the parties agree to have a court of competent jurisdiction appoint three (3) arbitrators to resolve any and all disputes or controversies between or among the parties. Each party shall bear its own attorney’s fees. Each party shall bear its own initial arbitration costs, which are determined by the rules and regulations of the arbitration forum. In the event of financial hardship, the arbitration forum may waive certain costs in accordance with such rules. At the conclusion of the hearing, the arbitrators will decide how to assess the costs of the arbitration among the parties.

Any award the arbitrator makes shall be final and binding, and judgment on it may be entered in any court having jurisdiction. This arbitration agreement shall be enforced and interpreted exclusively in accordance with applicable federal laws of the United States, including the Federal Arbitration Act. Any costs, fees or taxes involved in enforcing the award shall be fully assessed against and paid by the party resisting enforcement of said award.

All notices from one party to the other involving arbitration shall be considered to have been fully given when so served, mailed by first-class, certified or registered mail, or otherwise given by other commercially accepted medium of written notification.

In addition to the above provisions, if a party to this Agreement is or becomes a non–U.S. resident at the time of any controversy subject to this arbitration agreement, such party acknowledges and agrees to the following additional provisions:

1. The rules of the organization administering the arbitration specifically provide for the formal designation of the place at which the arbitration is to be held.
2. Entering into this Agreement constitutes consent to submit to the personal jurisdiction of the courts of the state of Texas, to interpret or enforce any or all of these arbitration provisions. Judgment on any arbitration award may be entered in any court having jurisdiction, or application may be made to such court for judicial acceptance of the award and an order of enforcement, as the case may be.
3. The exclusive language to be used by the parties and the arbitrators in the arbitration proceedings shall be English. Any party wishing an interpreter shall make all arrangements directly with the interpreter and shall assume all costs of the service.
4. If a party is a foreign government or state, state-owned or state-operated enterprise or other instrumentality of a foreign government or state, such party waives all rights of sovereign immunity and neither the Federal Act of State doctrine nor the doctrine of sovereign immunity shall apply insofar as any enforcement in courts located in the U.S.A. is concerned.

**AFFIRMATION**

By logging into the 457(b) Program website and opening the Agreements herein, I hereby affirm that I have specifically reviewed this client services Agreement (in addition to the other agreements for the Program contained herein), agree to the terms, supplied my name as the Participant (as defined by the Program Agreements herein) and have logged into this website under the 457(b) Plan sponsored by my Employer. My acceptance of the Agreement herein on the Program website will be my electronic signature as described in the Program Agreements.

## **MASTER CUSTODIAL ACCOUNT ADMINISTRATION AGREEMENT WITH PARTICIPANT**

THIS MASTER CUSTODIAL ACCOUNT ADMINISTRATION AGREEMENT ("Agreement") is entered into by and between the Participant named herein and TCG Administrators, LP, as Master Custodial Administration Agreement Administrator (the "Master Custodial Administration Agreement Administrator" and the "Administrator") for the Participant under the Plan as set forth in Appendix C attached hereto (each, a "Participant" and "Participating Plan") and is entered into as of the Effective Date in Appendix C.

### **PRELIMINARY STATEMENTS**

WHEREAS, the Participant's Employer has adopted or may hereafter adopt various qualified retirement plans for the benefit of its employees; and

WHEREAS, each Participating Plan provides for the financing by means of a Custodial Agreement for all or a part of the benefits to be paid pursuant to the Participating Plan to certain employees and their beneficiaries; and

WHEREAS, the Participant and the Master Custodial Administration Agreement Administrator wish to establish a Custodial Account in which the assets of the Participant's Plan account may be pooled and commingled with other Participants' accounts, solely for investment purposes to facilitate the investment of such assets on a diversified basis; and

WHEREAS, the Participant desires to appoint the Master Custodial Administration Agreement Administrator as a nondiscretionary Master Custodial Administration Agreement Administrator of the Custodial Account of the Participant's Plan account for the purposes hereinafter set forth, and the Master Custodial Administration Agreement Administrator desires to act as a nondiscretionary Master Custodial Administration Agreement Administrator of the Custodial Account of the Participant's Plan account subject to the terms and conditions stated herein.

WHEREAS, the Master Custodial Administration Agreement Administrator has determined that the Employer's Plan qualifies for exemption from Title I of the Employee Retirement Income Security Act of 1974 ("ERISA") as a governmental plan in accordance with Chapter 18, Subchapter I, Subtitle A, Section 1002(32) of ERISA.

NOW, THEREFORE, the parties hereto, intending to be legally bound, hereby agree as follows:

### **ARTICLE I**

The Master Custodial Administration Agreement; Employer Certifications; Participating Plan

#### **1.1 The Master Custodial Administration Agreement.**

- (a) The Participant hereby establishes a Master Custodial Administration Agreement with the Master Custodial Administration Agreement Administrator that shall be held and administered by the Master Custodial Administration Agreement Administrator (the "Master Custodial Administration Agreement") upon the terms and conditions stated herein. This Agreement shall be effective as of the later of the date hereof or the date on which the assets are transferred to the Custodial Account. Each Participant's account in a Participating Plan shall constitute a part of the Master Custodial Administration Agreement that shall provide for the pooling and commingling of the assets of the Plans of the Plan Sponsors participating in the Custodial Account. This Agreement shall only govern the administration of the Custodial Account for holding the assets of the Participating Plan. It shall not replace or supersede any of the provisions in the Participating Plan documents, except as set forth in Section 1.1(c) hereof.
- (b) The Participating Plan, this Agreement and the Custodial Account created hereby are intended to meet all applicable requirements of Sections 457(b) of the Internal Revenue Code of 1986 and related Sections of the Code and Regulations, as amended (the "Code") as each has been and may be amended from time to time.
- (c) This Agreement restates, replaces or amends any existing agreements or provisions covering assets held or to be held in the Custodial Account. The investment provisions of this Agreement are subject to all of the



terms and conditions of the Investment Policies and Procedures attached hereto as Appendix A, which are incorporated herein by reference. Notwithstanding anything to contrary set forth in this Agreement, the Master Custodial Administration Agreement Administrator may amend the Investment Policies and Procedures at any time only upon written notice to the Employer unless such change is required to comply with applicable law.

- (d) The Master Custodial Administration Agreement Administrator shall rely upon the determination of the Plan Administrator (as defined in Section 2.1 below) that all assets are properly contributed or transferred to the Custodial Account in accordance with the provisions of the Participating Plans. Such assets shall be in cash or in such other form as required by the Investment Policies and Procedures. The Custodian's acceptance of any Participating Plan asset previously held by another Custodial Account, financial institution or fiduciary pursuant to the Participating Plan shall not make the Master Custodial Administration Agreement Administrator or the Custodian liable for the propriety of the purchase or retention of such asset. The Employer or other authorized fiduciary of each Participating Plan shall place those assets which are unacceptable to the Custodian under a separate Custodian Agreement or shall retain such assets in any other appropriate account as defined in Section 401(f) of the Code. Neither the Custodian nor the Master Custodial Administration Agreement Administrator shall have any responsibility for such assets.
- (e) The Master Custodial Administration Agreement Administrator shall have no responsibility to enforce the collection from the Employer of any contribution to the Custodial Account, nor any responsibility for the sufficiency of the Custodial Account.

Except as otherwise permitted by the terms of the Participating Plan and applicable law, no part of the Custodial Account shall be used for or diverted to purposes other than the exclusive benefit of the Participants and their beneficiaries, except that payment of administration expenses may be made from the Custodial Account as provided in Article V hereof, and the Employer shall have no right, title or interest in the Custodial Account, nor shall any part of the Custodial Account revert or be repaid to the Employer, directly or indirectly.

- (f) The Master Custodial Administration Agreement Administrator shall maintain, or cause to be maintained, such accounts as may be necessary to properly administer the Master Custodial Administration Agreement, including accounts with a qualified Custodian or its assigns or successors. For purposes of this Agreement, "Custodian" means the person(s) with responsibility for physical control over the Participating Plan assets. The Custodian pursuant to this Agreement shall be Matrix Trust.
- (g) The Master Custodial Administration Agreement Administrator shall be responsible only for complying with the terms of this Agreement as amended from time to time and performance of those duties expressly assigned herein. The Master Custodial Administration Agreement Administrator assumes no responsibility for duties assigned to anyone else under the Participating Plan, this Agreement or by operation of law.

1.2 Employer Requirements. The Employer will be required by the Master Custodial Administration Agreement Administrator to meet the following conditions:

- (a) It will maintain the Participating Plan or cause the Participating Plan to be maintained in compliance with the qualification requirements of Section 457(b) of the Code (including, where applicable, receipt from the Internal Revenue Service of a favorable qualification letter) and shall promptly notify the Master Custodial Administration Agreement Administrator of any change in such qualified status.
- (b) All directions or authorizations under this Agreement by the Employer, Plan Administrator, or other authorized person(s) will be made in accordance with the terms of the Participating Plan.
- (c) The terms of the Participating Plan provide for the creation of a Custodial Account and the appointment of one or more Investment Managers (as defined in Section 3.2 below).
- (d) The Employer is a United States entity.
- (e) The Employer is the "Plan Sponsor" of the Participating Plan and has the authority to act for each

participating employer designated under the Participating Plan, if any, with respect to the execution of this Agreement.

- (f) The terms of the Participating Plans do not impose any duties upon the Master Custodial Administration Agreement Administrator or the Custodian that are inconsistent with this Agreement.
- (g) It has full power and authority under applicable law, to offer a 457(b)(7) Custodial Account under its Plan and, thus to comply with the terms of this Agreement.
- (h) This Agreement constitutes a legal, valid and binding obligation, enforceable in accordance with its terms.
- (i) No consent or authorization of, filing with, or other act by or in respect of any governmental authority is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement.
- (j) The execution, performance and delivery of this Agreement shall not result in it violating any applicable law or breaching or otherwise impairing any of its contractual obligations.

1.3 Participating Plan. As of the date of establishment of any initial fund or any other investment fund so established under the Custodial Agreement, the Custodian shall accept the transfer to such Fund of all or any portion of the assets of the Custodial Account of any Participating Plan, provided that the Master Custodial Administration Agreement Administrator determines that the following conditions are met:

- (a) The Master Custodial Account Administrator believes such Participating Plan to meet the requirement of Section 457(b) of the Code; and
- (b) the terms of the Participating Plan provide for the creation of a Custodial Account and the appointment of a Custodian and one or more Investment Managers; and
- (c) the terms of the Participating Plan do not impose any duties upon the Custodian that are not contained in or are inconsistent with the Agreement.
- (d) each affiliate of the Employer joining in and adopting the Custodial Agreement appoints the Employer as its agent for the purposes set forth in this Agreement and agrees that:
- (e) it shall be bound by the decisions, actions and directions of the Employer and the Plan Administrator; and
- (f) the Employer has the sole authority to enforce this Agreement on behalf of such affiliate; and
- (g) the Master Custodial Administration Agreement Administrator and any entity to which it has delegated any responsibility shall be fully protected in relying upon such decisions, actions and directions and shall in no event be required to give notice to or otherwise deal with such affiliate except by dealing with the Employer as agent of such affiliate.
- (h) The Custodial Agreement shall, to the extent of each Participating Plan's interest in any fund in the Custodial Account, constitute a part of such Participating Plan.
- (i) The Administrator shall assure that the Employer promptly notifies the Master Custodial Administration Agreement Administrator of any and all amendments made to such Participating Plan, and of any determination or other action taken by the Internal Revenue Service with respect to its qualification under section 457(b) of the Code.

1.4 Title to Assets. Neither any Participating Plan, nor Participants or their beneficiaries shall have any right, title or interest in or to any specific assets of the Custodial Account but shall have an undivided beneficial interest in the Master Custodial Account valued in accordance with Section 4.3 hereof. Ownership of all the individual assets of the Custodial Account shall be determined by the Master Custodial Administration Agreement Administrator as recordkeeper for the Custodial Account. The Master Custodial Administration Agreement Administrator shall not issue any certificate or other documentation representing any interest in the Custodial Account or

part thereof.

## ARTICLE II

### Duties and Responsibilities of the Plan Administrator

- 2.1 Definition of Plan Administrator. As used in this Agreement, the term “Plan Administrator” means the person (including any individual, individuals, committee, partnership or corporation) so designated in accordance with the terms of the Participating Plan or in writing by the Employer from time to time, or, if no such person is so designated, such term shall mean the Employer. The Employer shall provide the Master Custodial Administration Agreement Administrator the names and signatures of the person(s) designated as the Plan Administrator who shall be authorized to instruct the Master Custodial Administration Agreement Administrator under this Agreement. The Employer shall promptly give notice to the Master Custodial Administration Agreement Administrator of a change in the identity or duties of a Plan Administrator. The Master Custodial Administration Agreement Administrator shall not be held liable for any actions taken in assuming that the designated person(s) are authorized to act as Plan Administrator(s). The Plan Administrator may also designate persons who are authorized to act on behalf of the Plan Administrator from time to time (“other authorized person”) and shall provide the names and signatures of the other authorized persons to the Master Custodial Administration Agreement Administrator. The Master Custodial Administration Agreement Administrator may rely in all respects, without having to make further inquiry, upon instructions appearing to be instructions from any person designated as the Plan Administrator or other authorized person. For purposes of this Agreement, the Master Custodial Administration Agreement Administrator shall be deemed to have received proper instructions upon receipt of written, telephonic or facsimile instructions from any one of the individuals whose names appear on the authorized signature list maintained at the Master Custodial Administration Agreement Administrator’s address shown in Section 11.5 hereof. Such instructions may be general or specific in terms and, if not in writing, shall be followed by prompt written confirmation thereof.
- 2.2 Payments from the Custodial Account. The Plan Administrator or other authorized person, including the Plan’s third party administrator, if any, shall from time to time instruct the Master Custodial Administration Agreement Administrator to instruct the Custodian to make payments out of the Custodial Account, in such amounts and for such purposes as may be specified by the Plan Administrator. The Master Custodial Administration Agreement Administrator shall have no responsibility for determining the accuracy or appropriateness of any such payment and any such instruction to pay may be relied upon by the Master Custodial Administration Agreement Administrator as authorized under applicable law and the terms of the Participating Plan.
- 2.3 Participant Loans. If permitted under the Participating Plan, a Participant may make application to the Plan Administrator or other authorized person requesting a loan from the Custodial Account. Loans shall be made available to Participants only in accordance with the applicable Participating Plan. The Plan Administrator or other authorized person will approve all Participant loans unless the Master Custodial Administration Agreement Administrator otherwise agrees to accept such duties. Loan administration duties shall include approving or disapproving loan applications, loan origination and closing, providing proper disclosures under federal and state laws, notifying borrowers of default, and collecting current and past due payments. The Plan Administrator or other authorized person will retain custody of all loan documentation unless the Master Custodial Administration Agreement Administrator otherwise agrees to do so. The Plan Administrator or other authorized person will periodically notify the Master Custodial Administration Agreement Administrator of each loan to be made from the Custodial Account and the repayments thereof. Upon receipt of such notice, the Master Custodial Administration Agreement Administrator will reflect the amount of each loan and its repayments on the records of the Custodial Account. The Administrator Master Custodial Administration Agreement Administrator shall provide appropriate loan forms and documentation to the Participant and Plan Administrator.

