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Coverdell Education Savings Account

Custodial Account Agreement and Disclosure Statement

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Coverdell Education Savings Account Custodial Account Agreement

Form 5305-EA under Section 530 of the Internal Revenue Code
IRS FORM (REV. October 2016)



The Depositor named on the Application is establishing a Coverdell Education Savings Account under section 530 for the benefit of the Designated Beneficiary exclusively to pay for the qualified elementary, secondary, and higher education expenses, within the meaning of section 530(b)(2), of such Designated Beneficiary.

The Depositor has assigned the Custodial Account the sum indicated on the Application.

The Depositor and the Custodian make the following Agreement:

ARTICLE I

The Custodian may accept additional cash contributions provided the Designated Beneficiary has not attained the age of 18 as of the date such contributions are made. Contributions by an individual contributor may be made for the tax year of the Designated Beneficiary by the due date of the beneficiary's tax return for that year (excluding extensions). Total contributions that are not rollover contributions described in section 530(d)(5) are limited to \$2,000 for the tax year. In the case of an individual contributor, the \$2,000 limitation for any year is phased out between modified adjusted gross income (AGI) of \$95,000 and \$110,000. For married individuals filing jointly, the phase-out occurs between modified AGI of \$190,000 and \$220,000. Modified AGI is defined in section 530(c)(2).

ARTICLE II

No part of the Custodial Account funds may be invested in life insurance contracts, nor may the assets of the Custodial Account be commingled with other property except in a common trust fund or a common investment fund (within the meaning of section 530(b)(1)(D)).

ARTICLE III

- 3.1 Any balance to the credit of the Designated Beneficiary on the date on which he or she attains age 30 shall be distributed to him or her within 30 days of such date.
- 3.2 Any balance to the credit of the Designated Beneficiary shall be distributed within 30 days of his or her death unless the designated death beneficiary is a family member of the Designated Beneficiary and is under the age of 30 on the date of death. In such case, that family member shall become the Designated Beneficiary as of the date of death.

ARTICLE IV

The Depositor shall have the power to direct the Custodian regarding the investment of the above-listed amount assigned to the Custodial Account (including earnings thereon) in the investment choices offered by the Custodian. The Responsible Individual, however, shall have the power to redirect the Custodian regarding the investment of such amounts, as well as the power to direct the Custodian regarding the investment of all additional contributions (including earnings thereon) to the Custodial Account. In the event that the Responsible Individual does not direct the Custodian regarding the investment of additional contributions (including earnings thereon), the initial investment direction of the Depositor also will govern all additional contributions made to the Custodial Account until such time as the Responsible Individual otherwise directs the Custodian. Unless otherwise provided in this Agreement, the Responsible Individual also shall have the power to direct the Custodian regarding the administration, management, and distribution of the Account.

ARTICLE V

The "Responsible Individual" named by the Depositor shall be a parent or guardian of the Designated Beneficiary. The Custodial Account shall have only one Responsible Individual at any time. If the Responsible Individual becomes incapacitated or dies while the Designated Beneficiary is a minor under state law, the successor Responsible Individual shall be the person named to succeed in that capacity by the preceding Responsible Individual in a witnessed writing or, if no successor is so named, the successor Responsible Individual shall be the Designated Beneficiary's other parent or successor guardian. Unless otherwise directed by checking the option below, at the time that the Designated Beneficiary attains the age of majority under state law, the Designated Beneficiary becomes the Responsible Individual. If a family member under the age of majority under state law becomes the Designated Beneficiary by reason of being a named death beneficiary, the Responsible Individual shall be such Designated Beneficiary's parent or guardian.

Option If this option is selected on the Coverdell Education Savings Account Application, the Responsible Individual shall continue to serve as the Responsible Individual for the Custodial Account after the Designated Beneficiary attains the age of majority under state law and until such time as all assets have been distributed from the Custodial Account and the Custodial Account terminates. If the Responsible Individual becomes incapacitated or dies after the Designated Beneficiary reaches the age of majority under state law, the Responsible Individual shall be the Designated Beneficiary.

ARTICLE VI

The Responsible Individual, as indicated on the Coverdell Education Savings Account Application, may or may not change the beneficiary designated under this Agreement to another member of the Designated Beneficiary's family described in section 529(e) (2) in accordance with the custodian's procedures.

ARTICLE VII

- 7.1 The Depositor agrees to provide the Custodian with all information necessary to prepare any reports required by section 530(h).
- 7.2 The Custodian agrees to submit to the Internal Revenue Service (IRS) and Responsible Individual the reports prescribed by the IRS.