## ARTICLE III

### Powers, Duties and Obligations of the Master Custodial Administration Agreement Administrator and the Custodian

- 3.1 No Discretion. The Master Custodial Administration Agreement Administrator shall have no discretionary control over, or any other discretion regarding, the investment of the Master Custodial Account or the administration of the Participating Plan. The Employer hereby instructs the Master Custodial Administration Agreement Administrator to act solely in accordance with instructions received from the Employer, the Plan Administrator, the Investment Manager, or other authorized person, as the case may be, with respect to the

investment of the assets held in the Custodial Account and the administration of the Participating Plan. To the extent permitted by applicable law, the Master Custodial Administration Agreement Administrator shall have (a) no duty or obligation to review any investment to be acquired, held or disposed of pursuant to proper instructions or to make any recommendation with respect to the acquisition, disposition or continued retention of any investment, and (b) no liability or responsibility for following any such direction, or failing to act in the absence of any such direction.

- 3.2 The Investment Manager. Investment of the Master Custodial Administration Agreement may be directed in whole or in part by an “Investment Manager”, as defined in Section 3(38) of ERISA and appointed in accordance with Section 402(c)(3) and/or as defined by federal and/or state securities laws. The Investment Manager shall be an investment advisor registered with the Securities and Exchange Commission (“SEC”) and/or appropriate state securities regulatory agency. The Master Custodial Administration Agreement Administrator shall be entitled to rely entirely, without any independent investigation, that an Investment Manager designated as applying to the Master Custodial Administration Agreement is valid until such time as it is otherwise notified in writing. The Plan Administrator shall promptly deliver to the Master Custodial Administration Agreement Administrator prior written notice of the removal or replacement of any Investment Manager. Parties agree to use the definition of “Investment Manager” under ERISA as specified only for purposes of defining this term and acknowledge that no plans subject to Title I of ERISA shall be a part of this Master Custodial Administration Agreement.
- 3.3 Investments. The Custodial Account may be invested in any security or other property listed in the Investment Policies and Procedures, as may be amended from time to time, provided any of the permissible investments is available for acquisition through the Custodian, or an affiliate (approved for this purpose by the Master Custodial Administration Agreement Administrator) without regard to any duty to diversify and without regard to whether such property is authorized for investments by the laws of any jurisdiction relating to investments. It shall be the responsibility of the Employer to determine the diversification policy with respect to the investment of assets of the Participating Plan, for monitoring adherence to such policy, and for advising the Master Custodial Administration Agreement Administrator with respect to its compliance with any investment limitations on employer or other securities or property contained in the Participating Plan or imposed on the Participating Plans by applicable law. Notwithstanding the foregoing, the Master Custodial Administration Agreement Administrator shall issue instructions to the Custodian as directed by the Plan Sponsor, Investment Manager or other authorized person(s) to invest and reinvest the Custodial Account in investment funds designated by the Plan Administrator and, if the Participating Plan allows Participant direction of Plan investments, each Participant shall direct the Master Custodial Administration Agreement Administrator as to the investment of such Participant’s individual account as provided under the terms of the applicable Participating Plan, and the Master Custodial Administration Agreement Administrator shall inform the Custodian of such Participant investment direction. In the event the Participant fails to provide the Master Custodial Administration Agreement Administrator with an investment direction for all or a portion of the assets in the Participant’s account, such assets will be invested in a default investment option as directed by the Plan Administrator.
- 3.4 Contracts. The following provisions shall apply with respect to any life insurance policies, group annuities, guaranteed investment contracts, bank investment contracts (collectively, “Contracts”) that become part of the Master Custodial Account pursuant to this Agreement. In accordance with the instructions of the Plan Administrator or other authorized person:
- (a) The Plan Sponsor or Participant shall execute the Contract application, which application shall be in such form as such instructions prescribe; provided, however, that the Custodial Account shall be the absolute owner of all Contracts.
  - (b) The Master Custodial Administration Agreement Administrator shall instruct the Custodian to pay, but only from cash available in the Custodial Account, premiums, assessments, dues, charges and interest to acquire or maintain a Contract, as directed by the Plan Sponsor. The Master Custodial Administration Agreement Administrator shall have no duty to instruct the Custodian to make any such payment unless and until it shall have received such direction in writing from the Plan Administrator or other authorized person. Notwithstanding the foregoing, in the absence of specific direction, the Master Custodial Administration Agreement Administrator may (although the Master Custodial Administration Agreement Administrator shall not be obligated to) make instruct the Custodian to make such payment if the Master

Custodial Administration Agreement Administrator has been notified directly by a Contract issuer solely in order to avoid the lapse of such Contract and the Master Custodial Administration Agreement Administrator shall not be liable for the application of any part of the Custodial Agreement made solely for this purpose in the absence of specific directions. The Master Custodial Administration Agreement Administrator shall immediately notify the Plan Administrator if the amount of the requested payment exceeds such available cash and shall be under no duty to make any payment if sufficient cash is not available in the Custodial Account. Master Custodial Administration Agreement Administrator shall not be liable for losses arising out of a lapse in such Contract due to the insufficiency of cash in the Custodial Account.

The Master Custodial Administration Agreement Administrator may, if instructed by the Plan Sponsor or Participant, instruct the Custodian to (i) collect and receive all dividends or other payments of any kind payable with respect to, arising under, or arising out of, any Contracts, or leave the same with the issuing company; (ii) convert from one form of Contract to another form of Contract, change the person or persons designated in any Contract to receive the proceeds, designate any mode or settlement of the proceeds of any Contract, sell or assign any Contract, or surrender for cash any Contract; (iii) agree with the issuer of any Contract to any release, reduction, modification or amendment thereof; and (iv) without limitation of any of the foregoing, exercise any and all the rights, options or privileges of a Contract owner or that are granted by the terms of any such Contracts or this Agreement. The Master Custodial Administration Agreement Administrator may, if instructed by the Plan Sponsor, instruct the Custodian to collect the proceeds of any Contract held in the Custodial Account when they become payable and in connection therewith shall make reasonable effort to collect such sums that are due; provided, however, that the Master Custodial Administration Agreement Administrator shall have no duty to begin or maintain any action, suit or other legal or equitable proceeding to collect the proceeds of any Contract.

- (c) The Master Custodial Administration Agreement Administrator shall instruct, on behalf of the Plan Sponsor or Participant, the Custodian to hold in the Custodial Account pursuant to such instructions and the terms of this Agreement all payments of any kind, received with respect to a Contract, whether as a result of sale, assignment, surrender or otherwise.
- (d) Any company issuing a Contract may deal with the Master Custodial Administration Agreement Administrator acting on behalf of and at the direction of the Plan Sponsor or Participant, without inquiry as to the authority of the Master Custodial Administration Agreement Administrator to so act, and may accept and rely upon any written notice, instruction, direction, certificate or other communication from the Master Custodial Administration Agreement Administrator believed by such company to be genuine and to be signed by the Plan Sponsor, and shall incur no liability or responsibility by so doing. Any sums paid by an issuing company under any of the terms of a Contract issued by it, either to the Custodial Account, or, in accordance with the instructions of the Master Custodial Administration Agreement Administrator on behalf of the Plan Sponsor, to any other person or persons designated in such Contract as the person or persons to whom such payment shall be made, shall be a full and complete discharge of the liability to pay such sums, and the issuing company shall have no obligation to look into the terms of this Agreement.

3.5 Nondiscretionary Powers. The Master Custodial Administration Agreement Administrator shall have the following nondiscretionary powers which it shall exercise only upon the instructions of the Plan Administrator, Investment Manager or other authorized person without regard to diversification or to whether any particular investment is authorized by the laws of any jurisdiction for fiduciary investments:

- (a) To instruct the Custodian to purchase, or subscribe for, any securities or property and to retain the same in the Custodial Account.
- (b) To instruct the Custodian to sell, exchange, convey, transfer, or otherwise dispose of, any securities or property held by the Custodian, by private contract or public auction, and no person dealing with the Master Custodial Administration Agreement Administrator or Custodian shall be

bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety of any such sale or other disposition.

- (c) To instruct the Custodian to keep any portion of the Custodial Account in cash or cash balances, including, but not limited to, amounts with respect to which the Master Custodial Administration Agreement Administrator has not received instructions from the Plan Administrator, Investment Manager, or other authorized person, it being understood that the Master Custodial Administration Agreement Administrator shall not be required to pay any interest on any such balances.
- (d) To instruct the Custodian to accept and retain for such time as it shall be determined any securities or other property received or acquired by the Custodial Account hereunder, whether or not such securities or other property would normally be purchased as investments hereunder.
- (e) To instruct the Custodian to give general or special proxies or powers of attorney with or without powers of substitution; to exercise any conversion privileges, subscription rights or other options, and to make payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith; to abandon any property determined by it to be worthless; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities and other property held as part of the Custodial Account.
- (f) To instruct the Custodian to lend or borrow securities or enter into repurchase agreements, and to borrow or raise monies on behalf of the Custodial Account from anyone in such amount, and upon such terms and conditions, as the Plan Administrator may deem advisable and, for any sum so borrowed, to issue its promissory note as Custodian, and to secure the repayment thereof by pledging all or any part of the Custodial Account; no person lending money to the Custodial Account shall be bound to see to the application of the money lent or to inquire into the validity, expediency or propriety of any such borrowing.
- (g) To instruct the Custodian to settle or compromise any claims, debts or damages due or owing to or from the Custodial Account.
- (h) To instruct the Custodian to make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted.
- (i) To instruct the Custodian to distribute benefits to Participants, their beneficiaries and the "alternate payees," as directed by the Plan Administrator or other authorized person. The Master Custodial Administration Agreement Administrator has no duty to determine whether any distributions are made in accordance with the Participating Plans, the Code, or court order, including determining whether the amount or form of any distribution is proper.

**3.6 Administrative Powers.** The Master Custodial Administration Agreement Administrator shall have the following administrative powers with respect to the Master Custodial Account, which it shall exercise only with the direction of the Plan Sponsor:

- (a) To instruct the Custodian to register any investment held by the Custodial Account in the name of the Master Custodial Administration Agreement Administrator, in its own name on behalf of the Plan Sponsor, or in the name of a nominee, including the Custodian as custodian for the Custodial Account, to hold any investment in bearer form or to hold any investment unregistered or in such form that title will pass by delivery; provided, however, that the books and records of

the Master Custodial Administration Agreement Administrator and the Custodian shall at all times show that all such investments are part of the Custodial Account.

- (b) To instruct the Custodian to hold such investments for safekeeping or to deposit such securities, or cause them to be deposited, in a clearing system established to settle transfers of securities and cause them to be merged and held in bulk by the nominee of such clearing system. Without limiting the generality of the foregoing, the Master Custodial Administration Agreement Administrator is specifically authorized to instruct the Custodian to hold securities of the Custodial Account with the Custodian, which in turn may hold them in the name of any other appropriate depository, or their nominees.
- (c) To engage, on behalf of the Plan Sponsor or Participant, such attorneys, investment advisors, subcustodians, accountants and such other advisors, including the services of the Custodian as described below, and, anything contained herein to the contrary notwithstanding, to engage in such legal or administrative proceedings as are deemed reasonably required in connection with the administration of the Master Custodial Administration Agreement, and to compensate any persons so engaged at such wages, fees, remuneration, consideration or otherwise, and upon such terms and conditions as the Master Custodial Administration Agreement Administrator shall deem reasonable under the circumstances. Unless otherwise noted in this Agreement, such compensation shall be a charge upon the Custodial Account and shall in no event be deducted from any compensation payable to the Master Custodial Administration Agreement Administrator.
- (d) To engage, on behalf of the Plan Sponsor or Participant, a Custodian to perform certain duties and responsibilities, including custodial duties, record maintenance and the production of statements on the investments held by the Custodian. The Master Custodial Administration Agreement Administrator shall not provide such services with respect to assets custodied by any person other than the Custodian named by the Master Custodial Administration Agreement Administrator nor shall the Master Custodial Administration Agreement Administrator maintain records of the Plans or provide Participating Plan statements other than with respect to assets custodied by the Custodian named by the Master Custodial Administration Agreement Administrator.
- (e) Plan Sponsor and/or Participant and the Master Custodial Administration Agreement Administrator agree that any directions or instructions with regard to the assets held by the Custodian under this Agreement shall be given by the Plan Sponsor, Plan Administrator, or Participant with respect to investment selection, Investment Managers or other authorized persons to the Master Custodial Administration Agreement Administrator and the Master Custodial Administration Agreement Administrator shall provide such directions or instructions to the Custodian. In so doing, the Master Custodial Administration Agreement Administrator shall not act exercise any discretion over such directions or instructions and shall act only in an administrative capacity in providing such directions or instructions to the Custodian. In addition, the Custodian and the Master Custodial Administration Agreement Administrator shall agree that the Custodian shall give any instructions or other communications to the Plan Sponsor, Participant, Plan Administrator, Investment Managers or other authorized persons to the Master Custodial Administration Agreement Administrator and the Master Custodial Administration Agreement Administrator shall provide such instructions or other communications to the Plan Sponsor, Participant, Plan Administrator, Investment Managers or other authorized persons without interpretation or change, and the Master Custodial Administration Agreement Administrator shall act only in an administrative capacity in handling such instructions or other communications from the Custodian. Custodian shall have no obligation to determine the accuracy or completeness of any such directions, instructions or communications provided to it by the Master Custodial Administration Agreement Administrator or provided by the Master Custodial Administration Agreement Administrator from Custodian. This Article 3.6(e) shall apply without limitation to all other Articles of this Agreement and Appendix A.
- (f) To do all such acts, and exercise all such rights and privileges, although not specifically mentioned, unless specifically prohibited by the Plan Administrator and/or Participant, which shall be reasonably required in the performance of the Master Custodial Administration Agreement Administrator's duties hereunder.

### 3.7 Proxies.

- (a) If the Custodial Account includes any Employer stock, stock of an affiliate of the Employer or other securities for which “pass through” voting rights exist, the Plan Administrator shall be responsible for processing the proxies or appointing an appropriate party to do so. Processing of such proxies shall include reporting to Master Custodial Administration Agreement Administrator the results of the tally in the event Custodian is to vote the proxies in accordance with the terms of the Participating Plan, in accordance with the instructions from the Master Custodial Administration Agreement Administrator to the Custodian on behalf of the Plan Sponsor. Master Custodial Administration Agreement Administrator shall not have any responsibility for the accuracy of the tally or any other aspect of processing the proxies.
- (b) For all other proxies, Master Custodial Administration Agreement Administrator will arrange for delivery of such proxies from the Custodian to the Plan Administrator, Employer or Participants in a timely manner. If Master Custodial Administration Agreement Administrator is unable to deliver such proxies to the Plan Administrator, Employer or Participants, Master Custodial Administration Agreement Administrator will instruct the Custodian to vote any proxies which have not already been voted by the Plan Administrator, Employer or Participants in accordance with any written instructions received from such parties; provided, however, that Master Custodial Administration Agreement Administrator shall have no obligation to solicit voting instructions from such parties. If Master Custodial Administration Agreement Administrator has not received voting instructions, Master Custodial Administration Agreement Administrator will instruct the Custodian to vote the proxies in accordance with any contractual or other obligations it may have. In no event will Master Custodial Administration Agreement Administrator be responsible for ascertaining whether or how the proxies were subsequently voted or disposed of, for the actions or inactions of the Plan Administrator, Employer or Participants with respect to such proxies, or for following any written directions with respect to such proxies.

#### ARTICLE IV

##### Maintenance of Records and Accounts

- 4.1 Records. The Master Custodial Administration Agreement Administrator shall keep accurate and detailed records of all its instructions to the Custodian as well as the Custodian’s receipts, investments, disbursements and other transactions made pursuant to instructions provided to it by the Master Custodial Administration Agreement Administrator in accordance with this Agreement and shall provide the Plan Administrator with the copies of such records upon request, but no more frequently than once a quarter. The Master Custodial Administration Agreement Administrator shall maintain separate recordkeeping accounts for each Participant and/or Participating Plan, which shall at all times reflect each Participant’s and/or Participating Plan’s equitable share in the Custodial Account, to which shall be credited all contributions received from such Participating Plan’s Sponsor and against which shall be charged all payments made pursuant to the written directions of the Plan Administrator or other authorized person.
- 4.2 Written Account. As soon as practicable after the close of each Plan year (as designated in the Plan), or upon the removal or resignation of the Master Custodial Administration Agreement Administrator as provided in Article VI of this Agreement or the termination of the Participating Plan or Participant’s account or this Agreement, as applicable, the Master Custodial Administration Agreement Administrator, shall render to the Participant and Employer a written account of all its transactions relating to the Custodial Account. If the Employer shall not, within one hundred eighty (180) days after the mailing of such statement of account, notify the Master Custodial Administration Agreement Administrator, as applicable, in writing of its disapproval of the same, such statement shall constitute a valid accounting of the Custodial Account as if the account had been duly approved by the Participant or Employer in writing.
- 4.3 Valuation. The Master Custodial Administration Agreement Administrator shall provide to the Participant and/or Plan Administrator a written valuation of the assets held by such Custodial Account as of the close of the last business day of each Plan Year and at any such other time or times as agreed by the Plan Administrator and/or Participant and the Custodial Administration Agreement Administrator. Such valuation shall include a statement reflecting each Participating Plan’s and/or Participant’s equitable share in the Custodial Account.
- 4.4 Judicial Settlement. The Master Custodial Administration Agreement Administrator shall have the right at any



time to apply to a court of competent jurisdiction for judicial settlement of its accounts or for determination of any questions of construction which may arise or for instructions. The only necessary party defendant to any such action shall be the Participant and/or Plan Administrator, but the Master Custodial Administration Agreement Administrator may, if it so elects, join in as a party defendant any other person or persons. The cost, including attorneys' fees, of any such accounting shall be charged to the Custodial Account as an administration expense of this Agreement.

4.5 Account Statements and Other Financial Information. The Master Custodial Administration Agreement Administrator shall be considered the agent of the Custodian in providing account statements and other financial information regarding the Plan to the Plan Administrator, Trustee(s), Plan Participant, Plan Sponsor and any of its agents or affiliates.

## ARTICLE V

### Compensation and Expenses

5.1 Compensation. The Master Custodial Administration Agreement Administrator shall receive compensation for the performance of its duties in accordance with its schedule of compensation in effect when such services are rendered, as may be amended from time to time in accordance with the provisions of this Agreement. Such compensation shall constitute a charge to be paid by the Custodial Account. The Employer expressly acknowledges and agrees that the Master Custodial Administration Agreement Administrator may retain as additional compensation for its services any earnings and/or that the Plan will not receive earnings with respect to:

- (a) amounts credited to non-interest bearing cash accounts during which time the Master Custodial Administration Agreement Administrator is awaiting instructions from the Participant or Plan Sponsor as to how to invest funds with the Custodian, if the Participant or Plan Sponsor does not remit funds directly to the Custodian;
- (b) moneys during the period between the time the moneys are received by the Custodian and actually forwarded to the investment provider; and
- (c) distributions between the time a distribution check is requested and the distribution check is presented for payment.
- (d) Moneys shall be invested as soon as practicable following receipt of the moneys and investment instructions. Distribution checks shall be prepared and mailed as soon as practicable following receipt of a request for a distribution check.

5.2 Expenses. Expenses for legal, accounting and all other proper charges and disbursements of the Custodial Account in connection with the administration of the Master Custodial Administration Agreement shall constitute a charge to be paid by the Custodial Account. The Master Custodial Administration Agreement Administrator shall also charge against the Custodial Account any taxes paid by the Custodian or Master Custodial Administration Agreement Administrator which may be imposed upon the Custodian or Master Custodial Administration Agreement Administrator or the income thereof or with respect to the interest of any person therein which the Custodian or Master Custodial Administration Agreement Administrator is required to pay. Any amount paid from the Custodial Account which is specifically allocable to a particular Participant or Participating Plan shall be charged against the separate account reflecting the equitable share of such Participant or Participating Plan.

5.3 Withdrawals from Custodial Account. The Master Custodial Administration Agreement Administrator may instruct the Custodian to withdraw from the Custodial Account amounts sufficient to pay any proper charge against the Custodial Account. To the extent permissible by applicable law, the Employer may reimburse Custodian or the Master Custodial Administration Agreement Administrator for any charges withdrawn from the Custodial Account.

## ARTICLE VI

### Removal or Resignation of Master Custodial Administration Agreement Administrator; Appointment of Successor

6.1 Removal or Resignation. The Master Custodial Administration Agreement Administrator may be removed by the Participant or Employer or the Master Custodial Administration Agreement Administrator may resign at any

time upon sixty (60) days' written notice to the other of such removal or resignation.

- 6.2 Successor. The Employer or Participant shall appoint a successor Master Custodial Administration Agreement Administrator to act hereunder within sixty (60) days after notification by the Master Custodial Administration Agreement Administrator to the Participant or Employer of its resignation or notification to the Master Custodial Administration Agreement Administrator by Participant or Employer of its removal. If within sixty (60) days after notice of removal or resignation the Employer shall not have designated a successor Master Custodial Administration Agreement Administrator or custodian, as applicable, the Master Custodial Administration Agreement Administrator may, at its option, instruct the Custodian to return the assets comprising the Custodial Account to the Participant and/or Plan Administrator or apply to any court of competent jurisdiction for the appointment of a successor Master Custodial Administration Agreement Administrator or custodian, as applicable.
- 6.3 Powers of Successor. Each successor Master Custodial Administration Agreement Administrator shall have the powers and duties conferred upon the Master Custodial Administration Agreement Administrator in this Agreement and the term "Master Custodial Administration Agreement Administrator" as used in this Agreement shall be deemed to include any successor Master Custodial Administration Agreement Administrator.
- 6.4 Delivery of Assets. Upon receipt of a notice that the successor Master Custodial Administration Agreement Administrator has accepted such appointment, the Master Custodial Administration Agreement Administrator shall instruct the Custodian to transfer and deliver the assets comprising the Custodial Account, except for any such assets held as a charge against the Custodial Account as provided in Section 6.5 herein.
- 6.5 Reserving for Expenses. The Master Custodial Administration Agreement Administrator may reserve such sums as it deems necessary to defray its expenses in settling its accounts, to pay any of its compensation due and unpaid, and to discharge any obligations of the Master Custodial Administration Agreement for which the Master Custodial Administration Agreement Administrator may be liable; but if the sums so reserved are not sufficient for those purposes, the Master Custodial Administration Agreement Administrator shall be entitled to recover the amount of any deficiency from either the Employer, the successor Master Custodial Administration Agreement Administrator, or both.
- 6.6 Termination of Liability. When the assets comprising the Custodial Account shall have been transferred and delivered to the successor Master Custodial Administration Agreement Administrator, and the accounts of the Master Custodial Administration Agreement Administrator have been settled, the Master Custodial Administration Agreement Administrator shall be released and discharged from all further accountability or liability for the Master Custodial Administration Agreement and shall not be responsible in any way for the further disposition of the Custodial Account or any part thereof.

## ARTICLE VII

### Miscellaneous Master Custodial Administration Agreement Administrator Provisions

- 7.1 Reliance on Counsel. The Master Custodial Administration Agreement Administrator may from time to time consult with counsel.
- 7.2 Bond. The Master Custodial Administration Agreement Administrator shall not be required to give any bond or other security for the faithful performance of the Master Custodial Administration Agreement Administrator's duties under this Agreement, except as may be required by applicable law.
- 7.3 Action by Participant, Employer or Plan Administrator. Except as otherwise herein specifically provided, any action by a Participant, Employer, Plan Administrator, Investment Manager or other authorized person shall be evidenced by (a) a written certification of its duly and legally authorized agent, individual or entity, or (b) by appropriate written authorization of any person or committee to which such duly and legally authorized agent, individual or entity has delegated the authority to take such action, and the Master Custodial Administration Agreement Administrator shall not be liable for any actions taken in accordance with any such resolution or other authorization.
- 7.4 Scope of Master Custodial Administration Agreement Administrator's Liability. To the extent permitted by applicable law, the Master Custodial Administration Agreement Administrator shall not be liable for losses of

any kind that may result (a) by reason of any action taken by it in accordance with the directions or instructions of the Participant, Employer, the Plan Administrator, the Investment Manager, or other authorized person, (b) by reason of any failure to act as a result of the absence of required directions or instructions, (c) by reason of any actions taken by any prior Master Custodial Administration Agreement Administrator, additional Master Custodial Administration Agreement Administrator or successor Master Custodial Administration Agreement Administrator or custodian acting on behalf of the Participant, Participating Plan, or (d) for assets that are not included in the Custodial Account. The Master Custodial Administration Agreement Administrator has no duty to perform any actions other than those specified in this Agreement or pursuant to proper instructions.

- 7.5 General Indemnity. To the extent permitted by the laws applicable to the Participant, Employer and/or Plan Sponsor, the Participant, Employer and the Plan Administrator shall at all times fully indemnify and save harmless the Master Custodial Administration Agreement Administrator, its directors, officers, affiliates, employees and agents from any liability which may arise in connection with this Agreement, except liability arising from a breach of fiduciary duty of the Master Custodial Administration Agreement Administrator. For purposes of this Agreement, "liability" shall include taxes, expenses, claims, damages, actions, suits, attorneys' fees, penalties, expenses of litigation or preparation for threatened litigation, and any other charges, but only to the extent permitted by the laws of the state in which the Employer is domiciled.
- 7.6 Specific Indemnities. The Participant agrees to indemnify and hold the Master Custodial Administration Agreement Administrator harmless from and against any liability that it may incur because of the following, but only to the extent permitted by the laws of the state in which the Employer is domiciled:
- (a) The Participant or Employer's failure to make any contribution to the Custodial Account.
  - (b) The insufficiency of the Custodial Account to discharge any liabilities under the Participant's account in the Participating Plan.
  - (c) Following the instructions received by the Master Custodial Administration Agreement Administrator from the Participant, Plan Administrator, Investment Manager or other authorized person, as the case may be, pursuant to the provisions of this Agreement, including acting on any instruction from the Participant, Plan Administrator, Investment Manager or other authorized person, as the case may be, or failing to act in the absence of any such instruction with respect to any Contract or the acquisition of any Contract or the exercise or nonexercise of any right or option thereunder.
  - (d) The application of any part of the Custodial Agreement or Master Custodial Administration Agreement by the Master Custodial Administration Agreement Administrator in accordance with the written directions of the Employer, the Plan Administrator or other authorized person pursuant to the provisions of the Agreement.
  - (e) The application of any part of the Custodial Agreement or Master Custodial Administration Agreement by the Master Custodial Administration Agreement Administrator in the absence of directions of the Participant, Employer, the Plan Administrator or other authorized person solely in order to prevent the lapse of a Contract pursuant to the provisions of Section 3.4 of this Agreement.
  - (f) Any other actions taken or omitted by the Master Custodial Administration Agreement Administrator pursuant to any directions received by the Master Custodial Administration Agreement Administrator from the Participant, Employer, the Plan Administrator or any other authorized person, as the case may be.
- 7.7 Conflicting Instructions. In the event of any disagreement resulting in conflicting instructions to, or adverse claims or demands upon the Master Custodial Administration Agreement Administrator with respect to payments or instructions, the Master Custodial Administration Agreement Administrator shall be entitled, at its option, to refuse to comply with any such instruction, claim or demand as long as such disagreement shall continue, and in so refusing the Master Custodial Administration Agreement Administrator may elect not to instruct the Custodian to make any payment or other disposition of assets held pursuant to this Agreement. The Master Custodial Administration Agreement Administrator shall not be or become liable in any way for its failure or refusal to comply with any such conflicting instructions or adverse claims or demands, and it shall be entitled to continue to so refrain from acting until such conflicting or adverse demands (a) shall have been

adjusted by agreement and it shall have been notified in writing thereof or (b) shall have finally been determined in a court of competent jurisdiction. The Master Custodial Administration Agreement Administrator shall notify the Participant, Employer and the parties from whom conflicting instructions were received as soon as practicable following the receipt of conflicting instructions.