ARTICLE VIII

Notwithstanding any other articles which may be added or incorporated, the provisions of Articles I through III will be controlling. Any additional articles inconsistent with section 530 and the related regulations will be invalid.

ARTICLE IX

This Agreement will be amended as necessary to comply with the provisions of the Code and the related regulations. Other amendments may be made with the consent of the depositor and the custodian whose signatures appear on the application.

ARTICLE X – DEFINITIONS

The below words and phrases, when used in this Coverdell Education Savings Custodial Account Agreement (the “Agreement”), shall have the following meaning:

- 10.1 “You” and “Your” means the Depositor and the person who establishes the Account.
- 10.2 “We”, “Us” and “Our” mean the Custodian.
- 10.3 “Code” means the Internal Revenue Code.
- 10.4 “Regulations” means the Treasury Regulations.
- 10.5 “CESA”, “Account”, “Custodial Account” or “Coverdell Education Savings Account” means the Account you set up with us under this Agreement for the benefit of the Designated Beneficiary.
- 10.6 “Responsible Individual” means the individual who generally controls all decisions regarding this CESA, including directing the custodian regarding the management and administration of this CESA. The Responsible Individual, generally, is the parent or guardian of the Designated Beneficiary, but the Custodian may permit another to be the Responsible Individual. Unless noted on the Application, the Responsible Individual is not permitted to change the Designated Beneficiary.
- 10.7 “Designated Beneficiary” means the individual on whose behalf the Account has been established.

ARTICLE XI – CUSTODIAN RIGHTS AND DUTIES

11.1 Custodian’s Limited Duties

- (a) Our duties as custodian of this CESA are limited to those set forth in this Agreement. Our duties are limited to (i) receiving funds or investments from the Depositor and Responsible Individual, (ii) following the directions of the Depositor and Responsible Individual concerning this CESA, and (iii) carrying out our ministerial duties as custodian as set forth in this Agreement below.
- (b) It shall be our duty to maintain this CESA and to effect administrative tasks at the direction of the Depositor and the Responsible Individual. Such tasks include the following:
 - (i) holding and/or investing/re-investing any part of the CESA at the direction of the Depositor and the Responsible Individual;
 - (ii) selling, conveying, transferring and otherwise following the directives of the Depositor and the Responsible Individual concerning property held in the CESA;
 - (iii) borrowing and lending money and extending mortgages at the direction of the Responsible Individual;
 - (iv) retaining cash and assets in the CESA Account, which CESA Account shall reflect the amounts contributed by the Depositor and anyone else from rollovers, transfers, investments and distributions, disbursements and all other transactions directed by the Depositor and the Responsible Individual;
 - (v) holding any securities or other property which has been properly registered to the CESA Account;
 - (vi) filing certain tax forms such as 5498s and 1099s required of us as Custodian;
 - (vii) unless otherwise directed by the Responsible Individual,

depositing all undirected and uninvested cash from any source into the Program as set forth and defined in Article XII, Section 12.1(b) of this Agreement, and then to place such deposited cash into one or more financial institutions as described in those sections;

- (viii) making payments, disbursements or distributions from this CESA at the instruction of the Responsible Individual and/or Designated Beneficiary;
- (ix) furnishing to the Responsible Individual, on at least an annual basis, a statement of your assets and transactions in your CESA; and
- (x) making, executing and delivering any and all contracts, waivers, releases and any other document necessary for effecting a transaction directed by the Responsible Individual.