7.8 Waiver. The Master Custodial Administration Agreement Administrator shall not, by act, delay, omission or otherwise, be deemed to have waived any right or remedy it may have either under this Agreement or generally, unless such waiver is in writing, signed by the Master Custodial Administration Agreement Administrator, and such waiver shall only be effective to the extent expressly therein set forth. A waiver by the Master Custodial Administration Agreement Administrator of any right or remedy granted by this Agreement shall not be construed as a bar to, or waiver of, the same or any other such right or remedy which it would otherwise have on any other occasion.

7.9 Protective Clause.

- (a) If the Participant, Plan Administrator, Investment Manager or other authorized person instructs that an investment be made in a bank or insurance company investment contract or annuity contract, the Master Custodial Administration Agreement Administrator is not responsible for the form, genuineness, validity, sufficiency or effect of the contract or the failure of any issuing company to make payments provided by any contract or for the action of any person that may delay payment or render a contract null and void or unenforceable in whole or in part or for the fact that for any reason whatsoever any contract shall lapse or otherwise be uncollectible.
- (b) If the Participant, Plan Administrator, Investment Manager or other authorized person instructs that an investment be made in a life insurance company contract or bank guaranteed investment contract or annuity contract, the Master Custodial Administration Agreement Administrator is not responsible for the validity of the contract or the failure of any bank or insurance company to make payments provided by any contract or for the action of any person which may delay payment or render a contract null and void or unenforceable in whole or in part.

ARTICLE VIII

Segregation of Parts of the Master Custodial Administration Agreement

8.1 Segregation. The equitable share of a Participant's Plan account in the Custodial Account shall be segregated and withdrawn from the Custodial Account upon the occurrence of any of the following events:

- (a) Receipt by the Master Custodial Administration Agreement Administrator of written notice that such Participating Plan has been held by the Internal Revenue Service or by any court of competent jurisdiction not to qualify under Section 457(b) of the Code, or a successor provision, or of other information giving the Master Custodial Administration Agreement Administrator reason to believe that such Participating Plan may not be so qualified; or
- (b) Receipt by the Master Custodial Administration Agreement Administrator of written notice from the Participant or Employer that such Participating Plan has been terminated or that the Participant or Plan Administrator of such Participating Plan has terminated its interest in the Custodial Account.

The equitable share in the Custodial Account of all or any part of a Participant's account in the Participating Plan or the proportionate share of any Participant and their beneficiaries may be segregated and withdrawn from the Custodial Account upon the direction of the Plan Administrator setting forth the portion of such Participant's account in the Participating Plan's equitable share to be so treated or the Participant and beneficiaries for whose accounts such segregation and withdrawal are to be carried out. The Master Custodial Administration Agreement Administrator may condition its instructions to the Custodian to transfer or distribute any assets upon the Master Custodial Administration Agreement Administrator's receiving assurances satisfactory to it that the approval of appropriate governmental or other authorities has been secured and that all notice and other procedures required by applicable law have been complied with.

8.2 Segregated Property. Segregation and withdrawal of the equitable share of a Participant's account in the

Participating Plan shall be made as of the next date on which a valuation of the Custodial Account is to occur immediately following the date of the notice or instruction referred to in Section 8.1, based upon the units in the Custodial Account credited to the Participating Plan's account as of such date. The selection of the particular assets to be segregated pursuant to Section 8.1 shall be made by the Participant or Plan Administrator. Such property shall be held as a separate Custodial Account for the exclusive benefit of the Participant of the withdrawing plan (or of the withdrawing Participant) and their beneficiaries, under a separate Master Custodial Administration Agreement substantially identical to this Agreement.

## ARTICLE IX

### Termination of the Master Custodial Administration Agreement and Participating Plans; Amendments

- 9.1 Termination of the Master Custodial Administration Agreement. In the event of the termination of the Master Custodial Administration Agreement, the Master Custodial Administration Agreement Administrator shall continue to administer the Master Custodial Administration Agreement as hereinabove provided until all of the purposes for which it has been established have been accomplished or the Master Custodial Administration Agreement Administrator has disposed of the Custodial Account after the payment of or other provision for all expenses incurred in the administration of the Custodial Account (including any compensation to which the Master Custodial Administration Agreement Administrator may be entitled), all in accordance with the written direction of the Employer or any successor thereto. Until final distribution of the Custodial Account, the Master Custodial Administration Agreement Administrator shall continue to have and may exercise all of the powers and discretions conferred upon it by this Agreement. When the Master Custodial Administration Agreement shall have been so applied or distributed, and the accounts of the Custodial Account shall have been so settled, the Master Custodial Administration Agreement Administrator shall not be responsible in any way for the further disposition of the Custodial Account or any part thereof so applied or distributed.
- 9.2 Termination of Participating Plan. Upon receipt of notice from the Participant or Employer that the Participating Plan is terminated in whole or in part, assets attributable to the wholly or partially terminated Participant's account in the Participating Plan shall be segregated in accordance with Article VIII and held and/or disposed of by the Master Custodial Administration Agreement Administrator's instructions to the Custodian in accordance with the written direction of the Employer. The Master Custodial Administration Agreement Administrator may condition its instructions to the Custodian for the delivery, transfer or distribution of any assets upon the Master Custodial Administration Agreement Administrator's receiving assurances satisfactory to it that the approval of appropriate governmental or other authorizes has been secured and that all notices and other procedures required by applicable law have been complied with.
- 9.3 Amendments. Except as otherwise set forth in this Agreement, this Agreement may be amended only by a written agreement signed by Master Custodial Administration Agreement Administrator and Participant and/or Employer. Notwithstanding the foregoing, no amendment may increase the duties, obligations or responsibilities of the Master Custodial Administration Agreement Administrator without the written consent of the Master Custodial Administration Agreement Administrator. Either party may terminate this Agreement at any time upon sixty (60) days' written notice to the other party.

## ARTICLE X

### Discharge of Duties by Master Custodial Administration Agreement Administrator; Allocation of Responsibilities

- 10.1 Discharge of Duties. The Master Custodial Administration Agreement Administrator shall discharge its duties set forth in this Agreement solely in the interests of the Participant of the Participating Plan and their beneficiaries and for the exclusive purpose of providing benefits to Participant of the Participating Plan and their beneficiaries and defraying reasonable expenses of administering the Custodial Account. The Master Custodial Administration Agreement Administrator shall discharge its duties hereunder with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.
- 10.2 Allocation of Responsibilities. If the Master Custodial Administration Agreement Administrator has been designated as an additional Master Custodial Administration Agreement Administrator for a Participant or Plan, its responsibilities shall be set forth solely herein. This Agreement shall be considered a separate supplemental Master Custodial Administration Agreement. The Master Custodial Administration Agreement

Administrator shall be considered a separate additional Master Custodial Administration Agreement Administrator with responsibilities only with respect to those assets held pursuant to this Agreement. In no event shall the Master Custodial Administration Agreement Administrator be considered a co-Master Custodial Administration Agreement Administrator with any other such Master Custodial Administration Agreement Administrator.

10.3 Relationship of Fiduciaries. Each fiduciary of each Participant in a Participating Plan and the Master Custodial Administration Agreement shall be solely responsible for its own acts or omissions or to question any instruction or representation by the Employer, the Plan Administrator, an Investment Manager, or other authorized person. To the extent permitted under applicable law, the Master Custodial Administration Agreement Administrator shall have no duty to question any fiduciary's performance of its duties.

## ARTICLE XI General Provisions

11.1 Severability; Survival. Should any provision of this Agreement be deemed or held to be unlawful or invalid for any reason, such fact shall not adversely affect the other provisions herein unless such illegality shall make impossible or impractical the functioning of this Agreement and in such case the appropriate parties shall immediately amend this Agreement. All indemnities given under this Agreement shall survive the resignation or removal of the Master Custodial Administration Agreement Administrator or the termination of this Agreement for any reason.

11.2 Non-Assignability of Interest. No benefit that is payable out of the Custodial Account to any person (including any Participant or beneficiary) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, garnishment, levy, execution or charge, either voluntary or involuntary prior to actually being received by the person or persons entitled thereto, and where there is any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge or otherwise dispose of any right to amounts payable hereunder, the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized by the Master Custodial Administration Agreement Administrator.

11.3 No Merger, Consolidation or Transfer. Anything herein to the contrary notwithstanding, the Custodial Account shall under no circumstances be operated as to permit, and nothing herein contained shall be deemed to authorize, any merger, consolidation, or transfer of the assets or liabilities of a Participant in a Participating Plan with or to any other Participating Plan except in compliance with the provisions of the Code which are applicable to such mergers, consolidations, or transfers, including without limitation Section 457(b) of the Code and Regulations promulgated pursuant to the foregoing Sections.

11.4 Titles and Headings. The titles and headings of the Articles and Sections in this Agreement are placed herein for convenience of reference only. In the case of any conflict, the text of this Agreement, rather than such titles or headings, shall control.

11.5 Notices. Any notice or other communication required or permitted to be given under this Agreement must be in writing and delivered personally, by facsimile, by a nationally recognized overnight courier, or sent by first class mail to the addresses listed below. Such notices, accountings and reports shall, for all purposes hereunder, be deemed to be delivered on the date of actual delivery or, if mailed, on the date of the mailing.

(a) To Master Custodial Administration Agreement Administrator:

Master Custodial Administration Agreement Administrator, JNT Resource Partners, LP dba TCG  
Administrators  
900 S. Capital of Texas Highway, Suite 350  
Austin, TX 78746  
Fax: 512-306-9959

(b) To Participant:  
As listed in Appendix C

- 11.6 Shareholders' Communications Act. In accordance with Rule 14b-2 of the Securities and Exchange Act of 1934, as amended, Master Custodial Administration Agreement Administrator will instruct the Custodian to provide the name, address and share position of the beneficial holder of securities to the issuing company, unless the beneficial holder objects in writing to the provision of such information. Any consent or objection will apply to all securities Master Custodial Administration Agreement Administrator holds for the account now and in the future, unless directed otherwise.
- 11.7 Governing Law. This Agreement shall be governed and administered under the laws of the State of Texas, without regard to conflict of law principles, except to the extent that this results in any Participant that is a party to this Agreement being subject to any action or requirement that conflicts with the laws of the state governing the Plan.
- 11.8 Limitation on Role of Master Custodial Administration Agreement Administrator. Nothing contained herein shall result in the Master Custodial Administration Agreement Administrator acting as or being held to be a trustee or custodian as these terms are defined by the Internal Revenue Code and/or applicable state law. Any provision of this Agreement that causes the Master Custodial Administration Agreement Administrator to be held to be a trustee or custodian as defined above shall be null and void.
- 11.9 Entire Agreement. This Agreement, including all Appendices hereto, contains the entire understanding between the parties relating to the subject matter hereof, and supersedes all prior agreements or understandings between the parties relating to the subject matter hereof, whether written or oral, express or implied.

## **APPENDIX A**

### **INVESTMENT POLICIES AND PROCEDURES**

#### **Role and Limits.**

Master Custodial Administration Agreement Administrator cannot control the conduct or inaction of the Participant or Plan Administrator, Investment Manager or other authorized person (the “Directing Party”) who handles or controls the Custodial Account’s assets. Master Custodial Administration Agreement Administrator is ordinarily obligated to instruct the Custodian to follow a Directing Party’s proper directions; however, Master Custodial Administration Agreement Administrator reserves the right to question any direction and to take appropriate action, including a refusal to follow any directions, if and to the extent that, Master Custodial Administration Agreement Administrator reasonably believes such direction is not proper.

#### **Liquidity.**

Sufficient liquidity must be maintained in accounts to meet foreseeable obligations of the account. Master Custodial Administration Agreement Administrator reserves the right to not follow any direction to instruct the Custodian to take any action that it reasonably believes would result in insufficient liquidity.

#### **Diversification.**

The Participant shall determine the diversification policy with respect to the investment of the Participant’s Plan assets, for monitoring adherence to such policy, and for advising Master Custodial Administration Agreement Administrator with respect to its compliance with any investment limitations on employer or other securities or property contained in the Plan or imposed on the Plan by applicable statute.

#### **Brokerage Services.**

The Directing Party is not obligated to use any specific brokerage or other services.

#### **Instructions.**

Purchase and sale and other acquisitions and dispositions must be directed by a Directing Party. The Directing Party must advise Master Custodial Administration Agreement Administrator of any transactions that will need the Custodian’s or Master Custodial Administration Agreement Administrator’s consent, as described below. Master Custodial Administration Agreement Administrator reserves the right not to instruct the Custodian to affect any transaction unless given sufficient time and information in which to evaluate the transaction. All acquisitions or dispositions of assets must be made at fair market value and on an arms-length basis. Further, the terms and conditions or such acquisition or disposition must not be contrary to the terms of this Agreement and applicable law or regulations.

#### **Acceptable Assets.**

Assets are considered to be acceptable assets depending upon the adequacy of Custodian’s ability to support and administer the asset, the Custodian’s powers and duties over the asset, the type of account, business risk, and other factors. Because Master Custodial Administration Agreement Administrator does not exercise investment management powers over the account, Master Custodial Administration Agreement Administrator does not determine whether a particular investment decision made by a Directing Party fits the investment objectives of the account or is otherwise appropriate for the account. Subject to the foregoing criteria and to other policies and procedures that may be issued, the following types of assets are ordinarily acceptable in the Custodial Account:

- (1) Cash.
- (2) Publicly traded stock listed on a U.S. stock exchange or regularly quoted over-the-counter.
- (3) Publicly traded bonds listed on a U.S. bond exchange or regularly quoted over-the-counter.
- (4) Mutual funds that are NSCC and DCC&S eligible.
- (5) Registered limited partnership interests, REITs and similar investments listed on a U.S. stock exchange or regularly quoted over-the-counter.
- (6) Commercial paper, bankers’ acceptances eligible for rediscounting at the Federal Reserve, repurchase and reverse repurchase agreements and other “money market” instruments for which trading and custodial facilities are readily available.
- (7) U.S. Government and U.S. Government Agency issues.
- (8) Municipal securities whose bid and asked values are readily available.
- (9) Federally insured savings accounts, Certificates of Deposit and Bank Investment Contracts. The Directing Party is responsible for determining federal insurance coverage and limits and for diversifying



account assets in accordance with those limits.

- (10) American Depositary Receipts, Eurobonds, and similar instruments listed on a U.S. exchange or regularly quoted domestically over-the-counter for which trading and custodial facilities are readily available.
- (11) Life insurance, annuities, and Guaranteed Investment Contracts issued by insurance companies licensed to do business in one or more states in the U.S. The Directing Party is responsible for determining the safety of such investments, the economic viability of the underwriter and for diversifying account assets accordingly.