11.2 Custodian’s Rights

- (a) We have the right to not process or accept a transaction or investments. For example, if we determine that an investment, or transaction poses a risk to us, is no longer administratively feasible, is inconsistent with internal practices and standards, or is beyond the scope of our administrative responsibilities, capabilities or expertise, we have the right to not process the transaction or investment and we have the right to resign from our role as Custodian of the particular asset and/or CESA. If we choose to resign, we may distribute this asset to the Designated Beneficiary at its last known value, which could subject the Designated Beneficiary to fees for us having to re-register the asset and process the transaction. We shall have no liability for any tax, financial, or other consequences related to such distribution.
- (b) The decision to not process or accept an investment should not be interpreted as us endorsing or conducting due diligence on an investment, investment company or investment strategy. Further, the decision to review any documents related to your investment or whether to accept or not accept an investment does not impose any fiduciary duties on us and should not be construed as us making a determination concerning the suitability or legality of the investment. Rather, any review performed by us with respect to an investment shall be solely for our own purposes of determining whether such investment poses administrative burdens on us or whether accepting such investment complies with our internal policies, practices and standards.
- (c) We shall use reasonable efforts to acquire or sell investments in accordance with your directions within a reasonable period of time after we have received an investment direction and we shall make reasonable efforts to notify you if we are unable or unwilling to comply with an investment direction. Subject to the foregoing, we shall remit funds as directed, but have no responsibility to verify or assure that such funds have been invested to purchase or acquire the asset selected by you.
- (d) If we (1) fail to receive directions from you regarding any transaction; (2) receive ambiguous directions regarding any transaction; (3) believe that any transaction requested is in dispute or is being challenged by a third party, we have the right to take no action and/ or freeze your CESA until further clarification acceptable to us is received from you or the appropriate government or judicial authority.
- (e) We have the right to close your CESA if the Account drops below the minimum balance we establish and/or if your CESA remains inactive with no assets or new investments for a period of time designated under our internal policies.
- (f) We may require that your CESA maintain a minimum balance of cash and assets, and we have the right to distribute the

entire balance of your CESA to you or assess a fee if the balance of your CESA drops below a minimum balance we establish.

- (g) We have the right to liquidate assets held in your CESA and choose which assets to liquidate in order to pay for overdue fees owed to us or as required in order to comply with state escheatment laws. We also have the right to liquidate assets held in your CESA and credit your CESA for the market value of such assets if we determine that it is administratively burdensome or not feasible to custody such assets or if there are regulatory or legal risks, as determined by us, associated with the custody or investment of such assets.

ARTICLE XII – RESPONSIBILITIES OF THE CESA OWNER

12.1 In General

- (a) The Depositor, Responsible Individual and Designated Beneficiary represent and warrant to us that any information given to us with respect to this Agreement, the CESA or the Application is complete, accurate and up to date. Further, the Depositor, Responsible Individual and Designated Beneficiary agree that any direction given to us, or action taken will be proper under this Agreement, and that we are entitled to rely and/or act upon any such information or direction upon receipt. We shall not be responsible for losses of any kind that may result from these directions, and the Responsible Party and Depositor agree to reimburse and indemnify us for any loss we may incur as a result of such direction, action or failure to act.
- (b) We have the right to assume that any document submitted relative to this CESA is enforceable, authorized and approved by the Depositor and Responsible Individual. The Depositor, Responsible Individual, and Designated Beneficiary acknowledge that it is their duty to ensure that any documents relating to any investment are signed, recorded, genuine, and legally enforceable to establish legal interest, including but not limited to title or a security interest. The Responsible Party and Depositor agree that we are not liable for any damages as a result of us accepting a document that we believe is authorized and approved.
- (c) We are responsible for safekeeping only those documents which are delivered to us by You or your agent. If the original documents are to be held by your agent or another third party, you must ensure that the agent or third party agrees to safeguard the original documents and forward copies of the signed and recorded documents to us as evidence of ownership.

12.2 Investment Conforms to All Applicable Regulations and Securities Laws

- (a) The Responsible Individual is responsible for ensuring that the assets within the CESA and all transactions connected with the CESA comply with South Dakota regulations, other applicable federal and state regulations, rulings and this Agreement. By signing the CESA Account application and receiving this Agreement, the Responsible Individual acknowledges that none of the assets in the CESA Account violate any federal or state Regulation. We have no duty to determine whether the contributions or distributions comply with relevant laws.
- (b) The Responsible Individual represents to us that if any investment is a security under applicable federal or state securities laws, such investment has been registered or is exempt from registration under federal and state securities laws; and you release and waive all claims against us for our role in carrying out your instructions with respect to such investment.

- (c) The Responsible Individual acknowledges that the foregoing representation's being relied upon by us in accepting the investment directions and the Responsible Individual agrees to indemnify us with respect to all costs, expenses (including attorneys' fees), fines, penalties, liabilities, damages, actions, judgments and claims arising out of such investment and/or a breach of the foregoing representation, including, without limitation, claims asserted by the Responsible Individual.

12.3 Investment of Amounts in Your CESA – Responsible Individual's Duty

- (a) **In General.** The Responsible Individual has exclusive responsibility for and control over the investment of the assets of this CESA Account. All transactions shall be subject to any and all restrictions or limitations, direct or indirect, which are imposed by our charter, articles of incorporation, or bylaws; any and all applicable federal and state laws and regulations; the rules, regulations, customs and usages of any exchange, market or clearing house where the transaction is executed; our internal policies, standards and practices; and this Agreement.
- (b) **Selection of Investment and Investment Due Diligence.** The Responsible Individual is responsible for conducting any and all due diligence related to the investment, and for the selection of the investment for the CESA assets. We will not select or recommend any investment, nor will we act as a broker dealer or advisor in completing any purchase or sale of an investment for you. However, the selection of investments shall be limited to those types of investments that we are authorized by our charter, articles of incorporation, or bylaws to custody and that comport with our internal policies, practices, and standards and that are deemed administratively feasible by us, as set forth in Article XIX, Section 9.2. Cash balances in your CESA for which no investment instructions have been received shall be placed in a financial institution as set forth in Article X, Sections 12.3(f) and 12.3(g).
- (c) **Third Party Due Diligence.** The Responsible Individual is responsible for performing proper due diligence with regard to any such representative, investment advisor, broker or other party. We will follow the directions of any such investment advisor, representative, broker or other party authorized in a manner acceptable to us, and we will be entitled to all the same protections and indemnities in our reliance upon and execution of the directives of such agent or other party as if such directives were given by the Responsible Individual. We may permit the Responsible Individual to appoint, through written notice acceptable to us, an authorized agent to act on his/her behalf with respect to this Agreement (e.g., attorney-in-fact, administrator, advisor or investment manager), however, we have no duty to determine the validity of such appointment or any instrument appointing such authorized agent.
- (d) **Custodian Acting in Directed Capacity Only - No Investment or Tax Advice**
 - (i) We are acting solely as a directed Custodian to hold CESA assets and we have no discretion to direct any investment in this CESA. Accordingly, we are not a fiduciary (as said term is defined in the Internal Revenue Code, ERISA, or any other applicable federal, state or local laws) with respect to your CESA Account.
 - (ii) It is not our responsibility to review the prudence, merits, viability or suitability of any investment directed by the Responsible Individual or his/her agent(s) or to determine whether the investment is suitable for the Designated Beneficiary or acceptable under ERISA, the Internal Revenue Code or any other applicable law.
 - (iii) We do not offer any investment advice, nor do we endorse

any investment, investment product or investment strategy; and we do not endorse any investment advisor, representative, broker, dealer, or other third party selected by the Responsible Individual. We have no responsibility to question any investment direction given by the Responsible Individual or by any representative/agent appointed by him/her. By agreeing to custody an asset, such action does not constitute marketing or endorsing that asset by us. It also does not speak to the viability of that asset.

- (iv) We do not provide legal or tax advice with respect to the assets in the CESA Account.
- (v) We have no duty to inform you of any information on an asset held in the CESA Account which we may have learned in connection with another account or customer or from any source.
- (vi) By performing services under this Agreement, we are acting at the direction of the Responsible Individual. We shall not be required to perform any additional services unless specifically agreed to under the terms and conditions of this Agreement, or as required under the Code and the Regulations promulgated thereunder with respect to CESAs. We employ agents and organizations, including but not limited to Equity Administrative Services, Inc., for the purpose of performing administrative or other Custodial related services with respect to your CESA for which we otherwise have responsibility under this Agreement, and the limitations on our duties to you under this Agreement or otherwise shall also apply with respect to each agent or organization so employed.
- (vii) We shall be under no obligation or duty to investigate, analyze, monitor, verify title to, or otherwise evaluate any investment directed by the Responsible Individual or his/her investment advisor, representative or agent; nor shall we be responsible to notify or take any action should there be any default with regard to any investment.
- (viii) We are not responsible for communicating, forwarding or notifying you or any third party of any information which we receive pertaining to your investments, CESA or relationships. For example, we have no duty or obligation to notify you with respect to any information, knowledge, irregularities or our concerns relating to your investment or your investment advisor, broker, agent, promoter, or representative. Any failure of us to communicate such information to you does not result in any liability on us as Custodian.
- (ix) We have no duty to inform the Depositor, Responsible Individual, or Designated Beneficiary of any information on an asset held in the CESA which we may have learned in connection with another account or from any source.
- (x) We may receive documentation from investment providers or asset holders regarding assets in the CESA. We may, but are not obligated to, forward this information to you. It will remain your sole responsibility to request and ensure that you receive all applicable documentation regarding your investments.
- (e) **Deposit Investments.** The deposit investments available through us may include savings, and/or money market accounts, and certificates of deposit (CDs). Any cash in your CESA shall be invested in accordance with your instructions or those of your designated representative, subject to the other terms of this Agreement. If you do not instruct us with regard to any uninvested cash, such cash will be deposited into the Program as defined in Article XII, Section 14.1(b). You may direct us to transfer any uninvested funds to an institution of your choice at any time.