In certain circumstances, however, a particular asset which is an acceptable asset may be determined by Master Custodial Administration Agreement Administrator or Custodian to be unacceptable.

#### Unacceptable Assets.

Master Custodial Administration Agreement Administrator generally cannot instruct the Custodian to acquire or hold the following assets:

- (1) Tangible personal property (e.g., precious metals, gems, works of art, coins, furniture and other household items, motor vehicles, etc.).
- (2) Foreign currency and bank accounts.
- (3) Short sales.
- (4) Commodity futures and forward contracts.
- (5) Oil, gas and mineral interests.
- (6) Intangible personal property (e.g., patents and rights).
- (7) Unsecured loans.

#### Conditionally Acceptable Assets.

If, after reviewing its administrative capabilities and any business risks involved in holding the asset in question, Master Custodial Administration Agreement Administrator may instruct the Custodian to acquire or hold any of the conditionally acceptable assets listed below; *provided, however* such assets must be valued at least annually and the cost basis, if any, must be determinable. Master Custodial Administration Agreement Administrator reserves the right to refuse to instruct the Custodian to purchase or hold any such conditionally acceptable asset. In addition, the purchase and holding of any such asset may be subject to certain conditions, including the imposition of additional fees. *Note:* The Directing Party must consult with Master Custodial Administration Agreement Administrator before directing Master Custodial Administration Agreement Administrator to instruct the Custodian to acquire any of the foregoing assets:

- (1) General partnerships or interests in real property.
- (2) Unregistered Limited Partnerships.
- (3) Other unregistered securities, closely held stock and other securities for which there is no readily available market, except for qualifying employer securities.
- (4) Loans secured by First Deeds of Master Custodial Administration Agreement.
- (5) Other secured loans.
- (6) The securities of the broker/dealer's corporate entity or its affiliates and subsidiaries. These securities may be subject to legal and regulatory prohibitions or restrictions. In any event, no Master Custodial Administration Agreement account may acquire and hold securities of the broker/dealer's corporate entity unless the underlying Master Custodial Account specifically authorizes it.
- (7) Foreign securities for which trading and custodial facilities are readily available.
- (8) Options.
- (9) Securities of the employer.

#### Illiquid Assets.

The current market value of combined investments in illiquid assets generally should not exceed 33% of the current market value of the Custodial Account; all such investments should be diversified as to location and class of property. An illiquid asset is one that cannot ordinarily be disposed of on an organized exchange or through another medium available to the general public within 5 business days.

#### Other Investments.

The Directing Party must consult with Master Custodial Administration Agreement Administrator before directing the Master Custodial Administration Agreement Administrator to instruct the Custodian to acquire any investment not described above.

Calls, Conversions, Expirations, Tenders, etc.

The Directing Party must monitor and determine the existence of and initiate all actions necessary or appropriate in connection with calls, conversions, tenders, and similar events or transactions relating to assets of the Custodial Account. Master Custodial Administration Agreement Administrator will pass on to the Directing Party any information it receives regarding such actions. The Directing Party must direct Master Custodial Administration Agreement Administrator as to any appropriate actions to take with regard to instructions to the Custodian.

Proxies.

The Directing Party must vote proxies of securities under the Directing Party's investment authority. Master Custodial Administration Agreement Administrator will use commercially reasonable efforts to deliver proxies in a timely manner to the Directing Party. Master Custodial Administration Agreement Administrator is not responsible for ascertaining whether, or how, the proxies were subsequently voted or disposed of and shall bear no liability for the actions or inactions of the Directing Party.

Investment Limitations for Types of Plans.

It shall be the responsibility of the Master Custodial Administration Agreement Administrator to inform the Participant, Plan Sponsors and Custodian of any investment limitations imposed by the Internal Revenue Code on the assets in which the plans of any Plan Sponsors that are covered by this Agreement may be invested and to assure that the Custodian is not directed to invest in any assets not allowable for such plans.

## **APPENDIX B**

### **ADDITIONAL PROVISIONS FOR CUSTODIAL ACCOUNTS MAINTAINED UNDER SECTION 457(b) OF THE CODE**

#### Article I

##### Definitions

The following terms when used herein with initial capital letters shall be defined as follows.

1.1 Account. The custodial account established under this Agreement for the benefit of the Participant for the purpose of receiving contributions and any income, expenses, gains, or losses incurred thereon.

1.2 Custodial Agreement. The Custodial Agreement established by the Master Custodial Administration Agreement Administrator on the behalf of the Employer and Plan as set forth herein.

1.3 Application. The Application for a 457(b)(7) account signed by the Participant participating in the Plan identified in Appendix C of this Agreement. The information set forth in the Application shall be considered an integral part of this Custodial Agreement as if set forth fully herein.

1.4 Beneficiary. The individuals or entities (such as a trust or estate) designated in accordance with the provisions of Article 5 of this Appendix to receive any undistributed amounts credited to the Account upon the Participant's death.

1.5 Compensation. Generally, for purposes of Internal Revenue Code Section 415(c)(3) Limitations Compensation includes wages, salaries, and other amounts (including commissions, overtime, and bonuses) received by a Participant for personal services actually rendered to the employer. For years beginning after December 31, 1997, Compensation shall also include 1) any elective deferrals (as defined in Section 457(b)(2) of the Code), and 2) any amount that is contributed or deferred on behalf of the Participant and that is not includible in the gross income of the Participant by reason of Section 125, Section 457, Section 401 or Section 403 of the Code.

1.6 Disabled. The Participant's inability to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death or to be of long-continued and indefinite duration.

1.7 Eligible Employee. Any individual who is an employee of the Employer and who meets the eligibility requirements for participation under the Plan.

1.8 Eligible Rollover Distribution. Any distribution qualifying as an "eligible rollover distribution" under Section 457(b) of the Code.

1.9 Employer. The organization that is identified in the Application as the employer of the Participant and that is:

A. An organization described in Section 501(c)(3) of the Code and exempt from tax under Section 501(a) of the Code; or

B. A state, a political subdivision of a state, or an agency or instrumentality thereof, but only with respect to employees who perform or have performed services for an educational organization described in Section 170(b)(1)(A)(ii) of the Code.

1.10 Employer Matching Contribution. A contribution to the Account by the Employer that is made in accordance with Article 3 of this Appendix on account of any Salary Reduction Contributions by the Participant.

1.11 Employer Nonelective Contribution. A contribution to the Account by the Employer that is made in accordance with Article 3 of this Appendix.

1.12 Governmental Plan. A plan which meets the definition of a governmental employer under Title I, Section

1002(32) of ERISA and Section 414(d) of the Code.

1.13 Participant. The Eligible Employee or former Eligible Employee of the Employer who has established an Account under the Plan and signed this Agreement.

1.14 Plan. A program or arrangement established pursuant to Code Section 457(b), as amended, that serves as the funding vehicle for the Custodial Account.

1.15 Plan Administrator. If no other Plan Administrator has been appointed by the Employer, then the Master Custodial Administration Agreement Administrator (Administration Firm) shall be deemed to be the Plan Administrator, except with respect to Article 5.11 of this Appendix.

1.16 Plan Document. A separate written Plan Document, if any, established by the Employer. In the event of a conflict between such Plan Document and the Custodial Agreement, the terms of the Plan Document shall prevail.

1.17 Salary Reduction Contribution. A contribution to the Account made by the Employer on behalf of the Participant pursuant to a salary reduction agreement in accordance with Article 3 of this Appendix

1.18 Successor Beneficiary. The individuals or entities (such as a trust or estate) designated in accordance with the provisions of Article 5 of this Appendix to receive any undistributed amounts credited to the Account upon the death of the Beneficiary.

1.19 Investments. One or more of the regulated investment companies or annuities offered by the Plan Administrator, as available investments under the Custodial Agreement.

1.20 Unforeseeable Emergency Distribution. A distribution on account of an illness or accident of the participant, the participant's beneficiary, or the participant's or beneficiary's spouse or dependents; property loss caused by casualty (for example, damage from a natural disaster not covered by homeowner's insurance) of the participant or beneficiary; funeral expenses of the participant's spouse or dependent; and other similar extraordinary and unforeseeable circumstances resulting from events beyond the control of the participant or his or her beneficiary (for example, imminent foreclosure or eviction from a primary residence, or to pay for medical expenses or prescription drug medication). The participant seeking the distribution must show that the emergency expenses could not otherwise be covered by insurance, liquidation of the participant's assets or cessation of deferrals under the plan.

## Article II

### Establishment of Custodial Account

2.1 Purpose. The Custodial Agreement established by the Master Custodial Administration Agreement Administrator on behalf of the Employer and Participating Plan is intended to provide for the establishment and administration of an Account to receive contributions from the Employer on behalf of the Participant in accordance with Section 457(b) of the Code.

2.2 Acceptance by Custodian. The Account shall be established upon the receipt and acceptance of the Application. The Custodian shall maintain the Account for the benefit of the Participant according to the terms and conditions of the Agreement.

2.3 Participant Information. The Participant's name, address, date of birth, and Social Security number and the name, date of birth, and Social Security number of each Beneficiary. The Participant shall notify the Master Custodial Administration Agreement Administrator and Plan Administrator of any changes thereto in a manner acceptable to the Master Custodial Administration Agreement Administrator and Plan Administrator.

## Article III

### Contributions

3.1 Salary Reduction Contributions. The Employer shall make contributions to the Account on behalf of the

Participant in accordance with a salary reduction agreement between the Employer and Participant as described in Article 3.2 of this Appendix, subject to the limitations of Articles 3.3 and 3.7 of this Appendix.

3.2 Salary Reduction Agreement. The salary reduction agreement referred to in Article 3.1 of this Appendix shall be a legally binding agreement between the Employer and Participant whereby the Participant agrees to a reduction in salary, bonuses, or wages (or to forego an increase in salary or wages) with respect to amounts not yet payable to the Participant, and the Employer shall contribute the amount of salary or wages reduced or foregone by the Participant to the Account on behalf of the Participant. The salary reduction agreement may be amended at any time (as permitted under the terms of any applicable employee benefit plan sponsored by the Employer) or terminated at any time, by either the Employer or Participant, with respect to amounts not yet payable to the Participant.

### 3.3 Limitation on Salary Reduction Contributions.

A. Limit. The Salary Reduction Contributions to the Account on behalf of the Participant shall not exceed the amount permitted under Section 415(c)(3) of the Code, as indexed periodically for cost-of-living increases, or, if applicable, such greater amount as may be permitted with respect to the Participant for such taxable year under Sections 457(b)(2) and/or 457(c)(1) of the Code.

B. Allocation of Excess Deferrals. If the Participant has made "excess deferrals" as by the Code for any taxable year, the Participant may assign to the Account any portion of such excess deferrals by notifying the Master Custodial Administration Agreement Administrator and Plan Administrator in writing no later than March 1 following the close of the taxable year. Such written notification shall certify that the Participant has made excess deferrals for the taxable year and specify the amount of such excess deferrals to be allocated to the Account for the taxable year.

C. Distribution of Excess Deferrals. Notwithstanding any provision of the Custodial Agreement to the contrary, if the Participant assigns any excess deferrals to the Account in accordance with the procedures described in (b) above or if the Plan Administrator determines that the Participant has made excess deferrals to the Account on the basis of the Participant's total contributions to the Account and all other plans of the Employer, the Participant or Plan Administrator may provide instructions to the Master Custodial Administration Agreement Administrator, who shall instruct the Custodian to distribute the amount of such excess deferrals, adjusted for any income or loss allocable thereto. If the Master Custodial Administration Agreement Administrator receives timely written notification of the excess deferral, the amount of such excess deferral, adjusted for any income or loss allocable thereto, shall be distributed to the Participant no later than the first April 15 following the close of the taxable year in accordance with the procedures of Section 457(b) of the Code and the regulations thereunder.

D. Responsibility to Correct Excess Deferrals. The Participant and the Plan Administrator shall be responsible for timely allocating any excess deferrals to the Account and timely providing the Master Custodial Administration Agreement Administrator written instructions to instruct the Custodian to remove the excess in accordance with the procedures described above. Neither the Master Custodial Administration Agreement Administrator nor the Custodian nor any affiliate of the Custodian shall have any responsibility for determining whether any contributions to the Account constitute excess deferrals as described in Section 457(b) of the Code or ensuring that any excess deferrals are timely allocated to the Account and distributed to the Participant in accordance with the procedures of Section 457(b) of the Code and the regulations thereunder.

3.4 Employer Matching Contributions or Employer Nonelective Contributions. To the extent provided under any Employer-sponsored employee benefit plan that covers the Participant or the Plan Document, if any, the Employer may make Employer Matching Contributions or Employer Nonelective Contributions to the Account on behalf of the Participant on account of any Salary Reduction Contributions that are made by the Participant under the Employer's employee benefit plan, subject to the limitations of Article 3.7 of this Appendix.

### 3.5 Contribution Limitations.

A. Overall Limit. The total amount of annual contributions that may be made to the Account on behalf of the Participant for any limitation year shall not exceed the limit of:

(a) \$19,500.00 (2020 limit) indexed up to 100 percent of the Participant's compensation (within the meaning of Section 457(b) of the Code) for the limitation year.

- (b) An additional \$6,500.00 (2020 limit) over the age of 50 “catch up” indexed.
- (c) An additional annual amount of service-based “catch up” contribution as permitted by the Code, if applicable to this Employer and Plan.

B. Participant Responsibility. Neither the Master Custodial Administration Agreement Administrator nor the Custodian nor any affiliate of the Custodian or Master Custodial Administration Agreement Administrator shall have any duty or responsibility to determine whether any contributions to the Account exceed the limits of this Article.

3.6 Exclusion from Gross Income. For federal income tax purposes, the Participant may be permitted to exclude from gross income, for any taxable year, the Employer contributions that are made to the Account to the extent such contributions do not exceed the Participant’s exclusion allowance under Section 457(b)(2) of the Code for the taxable year.

3.7 Excess Contributions. Excess contributions (as defined herein) that are made to the Account may be corrected using the methods described in the Code and the regulations thereunder, or pursuant to any other guidance issued by the Internal Revenue Service. If the Participant has an excess contribution, the Master Custodial Administration Agreement Administrator shall instruct the Custodian to follow the Plan Administrator’s written directions regarding the correction of the excess contribution. Neither the Master Custodial Administration Agreement Administrator nor the Custodian nor any affiliate of the Custodian or Master Custodial Administration Agreement Administrator shall have any responsibility for determining whether any contributions to the Account may be excluded from the Participant’s gross income or ensuring that any contributions to the Account do not constitute excess contributions for purposes of the Code.

### 3.8 Rollover Contributions and Transfers to Custodial Account.

A. Rollover Contributions. To the extent permitted under any Employer-sponsored employee benefit plan, the Plan Document, if any, or Individual Retirement Account (IRA) that covers the Participant, the Participant shall be permitted to make a rollover contribution to the Account of an amount received by the Participant that is attributable to participation in an annuity contract or custodial account described in Section 457(b) of the Code, provided such rollover contribution complies with all requirements of Section 457(b) of the Code, whichever is applicable. All rollover contributions shall be made in a manner acceptable to the Custodian, and in accordance with any rules and procedures approved by the Plan Administrator.

B. Transfers of Assets. The Custodian may accept a direct transfer of assets to the Account on behalf of the Participant from another custodial account or an annuity contract described in Section 457(b) of the Code to the extent permitted by the Code, the rulings thereunder, and any Employer sponsored employee benefit plan that covers the Participant or the Plan Document, if any. All transfers of assets shall be made in a manner acceptable to the Custodian and, in accordance with any rules and procedures approved by the Plan Administrator. Neither the Master Custodial Administration Agreement Administrator nor the Custodian shall be responsible for determining whether any transfer is proper.

C. Investment of Rollover Contributions and Transferred Assets. If the rollover or transfer is not accompanied by investment instructions or if, in the opinion of the Master Custodial Administration Agreement Administrator or Plan Administrator, the investment instructions are unclear, incomplete, or not in good order, the Master Custodial Administration Agreement Administrator or Plan Administrator will invest the assets in accordance with the contribution allocation instructions currently in effect at the time the transfer or rollover is received. If no contribution allocation instructions are in effect, the Master Custodial Administration Agreement Administrator or Plan Administrator may invest such amount a Money Market Fund without liability for loss of income or appreciation, pending receipt of investment directions from the Participant.

D. Participant Responsibility. The Participant shall be responsible for ensuring that any rollover contribution or transfer of assets pursuant to this Article 3.10 of this Appendix is a proper rollover contribution or transfer of assets under the Code that is excludable from the Participant’s gross income and does not constitute an excess contribution under section 4973 of the Code. Neither the Master Custodial Administration Agreement Administrator, the Custodian, and/or Plan Administrator, nor any affiliate of either the Custodian or the Plan

Administrator or any affiliate of the Master Custodial Administration Agreement Administrator or Administration Firm, shall be responsible for any adverse tax consequences that may result to the Participant should any rollover contribution or transfer of assets duly authorized by the Participant be determined not to constitute a proper rollover contribution or transfer of assets under the Code.

3.9 Manner of Making Contributions. All contributions to the Account shall be paid directly by the Employer to the Custodian or, if necessary, for the administration of the Plan, to the Master Custodial Administration Agreement Administrator. If funds are paid by the Employer to the Master Custodial Administration Agreement Administrator, the Master Custodial Administration Agreement Administrator shall forward the funds immediately to the Custodian in such other manner as deemed acceptable by the Custodian. Each contribution shall be accompanied by instructions from the Employer or the Plan Administrator that designate whether the amount contributed on behalf of the Participant represents a Salary Reduction Contribution under Article 3.1 of this Appendix, an employer contribution (which may include both Employer Matching Contributions under Article 3.4 of this Appendix and Employer Nonelective Contributions under Article 3.6 of this Appendix), or a rollover contribution or transfer of assets under Article 3.10 of this Appendix.

## Article IV

### Investments

#### 4.1 Investment of Account.

A. Participant-Directed Investments. All contributions to the Account shall be invested and reinvested by the Custodian exclusively in shares of one or more of the Funds as directed by the Participant or Plan Administrator. The Plan Administrator may prescribe the form and manner in which such investment directions by the Participant shall be given. In making any investment of the assets of the Account, the Plan Administrator shall be fully entitled to rely on the directions properly furnished to it by the Participant and shall be under no duty to make any inquiry or investigation with respect thereto. The Participant or Plan Administrator shall provide such instructions to the Master Custodial Administration Agreement Administrator, who shall timely and accurately communicate such instructions to the Custodian on behalf of the Plan Administrator.

B. Missing or Unclear Investment Directions. If the Master Custodial Administration Agreement Administrator or Custodian receives any contribution or other amount to the Account that is not accompanied by instructions directing its investment or that is accompanied by instructions that, in the opinion of the Master Custodial Administration Agreement Administrator or the Custodian, are unclear, incomplete, or not in good order, the Master Custodial Administration Agreement Administrator shall, on behalf of the Custodian, notify the Participant and Plan Administrator of that fact, and the Custodian shall invest such amount in a Money Market Fund, or another fund that has been pre-selected by the Participant or Plan Administrator, without liability for loss of income or appreciation, pending receipt of clear investment directions from the Participant. The Custodian does not have investment discretion over the account and will not make any investment decisions or render any investment advice.

C. Investment Exchanges. If permitted by the Plan Document, if any, the Participant may direct the Master Custodial Administration Agreement Administrator or Plan Administrator to redeem any or all shares of any Mutual Fund held in the Account and to reinvest the proceeds in any other available Fund. Any such exchange transaction shall conform to the provisions and limitations imposed by the underlying investment provider. All investment exchange directions by the Participant shall be made in a manner acceptable to the Master Custodial Administration Agreement Administrator, the Custodian and the Plan Administrator.

D. Reliance by Master Custodial Administration Agreement Administrator and Custodian. For all purposes under this Agreement, the Master Custodial Administration Agreement Administrator, Custodian, and/or Plan Administrator may (but is not required to) give the same effect to an electronic instruction, direction, signature, contract, record, or similar communication (collectively, "records and signatures") as it would give to written records and signatures, and the Master Custodial Administration Agreement Administrator, Custodian, and/or Plan Administrator's action in doing so shall be protected to the same extent as if such electronic records and signatures were, in fact, in written form. Any such electronic records and signatures shall be retained and provided by the Master Custodial Administration Agreement Administrator, Custodian, and/or Plan Administrator in accordance with applicable law. For all purposes under this Agreement, the term "electronic" or "electronically" shall mean relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

4.2 Investment Advice. The Participant agrees that neither the Master Custodial Administration Agreement Administrator nor the Custodian undertakes to provide any advice with respect to the investment of the Account.

4.3 Account Earnings. All dividends, capital gains distributions, and other earnings received by the Custodian on any shares of a Fund held in the Account shall be automatically reinvested in additional fund shares.

4.4 Record Ownership; Voting of Shares. All shares of the Funds held by the Custodian pursuant to this Agreement shall be registered in the name of the Custodian or its nominee. The Plan Administrator shall have the right to vote the proxies, subject to Appendix B of this Agreement.

## Article V

### Distribution of Assets of Custodial Account

#### 5.1 Limitations on Distributions.

A. General Limitations. Except as otherwise provided in Articles 3.3, 3.5, 3.9, and 5.11 of this Appendix, the assets of the Account shall not be distributed before the Participant:

- (a) Separates from service with the Employer;
- (b) Attains age 70
- (c) Encounters an unforeseeable emergency;
- (d) Dies; or
- (e) As otherwise permitted by the Code and any applicable proposed or final regulations,

The Plan Document, if any, may provide for more restrictive distribution limitations. It shall be the sole responsibility of the Plan Administrator to assure that such distribution limitations are enforced and neither the Master Custodial Administration Agreement Administrator nor the Custodian shall have any responsibility for the enforcement of such limitations.

#### 5.2 Manner of Making Distributions.

A. Distributions at Plan Administrator Direction. Any distribution from the Account shall be made by the Custodian to the Participant (or, upon the Participant's death, to the Participant's surviving spouse or Beneficiary), or by the Master Custodial Administration Agreement Administrator on behalf of the Custodian, and only upon the receipt by the Master Custodial Administration Agreement Administrator on behalf of the Participant or Employer, which shall be communicated timely to the Custodian, directions furnished by the Plan Administrator identifying the recipient, the amount, and form of the distribution. In making any distributions from the Account, the Master Custodial Administration Agreement Administrator and the Custodian shall be fully entitled to rely on the directions or authorization properly furnished to it in accordance with this Article 5.2 of this Appendix and shall be under no duty to make any inquiry or investigation with respect thereto.

B. Participant Requests for Distribution. The Participant may file a request with the Plan Administrator, for a distribution from the Account. Any such request shall be made in a manner acceptable to the Plan Administrator or, where applicable, the Master Custodial Administration Agreement Administrator and the Custodian.

C. Optional Forms of Distribution. If the Participant's request for a distribution from the Account is approved or authorized, the Participant may elect to have the distribution from the Account made in one or a combination of the following forms, subject to the requirements of Articles 5.3 and 5.4 of this Appendix:

- (a) Single-sum payment; or



(b) Monthly, quarterly, semiannual, or annual installments

D. **Distribution Upon Death of Participant.** In the event the Participant dies before the complete distribution of the assets of the Account, and if allowed by the Plan Document, if any, the Participant's Beneficiary shall be entitled to receive all undistributed amounts credited to the Account, which amounts shall be determined after the payment of any pre-retirement survivor annuity required under Article 5.5 of this Appendix. Distribution to the Beneficiary shall be made in the form of a single-sum payment, periodic installments, or annuity payments as elected by the Beneficiary, subject to the requirements of Article 5.3(e) of this Appendix. To the extent that the Beneficiary elects to defer distribution of the Account in accordance with the limitations of Article 5.3(e) of this Appendix, the Beneficiary shall be permitted to direct the investment of the Account in the same manner as the Participant was permitted under Article 4.1 of this Appendix. If a Beneficiary dies before receiving a complete distribution of any amount that the Beneficiary is entitled to receive under this Article 5.2(e) of this Appendix, such remaining amount shall be distributed to the Successor Beneficiary in accordance with this Article 5.2(e) and Article 5.3(d)(v) of this Appendix. If a Successor Beneficiary has not been designated in accordance with Article 5.10 of this Appendix or if the Successor Beneficiary predeceases the Beneficiary, such remaining amount will be distributed to the Beneficiary's estate.

### 5.3 Minimum Distribution Requirements.

A. **Incorporation by Reference.** Section 401(a)(9) of the Code and any final regulations applicable thereto are hereby incorporated by reference. To the extent that any of the provisions in this **S e c t i o n** 5.3 of the Appendix are in conflict with Section 401(a)(9) of the Code or any final regulations applicable thereto, such Code section and applicable final regulations shall prevail.

B. **Required Beginning Date.** For taxable years beginning after December 31, 1996, distributions of the Account shall commence no later than April 1 of the calendar year following the calendar year in which the Participant attains age 70 ½ or the calendar year the Participant retires, whichever is the later.

C. **Payment of Minimum Distribution Amounts to Participant.** Distributions from the Account must satisfy the minimum distribution requirements of this Article 5.3 of this Appendix for each calendar year, beginning with the calendar year immediately preceding the calendar year that contains the Participant's required beginning date (the "first distribution calendar year"). The minimum distribution amount for the first distribution calendar shall be made on or before the Participant's required beginning date. The minimum distribution amount for each calendar year thereafter, including the calendar year in which the Participant's required beginning date occurs, shall be made on or before December 31 of that calendar year. The Custodian shall be fully entitled to rely on the Plan Administrator's direction to initiate required minimum distribution payments and the Custodian assumes no responsibility for ensuring that such payments satisfy the minimum distribution requirements under Section 401(a)(9) of the Code.

D. **Calculation of Minimum Distribution Amounts.** The minimum distribution amount for each distribution calendar year shall be determined by dividing the amount credited to the Account as of the last valuation day of the preceding calendar year by the lesser of: (1) the joint and last survivor expectancy of the Participant and Beneficiary (or the life expectancy of the Participant if there is no designated beneficiary for purposes of determining the required minimum distribution amount); or (2) if the Beneficiary is not the Participant's spouse, the applicable divisor for the distribution calendar year determined from the table set forth in Treasury Regulation Section 1.401(a)(9)-2, Q&A-4. If any minimum distribution for the Participant's first distribution calendar year is made in the following calendar year but on or before the Participant's required beginning date, the amount of such minimum distribution shall be treated as if it had been made in the Participant's first distribution calendar year.

E. **Death Distribution Provisions.** In the event the Participant dies before the complete distribution of the assets of the Account, any amount that a beneficiary shall be entitled to receive under Article 5.2(e) of this Appendix must be distributed to the Participant's Beneficiary in a single-sum payment or in monthly, quarterly, semiannual, or annual installment payments over a specified period as selected in writing by the Beneficiary in accordance with the following rules:

(a) **Where Participant Dies On or After the Required Beginning Date.** If the Participant dies on or after his or her required beginning date, all amounts payable to the Beneficiary shall be distributed at least as rapidly as under the method of distribution in effect before the Participant's death. If distribution in the form of an annuity has irrevocably started before the Participant's required beginning date, the Participant's minimum distributions shall be considered to have begun on the date distributions actually started under the annuity contract.

(b) Where Participant Dies Before the Required Beginning Date.

F. Five-Year Rule. If the Participant dies before his or her required beginning date, all amounts payable to the Beneficiary must be distributed by December 31 of the calendar year containing the fifth anniversary of the date of the Participant's death.

G. Exception to Five-Year Rule. Notwithstanding subsection (ii)(A) above, all amounts payable to the Beneficiary may (if subsection (i) does not apply) be distributed in installment or annuity payments over a period not extending beyond the Beneficiary's life expectancy, provided such distribution starts by December 31 of the calendar year following the calendar year of the Participant's death. If the Beneficiary is the surviving spouse of the Participant, the date that distributions are required to start in accordance with the preceding sentence shall be the later of: (1) December 31 of the calendar year following the calendar year of the Participant's death; or (2) December 31 of the calendar year in which the Participant would have attained age 70 1/2.

(a) Calculation of Minimum Installment Payments. In the case of installment payments over the Beneficiary's life expectancy under (ii)(B), the minimum distribution amount for each calendar year shall be determined by dividing the Beneficiary's account balance for the calendar year by the Beneficiary's life expectancy for the calendar year of the distribution. For these purposes, the Beneficiary's account balance for any calendar year shall mean the total amount credited to the Account that the Beneficiary is entitled to receive under Article 5.2(e) of this Appendix as of the last valuation day of the preceding calendar year.