(f) **Uninvested Cash Fund**

- (i) The Responsible Individual hereby directs the Custodian, pending further investment instruction, to deposit all undirected and uninvested cash from any source, including, but not limited to contributions, transfers and income from assets held in the CESA, into the Program, as defined in Article XII, Section 14.1(b) of this Agreement, and then place such deposited cash into one or more financial institutions which qualify as well-capitalized under federal bank regulatory agency definitions. The bank accounts in the Program include checking, savings, money market and/or CD accounts. Interest earned on such cash balances net of the Program fee shall be credited to your CESA as of the end of each month, provided your CESA is open on the last business day of the month.
- (ii) The Responsible Individual directs us to sweep available free credit balances automatically into the Program utilizing such well-capitalized financial institutions until such time as further direction is received from the Responsible Individual.
- (iii) The Responsible Individual also authorizes us to transfer any such funds to a different well-capitalized financial institution without any further approval. Information on interest earned net of the Program fee is available online at www.trustetc.com/interest and reported on the quarterly statement as appropriate.

12.4 Investment Documentation

- (a) In directing us with respect to any investment, the Responsible Individual must utilize our Direction of Investment form suitable to such investment or such other form acceptable to us. We may remit funding for your investment upon receipt of such Direction of Investment or other form acceptable to us, without regard to any supporting documentation.
- (b) We shall be fully protected in acting upon any instrument, certificate, paper or transmission believed to be genuine and to be signed or presented by the proper person or persons whether or not by facsimile, email or other form acceptable to the Custodian, and the Custodian shall be under no duty to make any investigation or inquiry as to any statement contained in any such communication, but may accept the same as conclusive evidence of the truth and accuracy of the statements therein contained.
- (c) The Responsible Individual authorizes and directs us to execute and deliver, on behalf of this CESA Account, any and all documents delivered to us in connection with the assets in this CESA Account; although we have no duty to deliver such documents and we shall have no responsibility to verify or determine that any such documents are complete, accurate or constitute the documents necessary to comply with your investment direction. The Responsible Individual authorizes and directs us to correct errors in investment titling without notice and to correct other minor clerical errors with telephone or email consent from the Responsible Individual upon verification of identity.

12.5 Statement Review. The Responsible Individual has sixty (60) days after either: (1) the date of mailing of a paper statement; or (2) the posting of our statement online, if the Responsible Individual receives electronic statements, to give us notice of any errors or inaccuracies reflected on the statements. The Responsible Individual acknowledges that if he/she fails to give us notice of any discrepancies on the statements within that time period, we have the right to assume that the Responsible Individual approves of the statement and the Responsible Individual is, therefore, precluded from making future objections to the statement. We shall have no liability for the content reported or not reported on

any statement unless the Responsible Individual gives us notice within that sixty (60) day period.

12.6 Prohibited Transactions

- (a) The Responsible Individual understands that certain transactions are prohibited in CESAs under Section 4975 of the Internal Revenue Code (a "prohibited transaction"). The Responsible Individual further understands that the determination of a prohibited transaction depends on the facts and circumstances that surround the particular transaction. A prohibited transaction can occur with an improper use of the CESA such as a transaction involving a "disqualified person", which is defined in the Code. If this CESA contains a prohibited transaction, the CESA typically loses its non-taxable status and a taxable distribution and penalty may result. We have no responsibility to make a determination as to whether any investment or transaction is a prohibited transaction. Rather, the Responsible Individual is responsible for consulting with his/her own tax or legal professional to ensure that none of the CESA investments constitute a prohibited transaction. We have no duty to inform the Responsible Individual that your transaction is or could lead to a prohibited transaction.
- (b) By submitting an investment for processing, the Responsible Individual affirms that the investment does not constitute a prohibited transaction and it complies with all applicable federal and state laws, regulations and requirements. We reserve the right, however, to not process a transaction, resign from the Account or issue a distribution if we have a good faith belief that a transaction in this CESA constitutes a prohibited transaction.

12.7 Duty to Indemnify

- (a) The Responsible Individual, Depositor and Designated Beneficiary agrees to release, indemnify, hold harmless and defend us from any and all claims, damages, liability, actions, loss, costs and expenses (including, without limitation, attorneys' fees) resulting to the CESA or to any Designated Beneficiary or incurred by or asserted against us, in connection with or by reason of any sale or investment made or other action taken (or omitted to be taken) directed by the Responsible Individual or resulting from us serving as the custodian hereunder. This includes claims, damages, liability, actions and losses asserted by the Responsible Individual, Depositor or Designated Beneficiary.
- (b) The Responsible Individual, Depositor and Designated Beneficiary agree to reimburse or advance to us, on demand, all legal fees, expenses, costs, fines, penalties and obligations incurred or to be incurred in connection with the defense, contest, prosecution or satisfaction of any claims made, threatened or asserted pertaining to any investment or action the Responsible Individual directed through the custodian, including, without limitation, claims asserted by the Responsible Individual, any state or federal regulatory authority or self-regulatory organization.
- (c) The Responsible Individual, Depositor and Designated Beneficiary releases and indemnifies and agree to hold harmless and defend us in the event that any investment or sale of the CESA assets violates any federal or state law or regulation or otherwise results in a loss of tax-exempt status, penalty, fine or tax imposed upon the CESA, or us.
- (d) We shall not be responsible for any investment losses or diminution of the CESA assets resulting from the changes in the market value of an asset; or resulting from reliance or action taken in reliance upon notice, instruction, direction or approval received from the Responsible Individual or an authorized agent.

12.8 Legal Proceedings

- (a) The Responsible Individual agrees that he/she is solely responsible for the prosecution or defense, including the retention of legal counsel, of all legal actions ("Legal Proceedings") involving this CESA, which arise or become

necessary for the protection of the investments in this CESA, including any actions where we are named as a result of being custodian of this CESA. If we are named as a defendant in any Legal Proceedings, which includes state, federal and local court or arbitration, as a result of the assets in this CESA being the subject of the litigation, the Responsible Individual agrees to retain legal counsel to represent us, in our custodial capacity, or however named in the Legal Proceedings.

- (b) We will not initiate Legal Proceedings on behalf of this CESA and will not participate in such Legal Proceedings without direction from the Responsible Individual. The Responsible Individual understands that he/ she has sole authority to direct and make all decisions related to the Legal Proceedings and the Responsible Individual shall defend, indemnify and hold Equity Trust, its officers, directors and employees harmless from any loss, legal expense and liability that arise out of such Legal Proceedings, including our legal costs, if we deem separate counsel is necessary. Should we incur costs or expenses associated with such Legal Proceedings, we have the right to charge the Responsible Individual separately for any fees or expenses, or we may deduct the amount of the fees or expenses from the assets held in the CESA Account.

12.9 Insurance

- (a) It is the duty of the Responsible Individual to secure or maintain fire, casualty, liability or other insurance coverage on any personal or real property held by this CESA or which serves as collateral under any mortgage or other security instrument held by this CESA with respect to any promissory note or other evidence of indebtedness. It is incumbent upon the Responsible Individual to arrange for such insurance to protect the assets and to direct us in writing as to the payment of any premiums therefor. Furthermore, it is the responsibility of the Responsible Individual to determine that payment has been made upon your written request by verifying same with the CESA statements.
- (b) The Responsible Individual is responsible for notification or payments of any insurance premiums, real estate taxes, utilities, or other charges (including penalties) with respect to any investment held in this CESA, unless the Responsible Individual specifically direct us to pay the same in writing and sufficient funds are available to pay the same from this CESA. Furthermore, it is the responsibility of the Responsible Individual to determine that payment has been made from this CESA.

12.10 Account Security

- (a) The Responsible Individual will be required to establish confidential account security credentials, such as a user name, password, and/or PIN code, to access and conduct transactions in the CESA. It is the duty of the Responsible Individual to select strong account security credentials that, at a minimum, comply with our security credential requirements, and keep the credentials you select private and inaccessible to unauthorized users. The Responsible Individual must select account security credentials that are unique to the CESA, meaning the Responsible Individual has not used and will not use the same or similar credentials for other online accounts. We recommend routine changes of account security credentials.
- (b) The Responsible Individual is responsible for any access to or transactions conducted in the CESA with the CESA's account security credentials, whether or not such access or transactions were authorized by the Responsible Individual. The Responsible Individual must notify us immediately if you believe any of your account security credentials have been lost, stolen or compromised or if you become aware of any

unauthorized access to or activity in the CESA. We shall not be responsible for losses of any kind that may result from unauthorized access to or activity in the CESA using the Responsible Individual's account security credentials or other personal information.