(b) Responsibility of Beneficiary. The Custodian is not responsible for making distributions under this Article until the Plan Administrator receives notification of the Participant's death and a distribution request from the Plan Administrator.

(c) Death of Beneficiary. If the Beneficiary dies while receiving payments from the Account, all remaining assets in the Account shall be distributed to the Successor Beneficiary at least as rapidly as distributions were required to be made to the Beneficiary under Articles 5.3(d)(i) and 5.3(d)(ii) of this Appendix. If no Successor Beneficiary is in effect at the time of the Beneficiary's death, all remaining assets shall be distributed to the Beneficiary's estate.

H. Applicable Life Expectancy. For purposes of this Article 5.3 of this Appendix, the life expectancy of the Participant or a Beneficiary, or the joint life and last survivor expectancy of the Participant and a Beneficiary, shall be determined by the following rules:

(a) Life expectancy or joint life and last survivor expectancy shall be computed by using the expected return multiples contained in Tables V and VI of Treasury Regulation Section 1.72-9 and, where applicable, the minimum distribution incidental benefit table in Treasury Regulation Section 1.401(a)(9)-2. The life expectancies of the Participant and the Participant's spouse (if the spouse is Beneficiary) shall be recalculated annually unless otherwise elected by the Participant (or the spouse in the case of distributions referred to in (d)(ii)(B) above) on or before the date minimum distributions are required to begin. Any such election by the Participant (or spouse) shall be irrevocable and shall apply to all subsequent years. The life expectancy of a Beneficiary who is not a spouse shall not be recalculated. For purposes of minimum distributions to be paid to the Participant's Beneficiary in accordance with (d)(i) above, the applicable life expectancy shall be determined without regard to Treasury Regulation Section 1.401(a)(9)-2.

(b) For purposes of determining the minimum distribution amounts to be paid to the Participant for each distribution calendar year, the life expectancy of the Participant, or the joint life and last survivor expectancy of the Participant and Beneficiary, shall be calculated based on the attained age of the Participant or Beneficiary as of the Participant's or Beneficiary's birthday in the first distribution calendar year. If life expectancy is being recalculated, the life expectancy of the Participant, or the joint life and last survivor expectancy of the Participant and the Participant's spouse (if the spouse is Beneficiary), shall be calculated based on the attained age of the Participant and the spouse as of the Participant's and spouse's birthday in each succeeding distribution calendar year.

(c) For purposes of determining the minimum distribution amounts to be paid to the Beneficiary for each calendar year under (d)(iii) above, the life expectancy of the Beneficiary shall be calculated based on the attained age of the Beneficiary as of the Beneficiary's birthday in the calendar year in which distributions are required to

begin under (d)(ii)(B). If life expectancy is being recalculated, the life expectancy of the Participant's surviving spouse (if the spouse is the Beneficiary) shall be calculated based on the attained age of the spouse as of the spouse's birthday in each succeeding calendar year.

5.4 For purposes of determining the joint life and last survivor expectancy of the Participant and the Beneficiary under (e)(i) above or life expectancy of the Beneficiary under (d)(ii)(B) above, the Participant's Beneficiary shall mean the appropriate individual (if any) designated as Beneficiary under Article 5.9 as determined in accordance with the Department of Treasury regulations under Section 401(a)(9) of the Code.

5.5 Designation of Beneficiary. The Participant may designate at any time any individuals or entities (such as a trust) or other recipient deemed acceptable by the Plan Administrator as the primary or secondary Beneficiary. The primary Beneficiary shall be entitled to receive, except as otherwise required under Article 5.4 or 5.5 of this Appendix or the Plan Document, if any, any undistributed assets held in the Account at the time of the Participant's death. If there are no surviving primary Beneficiaries at the time of the Participant's death, the secondary Beneficiaries shall be entitled to receive, except as otherwise required under Article 5.4 or 5.5 of this Appendix or the Plan Document, if any, any undistributed assets held in the Account. Any Beneficiary designation by the Participant shall be made on a form prescribed by the Plan Administrator and shall be effective only upon receipt by the Plan Administrator during the Participant's lifetime. The Participant may change or revoke the Beneficiary designation at any time by filing a new designation with the Plan Administrator. If an individual designated as Beneficiary predeceases the Participant, the Participant's designation of that individual as Beneficiary shall be ineffective. If no Beneficiary designation is in effect at the time of the Participant's death, the Participant's Beneficiary shall be the Participant's surviving spouse. If the Participant has no surviving spouse, the Participant's beneficiary shall be the Participant's estate.

5.6 Designation of Successor Beneficiary. The Beneficiary may designate at any time after the death of the Participant any individuals, entities (such as a trust), or other recipient deemed acceptable by the Plan Administrator as the primary or secondary Successor Beneficiary. The primary Successor Beneficiary shall be entitled to receive any undistributed assets held in the Account at the time of the Beneficiary's death. If there are no surviving primary Successor Beneficiaries at the time of the Beneficiary's death, the secondary Successor Beneficiaries shall be entitled to receive any undistributed assets held in the Account. Any Successor Beneficiary designation by the Beneficiary shall be made on a form prescribed by the Plan Administrator and shall be effective only upon receipt by the Custodian during the Beneficiary's lifetime.

The Beneficiary may change or revoke the Successor Beneficiary designation at any time by filing a new designation with the Plan Administrator. If an individual designated as Successor Beneficiary predeceases the Beneficiary, the Beneficiary's designation of that individual as Successor Beneficiary shall be ineffective. If no Successor Beneficiary designation is in effect at the time of the Beneficiary's death, the Successor Beneficiary shall be the Beneficiary's estate.

5.7 Distributions Pursuant to Qualified Domestic Relations Orders.

A. In General. Notwithstanding any provision of this Custodial Agreement to the contrary, the Plan Administrator may direct the Custodian to distribute all or a portion of the Account to an alternate payee in accordance with the terms and conditions of a "qualified domestic relations order" (QDRO) as defined in Section 414(p) of the Code. This Custodial Agreement hereby specifically permits and authorizes distributions from the Account to an alternate payee in accordance with a QDRO before the date the Participant terminates employment with the Employer or before the date the Participant attains his or her earliest retirement age as defined in Section 414(p)(4)(B) of the Code.

B. Applicable Procedures. The Plan Administrator shall be responsible for establishing reasonable procedures for determining whether any domestic relations order received with respect to the Account qualifies as a QDRO and for administering distributions in accordance with the terms and conditions of a QDRO. If any domestic relations order is received with respect to the Account, the Plan Administrator shall promptly notify the Participant and each alternate payee identified in the order, and the Plan Administrator shall determine within a reasonable period after receipt of the domestic relations order whether the order qualifies as a QDRO, and notify the Participant and each alternate payee of such determination. In making any distribution to an alternate payee pursuant to the Plan Administrator's directions under this Article 5.11, the Custodian shall be fully entitled to rely on such directions furnished by the Plan Administrator and shall be under no duty to make any inquiry or investigation with respect thereto.

## 5.8 Direct Rollovers and Transfers From the Custodial Account.

A. Direct Rollovers. Notwithstanding any provision of the Account to the contrary that would otherwise limit a distributee's election under this article, a distributee may elect, at the time and in the manner prescribed by the Master Custodial Administration Agreement Administrator, Custodian and Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For purposes of this Article 5.12, the following definitions shall apply:

(a) Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, to which the distributee is entitled under the Plan Document, if any, except that an eligible rollover distribution does not include:

B. Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee, or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(a) Any distribution to the extent that such distribution is required under Section 401(a)(9) of the Code;

(b) The portion of any distribution that is not includible in gross income; and,

(c) Any distribution made for reason of Financial Hardship.

C. Eligible Retirement Plan. An eligible retirement plan is a traditional individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan or custodial account described in Section 457(b) of the Code that accepts the distributee's eligible rollover distribution or any other plan allowed by the Code and final regulations applicable thereto. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is a traditional individual retirement account or an individual retirement annuity.

D. Distributee. A distributee includes a Participant or former Participant. In addition, the Participant's or former Participant's surviving spouse, and the Participant's or former Participant's spouse or former spouse who is the alternate payee under a QDRO, as defined under Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

E. Direct Rollover. A direct rollover is a payment by the Account to the eligible retirement plan specified by the distributee.

F. Transfers. The Participant shall be permitted to direct the Plan Administrator to transfer all or any part of the assets of the Account directly to the sponsor of another annuity contract or custodial account described in Section 457(b) of the Code or applicable 401(a) plan for the purpose of purchasing service credits in a state retirement plan (or other like plan) to the extent permitted by the Code and the regulations thereunder and in accordance with any employee benefit plan rules sponsored by the Employer that governs the making of transfers from the Account. The transferred assets must continue to be subject to the same or more stringent distribution restrictions as under the current Account.

G. Participant's Responsibilities. The Participant shall be responsible for ensuring that any direct rollover or transfer of assets from the Account pursuant to this Article 5.12 is a proper rollover or transfer of assets under the Code. The Custodian and/or Plan Administrator shall not be liable for any adverse tax consequences that may result to the Participant should any rollover or transfer duly authorized by the Participant be determined not to constitute a proper rollover or transfer under the Code.

## Article VI

### Responsibilities and Duties of Custodian

6.1 Asset Retention. The Custodian shall hold all contributions to the Account that are received by it subject to the terms and conditions of this Agreement and for the purposes set forth herein. The Custodian shall be responsible only for such assets as shall actually be received by it.

6.2 Record Keeping and Reports. Subject to the provisions of this Agreement, the Master Custodial Administration Agreement Administrator, Custodian and/or Plan Administrator shall maintain such records as may be necessary for the proper administration of the Custodial Account. The Master Custodial Administration Agreement Administrator, Custodian and/or Plan Administrator shall submit all reports to the Internal Revenue Service, Department of Labor, Employer, and Participant at such times and in such manner as may be prescribed as the responsibility of the Custodian by the applicable statutes and regulations thereunder.

6.3 Limitations on Responsibilities and Duties. Neither the Master Custodial Administration Agreement Administrator nor Custodian shall be responsible for the collection of contributions provided for under this Agreement, the selection of the investments for the Account, the purpose or propriety of any distribution made at the direction of the Participant or Plan Administrator pursuant to Article 5 of this Appendix, or any other action properly taken at the direction of the Employer, Plan Administrator, or Participant in accordance with the terms and conditions of this Agreement. Neither the Master Custodial Administration Agreement Administrator nor the Custodian shall be under any obligation to determine the accuracy or propriety of any such directions received from the Plan Administrator and shall be fully protected in acting in accordance therewith.

6.4 Indemnification of Custodian. To the extent permitted by any law applicable to the Participant and Employer, the Participant shall at all times fully indemnify and save harmless the Master Custodial Administration Agreement Administrator, Custodian and / or Plan Administrator, its successors, and assigns from any and all liability arising from actions taken at the request of the Participant and from any and all other liability that may arise in connection with this Agreement, except liability arising from the Master Custodial Administration Agreement Administrator, Custodian and / or Plan Administrator's breach of its responsibilities or duties hereunder. The Plan Administrator may conclusively rely upon and shall be protected in acting upon any direction from the Participant or any other notice, request, consent, certificate, or other instrument or paper believed by it to be genuine and to have been properly executed, so long as the Plan Administrator acts in good faith in taking or omitting to take any action.

6.5 Liability of Custodian and Master Custodial Administration Agreement Administrator. The Master Custodial Administration Agreement Administrator's and Custodian's liability under this Agreement and matters that it contemplates shall be limited to matters arising from the Master Custodial Administration Agreement Administrator's and/or Custodian's negligence or willful misconduct. The Master Custodial Administration Agreement Administrator and Custodian shall not be obligated or expected to commence or defend any legal action or proceeding in connection with this Custodial Agreement unless agreed upon by the Master Custodial Administration Agreement Administrator, Custodian Participant and Plan Administrator, and unless fully indemnified for so doing to the Master Custodial Administration Agreement Administrator, Custodian and / or Plan Administrator's satisfaction.

## Article VII

### Fees and Expenses of the Custodian and Plan Administrator

7.1 Compensation of the Master Custodial Administration Agreement Administrator and Custodian. In consideration for its services hereunder, the Master Custodial Administration Agreement Administrator and Custodian shall be entitled to receive the applicable fees specified in this Agreement, if any.

7.2 Compensation for the Plan Administrator. In consideration for its services hereunder, the Plan Administrator shall be entitled to receive fees. Master Custodial Administration Agreement Administrator, Custodial and administration fees are charged to the funds and are reflected in the net asset value of the funds and not as a deduction from the individual accounts.

7.3 Charges Upon the Account. Any income taxes or other taxes or assessments of any kind whatsoever that may be levied or assessed upon or in respect to the Account (including any transfer taxes included in connection with the investment and reinvestment of Account assets), expenses, fees and administrative costs incurred by the Plan Administrator in the performance of its duties (including fees for legal services rendered to the Custodian and/or Plan Administrator), and the Custodian's and Plan Administrator's compensation as determined under Article 7.1 or Article 7.2 of this Appendix shall constitute a charge upon the assets of the Account. At the Plan Administrator's option, such fees, taxes, or expenses shall be paid from the Account or by the Account Holder. The Custodian and Plan Administrator may redeem Fund shares and use the proceeds of redemption to pay such fees, taxes or expenses, and neither the Custodian nor the Plan Administrator will have any liability for loss of income or

appreciation, and neither the Custodian nor the Plan Administrator shall be deemed to be fiduciaries under ERISA, as a result of the Custodian's and/or Plan Administrator's redemption of fund shares or selection of Fund shares to be redeemed under this sentence.

## Article VIII

8.1 Custodian. The Custodian and any successor Custodian appointed to serve under this Agreement shall be a bank, as defined in Section 408(n) of the Code, or such other person who is qualified to serve as custodian under Section 401(f)(2) of the Code. The Custodian under this Agreement shall be Matrix Trust or its successor(s).

## Article IX

### Amendment and Termination

9.1 Amendment. No amendment to this Agreement shall cause or permit:

A Any part of the assets of the Account to be used for, or diverted to, purposes other than for the exclusive benefit of the Participant or Beneficiary, to the extent that the Participant or Beneficiary is vested in the Account as provided by the Plan Document, if any;

B The Participant to be deprived of any accrued benefits under this Agreement unless such amendment is required for the purpose of conforming the Agreement to the requirements of the Code; or

C The imposition of any additional duties or obligations on the Employer, Plan Administrator, or Participant without their consent, unless such amendment is required for the purpose of conforming the Agreement to the requirements of the Code.

9.2 Amendment of Salary Reduction Agreement. The Participant and the Employer may agree to amend the salary reduction agreement referred to in Article 3 of this Appendix at any time.

## Article X

### Miscellaneous

10.1 Employer's Plan Provisions Shall Control. If contributions are being made to the Account pursuant to an employee benefit plan sponsored by the Employer that covers the Participant or the Plan Document, if any, to the extent the Plan Administrator has received notification from the Employer, in a manner acceptable to the Plan Administrator, that any provisions of this Agreement are inconsistent with the provisions of such employee benefit plan, the provisions of the Employer's employee benefit plan shall control, provided that:

A. Such provisions of the Employer's employee benefit plan or Plan Document are not contrary to the rules and regulations under Section 457(b)(7) of the Code or the provisions of ERISA, if applicable;

B. Such provisions of the Employer's employee and/or Plan Administrator benefit plan or Plan Document do not impose any additional responsibilities or duties on the Master Custodial Administration Agreement Administrator or Custodian without their prior written consent; and

C. The Employer has delivered the most recent copy of such employee benefit plan or Plan Document to the Plan Administrator and Master Custodial Administration Agreement Administrator. The Custodian shall be fully entitled to rely on the Employer's or Plan Administrator's representation of the contents of the applicable Plan Document and shall be under no duty to make inquiry or to determine the accuracy of the Employer's or Plan Administrator's instructions.

10.2 Exclusive Benefit. The assets of the Account shall not be used for, or diverted to, purposes other than for the exclusive benefit of the Participant or his or her Beneficiary, to the extent the Participant is vested in the Account as provided by the Plan Document, if any. The assets of the Account shall not be subject to the claims of the Employer's creditors. The interest of the Participant in the balance of the Account shall at all times be

nonforfeitable and nontransferable, to the extent the Participant is vested in the Account as provided by the Plan Document, if any.

10.3 Nonalienation. The assets of the Account shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution, or levy of any kind, either voluntary or involuntary, provided, however, that the Custodian shall not be hereby precluded from complying with any qualified domestic relations order as defined in Section 414(p) of the Code in accordance with the procedures set forth in Article 5.11 of this Appendix. Any attempt by the Participant or Beneficiary to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any right to distributions hereunder shall be void, except as otherwise required by law.

10.4 Qualified Military Service. Notwithstanding any provision of this Agreement to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with section 414(u) of the Code.

10.5 Investment Management, Administrative and Advisory Fees. Notwithstanding anything contained herein to the contrary, the Employer and/or Participant may authorize the direct payment of investment management, administrative or advisory expenses and fees from the Account, provided that the Account is solely liable for the payment of such expenses or fees in a form acceptable to the Plan Administrator.

10.6 Notices. Any notice, accounting, or other communication that the Plan Administrator may give to the Participant shall be deemed given when mailed to the Participant at the latest address furnished to the Plan Administrator. Any notice or other communication that the Employer or Participant may give to the Plan Administrator shall not become effective until actual receipt of said notice by the Plan Administrator.

10.7 Applicable Law. All duties of the Custodian under this Custodial Agreement shall be construed and enforced in accordance with the laws of the state of Texas, to the extent not preempted by federal law. All duties of the Employer under this Custodial Agreement shall be construed and enforced in accordance with the laws of the state in which the Employer's principal administrative offices are located, to the extent not preempted by federal law. No provision of this Custodial Agreement shall be construed to conflict with any provision of an Internal Revenue Service regulation, ruling, release, or other order that affects, or could affect, the terms of this Custodial Agreement or its qualification under Section 457(b)(7) of the Code.

10.8 Severability. The determination that any provision of this Custodial Agreement is not enforceable in accordance with its terms in a particular jurisdiction shall not affect the validity or enforceability of the remaining provisions of this Custodial Agreement generally or in any other jurisdiction or as to any other parties, but rather such enforceable provisions shall be stricken or modified in accordance with such determination only as to such parties and this Custodial Agreement, as so modified, shall continue to bind the specific parties involved therein and otherwise all other parties in unmodified form.

10.9 Exclusive Benefit. The assets of the Account shall not be used for, or diverted to, purposes other than for the exclusive benefit of the Employee or his or her Beneficiary except with regards to payment of the expenses of the Custodian and Plan Administrator authorized by the provisions of this Agreement, except to the extent the Participant is vested in the Account as provided by the Plan Document, if any, and except to the extent required by law. To the extent allowed by law, the assets of the Account shall not be subject to the claims of the creditors of the accountholder.

10.10 Nonforfeatability and Nontransferability. The interest of the Employee in the balance of the Account shall at all times be nonforfeitable and nontransferable, to the Participant is vested in the Account as provided by the Plan Document, if any.

**APPENDIX C**

**NAMED PARTICIPANT AND PARTICIPANT APPROVAL OF THIS AGREEMENT**

By his or her signature hereto on the 457(b) Program forms of which this Agreement is a part, the Participant listed in the 457(b) Program application of which this Agreement is a part agrees to be bound by the terms and conditions of the Master Custodial Administration Agreement entered into by and between the Participant and TCG Administrators, LP, as Master Custodial Administrator, effective as of the effective date on the 457(b) Program forms of which this is Agreement is apart.

**NAME OF PLAN:** AS LISTED IN THE 457(b) PROGRAM FORMS OF WHICH THIS AGREEMENT IS A PART



## **ADMINISTRATION AND SUPPORT SERVICES AGREEMENT (TCG ADMINISTRATORS)**

This Administration Agreement (the "Agreement") is entered into effective as of the date of submission ("Effective Date"), by and between the Individual who signs this document and all other attached agreements to establish a 457(b) account in the Program (the "Participant"), and TCG Administrators, LP ("TCG ADMINISTRATORS, Third Party Administrator, or Recordkeeper").

For good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, the parties agree as follows:

1. Duties of the Administrator. TCG ADMINISTRATORS shall provide services to the Participant. Such services will include, but are not limited to:

- Administration of the compliance for the Participant's 457(b) Account(s) set up with TCG ADMINISTRATORS (the "Plan") in the 457(b) Plan of the Participant's Employer in which he or she participates.
- Management for the Plan, including all forms, procedures and software needed; Offering all Plan investments and services to Plan participants through an Internet Website

The Participant acknowledges that the service of receiving Plan funds and forwarding these along with necessary records to the investment companies providing fund options for the Plan will be provided through a Custodial Agreement between Third Party Administrator and Matrix Trust, and the Participant hereby agrees to a separate Master Custodial Account Administration Agreement with the Third Party Administrator whereby Third Party Administrator will contract for such custodial services on the Participant's behalf with Matrix Trust. The Participant also agrees that the Third Party Administrator will pay the fees of Matrix Trust. The Participant also acknowledges that the investments offered to the Participant shall be selected by TCG Administrators' affiliate, TCG Advisory Services, LLC, and the Participant shall sign a separate agreement with TCG Advisory Services, LLC.

3. Compensation. Subject to the terms and conditions hereof, in consideration of the services to be rendered by TCG ADMINISTRATORS to Participant hereunder, Participant agrees to pay TCG ADMINISTRATORS, commencing on the Effective Date and continuing throughout the term, unless earlier terminated pursuant to the terms of this agreement, the fees listed in the fee disclosure.

4. Independent Contractor. The parties acknowledge that TCG ADMINISTRATORS is a skilled professional benefits administrator who will be rendering professional services pursuant to this Agreement. TCG ADMINISTRATORS will use their professional judgment and expertise to accomplish the details of their work. TCG ADMINISTRATORS acknowledges and agrees that they shall have no right or authority to commit or obligate the Participant in any way to any third party or parties unless specifically authorized to do so by the Participant or the Participant's Investment Advisor

The parties also acknowledge that, at the time of entering this agreement and during the Contract Term, or any renewal period, TCG ADMINISTRATORS is or may be engaged to perform services for any other Participant, organization or individual without the permission of the Participant.

5. Confidentiality; Work Product. (a) Subject to (b), without the prior written consent of the Participant, Third Party Administrator specifically agrees that they will not at any time during or after the term of this Agreement divulge any confidential information (information not available to the public or which would be generally known by knowledgeable individuals in the industry who do not work for the Participant) obtained by Third Party Administrator during the Contract Term, including, but not limited to, the Participant's methods of operation, designs, concepts, processes, new developments, cost data, price data, trade secrets, formulas, financial condition, or information which came to Third Party Administrator's attention by reason of their performance hereunder. In the event that the Participant takes any legal action against the Third Party Administrator, or if it is necessary for the Third Party Administrator to take any legal action against the Participant in order to enforce the provisions of this Contract, then this section (a) shall become void and the Third Party Administrator shall be free to disclose such information to the extent that it is necessary to provide for a defense against any legal

action by the Participant or to pursue any legal action against the Participant.

(b) Any and all work product, inventions, discoveries, formulas, patterns, devices, compilations, codes, moral rights, developments, trade secrets, know-how, show-how, mask work right, patents, copyrights, trade or service marks, trade names, work made for hire, presentations, seminars, compliance material, position papers, contract forms, document forms, or intellectual property protection or intangible legal rights or interests, developed or acquired in the course of providing services pursuant to this Agreement, shall be the joint property of the Participant and the Third Party Administrator, and the Third Party Administrator shall have the right to use such information or rights freely without the permission of or compensation to the Participant. If any confidential information as defined in section (a) is included in such material, the material may be used by the Third Party Administrator if any confidential information is deleted before being used.

6. Participant Property. Other than property and rights covered by paragraph 6(b), the Participant and Third Party Administrator understand and agree that all Participant records computer printouts, and any other records, files, documents, drawings, specifications, equipment, books and other similar items relating, in any manner whatsoever, to the business of the Participant shall remain the exclusive property of the Participant. All such books, records, data, logs, programs and records in Third Party Administrator's possession or under Third Party Administrator's control belonging to the Participant shall be immediately returned by Third Party Administrator to the Participant upon any termination of this Agreement or upon any request for such documents and materials by the Participant. To the extent that such books, records, data, logs, programs and records in Third Party Administrator's possession or under Third Party Administrator's control belonging to the Participant also represent a work product of the Third Party Administrator, as defined in section 6(b), the Third Party Administrator may keep a copy of such items, subject to the restrictions and rights of the Third Party Administrator and the Participant as provided in section 5.

7. Notice. Any notice provided or permitted to be given under this Agreement may be in writing or provided by electronic means, including email to the Participant's email address that he or she has provided to TCG ADMINISTRATORS. Notice may also be served in any other manner, including telex, telecopy, telegram, etc., but shall be deemed delivered and effective as of the time of actual delivery. For purposes of notice the addresses of the parties shall be as follows:

If to the Participant, to the Participant's home address and or email address supplied during enrollment unless TCG ADMINISTRATORS is later notified of a change of address.

If to TCG ADMINISTRATORS, to:

TCG Administrators, LP  
900 S. Capital of Texas Highway, Suite 350  
Austin, Texas 78746

Such addresses may be changed from time to time, by written notice to the other party.

8. Indemnification. TCG ADMINISTRATORS agrees to accept liability for any federal compliance requirements that occur directly as the result of any administrative services, advice, actions, agreements or other activity provided under section 2 of this Agreement, provided that any actions that the TCG ADMINISTRATORS has advised the Participant to take have been carried out by the Participant as advised or actions that the Participant has been advised by the TCG ADMINISTRATORS not to take have not been taken as advised. In the event that the TCG ADMINISTRATORS is liable for any federal compliance duty under the terms of this Agreement, TCG ADMINISTRATORS shall provide for correction of the violation(s) by the least expensive method, which alleviates all liability for the Participant in a reasonable time frame for the matter involved.

9. Entire Agreement. This Agreement sets forth the entire understanding of the parties with respect to the matters contemplated hereby and any previous agreements or understandings between the parties are superseded by this Agreement. This Agreement shall also replace any and all previous contracts, agreements or understandings between the Participant and the TCG ADMINISTRATORS. However, this Agreement does not supersede or replace the other agreements that are a part of the Program.

10. Assignability. TCG ADMINISTRATORS shall have the right to assign, transfer or delegate its rights or

obligations hereunder.

11. Amendment of Agreement; Waiver. This Agreement may only be amended or modified by written instrument duly executed by each of the parties hereto. The failure of a party to insist upon strict performance of any provision of this Agreement shall not constitute a waiver of, or estoppel against asserting, the right to require performance in the future. A waiver or estoppel in any one instance shall not constitute a waiver or estoppel with respect to a later breach.

12. Choice of Governing Law and Forum. This Agreement shall be construed and enforced in accordance with the laws of the State of Texas.

13. Headings. The headings contained herein are for convenience and reference only and are not intended to define, limit or describe the scope or intent of any provision of this Agreement.

14. Ambiguities. In the event that it shall be determined that there is any ambiguity contained herein, such ambiguity shall not be construed against either party hereto as a result of such party's preparation of this Agreement but shall be construed in light of all of the facts, circumstances and intentions of the parties at the time this Agreement is executed.

15. Severability. In the event 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 provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

16. Counterparts. This Agreement may be executed in several counterparts, each of which is an original and any person may become a party hereto by executing a counterpart hereof. This Agreement and any counterpart so executed shall be deemed to be one and the same instrument. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.

17. Mediation. The parties may agree to resolve disagreements through voluntary, non-binding mediation. The costs of the mediation shall be shared equally by the parties.

19. Contract Termination. This Agreement may be terminated at any time by the Participant.

This Agreement may be terminated by Participant by providing written notice to TCG ADMINISTRATORS. The date of termination specified in the notice may be any date thirty (30) days or more after the date of receipt of notice. Upon termination of this Agreement, neither party shall have any further obligation to the other.

## TCG-457(b) PROGRAM FEE DISCLOSURE

Category	Fee
Administration Fixed Dollar Fee	\$45 Annually
Administration Asset Based Fee	0.30% Annually
Custodial Fee Collected by TCG Administrators	0.10%
Distribution/Loan Fee	\$25

*\*Individual investor clients of TCG may receive investment advice on their accounts if such services are expressly agreed to. The applicable fees and services will be defined in a separate individual Client Services Agreement with TCG.*

## **PARTICIPANT / CLIENT AFFIRMATION**

By logging into the 457(b) Program website and opening the Agreements herein, I hereby acknowledge and affirm that I have reviewed these Agreements and expressly agree to their terms. I further acknowledge that I have supplied my name as the Participant (as defined by the Program Agreements herein) and have logged into this website under the 457(b) Plan sponsored by my Employer. My acceptance of the Agreements on the Program website will be my electronic signature and such acceptance and signature shall be binding as set forth and described herein and in all Program related materials.