12.11 Third Parties

- (a) We may delegate certain administrative, operational or other custodial related services with respect to your CESA Account for which we otherwise have responsibility under this Agreement to affiliated and un-affiliated third parties, including, but not limited to Equity Administrative Services, Inc. and ETC Brokerage Services, LLC. The limitations on our duties for you under this Agreement or otherwise shall also apply with respect to each third party so employed or retained on our behalf.
- (b) We may, from time to time, establish independent contractor relationships with third parties whereby CESA Owners can have access to third parties for products and services that may be beneficial to the CESA Owner and whereby we receive a fee paid from the general assets of the third parties pursuant to a services agreement between us and the third party for offering their services. These third parties may be affiliates with whom we have common ownership. You should consult with your financial and legal advisors before purchasing any such product or service, and it is your responsibility to perform proper due diligence with regard to any product or service offered by any such third parties (including without limitations all potential legal and tax consequences), and we make no recommendations and provide no investment advice regarding any such product or services or of the needs of the IRA owner or your IRA Account. CESA Owners are in no way obligated to purchase products or services generally or to purchase products or services from any such third parties. No CESA Owner may rely on any statement made by us or any of our officers, directors, employees, or agents for any decisions
- (c) We may receive fees from unrelated third parties as a result of an agreement for servicing your CESA Account. We also may, from time to time, offer noncustodial services, such as the right to use our licensed proprietary software and investment platforms to unrelated third parties for a fee (including, without limitation, a transaction-based fee) paid from the general assets of the third parties, to enable CESA Owners the ability to make investment purchases and sales through such platforms or use of these services.
- (d) We may pay unrelated third parties for marketing or other services they provide to us or in connection with the servicing of your CESA Account.

12.12 Investment of the IRA & Financial Disclosure

- (a) We are acting solely as a directed Custodian to assets in the CESA Account and do not offer investment, tax, or legal advice, as that is solely your responsibility. As Custodian, we do not buy or sell investment products without your direction. As part of your self-directed CESA Account, you choose the investments that will fund the CESA Account. The investments available include a wide range of potential assets and you certify that the assets you invest in through the CESA Account are permissible investments under applicable laws. Even if permissible, we have the option to decline accepting an asset if it is not administratively feasible. Given the type of assets that you may invest in, it is impossible to accurately estimate the value of the CESA assets at any given future point in time. Therefore, no projection of the growth of the CESA Account can reasonably be shown, predicted, or guaranteed. Willingness to custody an asset in the CESA Account does not constitute a determination by us of the viability of the investment nor

do we provide investment advice or recommend or evaluate the merits or suitability of any investment, for your benefit. Please contact your asset provider for information on how to calculate and allocate earnings on your investment. This method may vary depending on the provider and type of investment you have chosen. There are fees that we may charge in connection with the investments you selected for the CESA Account. Please consult the fee schedule for more information.

ARTICLE XIII – OTHER TAX CONSIDERATIONS

13.1 Unrelated Business Taxable Income (UBTI)

- (a) Since this CESA is tax-exempt under federal tax law, if the CESA earns income from an investment which utilizes debt-financing or which is derived from a business regarded as not related to the exempt purpose of your CESA, that income is called unrelated business taxable income ("UBTI") and may be subject to taxation if it is in excess of permitted deductions. We have no responsibility for determining whether an investment made in this CESA earned income that may be considered unrelated business taxable income which is subject to this federal income tax. Rather, it is the responsibility of the Responsible Individual to file the required Form 990-T when such unrelated business taxable income is earned.
- (a) In the event that this CESA earns unrelated business taxable income in excess of the \$1,000 exclusion (as that amount may be adjusted under the Code) for any taxable year, the Responsible Individual agrees to prepare or have prepared the required Form 990-T tax return, an application for employer identification number (if not previously obtained), any other documents that may be required and to file these forms with the Internal Revenue Service and pay the applicable unrelated business income tax from this CESA. Additionally, if requested by us, the Responsible Individual agrees to: (1) send us documentation which evidences that the investments in this CESA did not earn unrelated business taxable income; or (2) provide evidence of the filing of the required Form 990-T for such tax; or (3) authorize us to prepare the tax forms. Should the Responsible Individual fail to provide us with such requested documentation within the time proscribed by us, a Late Documentation Fee may be imposed as set forth on the Fee Schedule.

ARTICLE XIV – SERVICE FEES

14.1 Service Fees

- (a) **Fee Schedule**
 - (i) We shall charge the Responsible Individual fees for our services under this Agreement as it is fully set forth in the Fee Schedule as it may be amended from time to time. Our Fee Schedule may be amended upon 30 days' advance written notice to the Responsible Individual and in accordance with Section 19.4 hereof.
 - (ii) We will charge fees consistent with the direction you specify on the Account Application (credit card, if applicable, deduct from account or invoice Responsible Individual) or as modified by You or your Designated Representative.
 - (iii) Any fees that are based upon the fair market value of non-marketable investments or assets that do not have a readily available market value, shall be based upon cost or the estimated fair market value of such assets, whichever is greater. Fees will continue to accrue and be payable even if the CESA Account contains no assets other than uninvested cash. Publicly traded securities shall be valued at their fair market value. If cost is not reflective of fair market value with respect to the assets

held in this CESA, the Responsible Individual may provide us with a qualified independent valuation of such assets for purposes of determining an appropriate fee; and we will give consideration to such independent valuation. Our determination shall be binding and conclusive for purposes of CESA fees based upon value.

- (iv) As set forth in the Fee Schedule, renewal fees, such as the retail Gold Level Service Fee, will be automatically renewed and withdrawn from the CESA Account, charged to your credit card, or invoiced each year on the anniversary date of membership, unless the Responsible Individual provides written notice of cancellation within 30 days prior to the anniversary date.
- (v) We have the right to select another form of payment for our fees, such as credit card you have on file with us, if your designated form of payment fails when fees are due. Likewise, should you fail to pay an invoice for fees when due, we have the right to select another form of payment.
- (vi) Certain custodial fees may be paid for a limited time under a special fee schedule arrangement with a service provider as a result of a certain type of investment. If that arrangement is modified, that fee schedule may be discontinued, and you will be responsible for payment for fees associated with your Account outside of any special fee schedule. Should that fee arrangement allow for third parties to pay your fees directly to us in exchange for you paying the third party, and you fail to pay the third party fees, you direct us to liquidate your assets to pay for fees due and owing that third party.
- (b) **Deposit Management Program Fees.** Other fees may be paid to us or our affiliates by third parties for assistance in performing certain transactions with respect to our Deposit Management Program ("Program"). Program fees are associated with cash management activities, such as account maintenance, depository bank selection, transaction processing, sub-accounting, record keeping, and any other services performed for the Program. Program fees for bank accounts maintained by the Custodian for all CESAs shall be deducted solely from interest earned on the uninvested Program cash prior to the crediting of such interest to the CESA. For these services, the Custodian charges each bank account in the Program, a monthly fee at an annualized rate of up to 4.00% on the average assets maintained in the bank accounts, payable solely from interest earned on uninvested cash from the Program. The Program fees will be charged regardless of which bank accounts are being used by this CESA. The Custodian has no obligation to ensure that all such bank accounts pay the same rate of interest; however, the Custodian has the right, but not an obligation, to reduce (rebate) a portion of this fee to this CESA as to the balances in a specific bank's bank account. The Program fee for administering the bank accounts can change from time to time without notice, but cannot exceed the annualized rate of 4.00% without 30 days prior notice to you and in accordance with Section 19.4 hereof. The Program fee is deducted directly from any interest paid on each bank account in the Program, and the net amount is paid to this CESA monthly.
- (c) **Other Fees.** We may utilize third party services to obtain data necessary to serve as Custodian regarding the Investments in your CESA Account and you agree that we may charge your CESA Account a fee for utilization of such services. We may charge for any reasonable expenses incurred by us in connection with any services that we deem necessary or which are directed by the Responsible Individual for the administration of this CESA. These include, but are not limited to, attorney fees and expenses associated with the defense of

or on behalf of this CESA.

- (d) **Third Party Fees.** The CESA may incur third party fees associated with a transaction or investment as a result of a relationship with such third party and the Responsible Individual acknowledges that these third party fees will not be disclosed on our fee schedule. The Responsible Individual acknowledges that you are solely responsible for these third party fees.
- (e) **Brokerage Commissions.** Through our affiliate, we may receive a commission in connection with the unsolicited purchase or sale of a publicly-traded security. Any brokerage commissions attributable to the assets in this CESA will be charged to the CESA. The Responsible Individual, Depositor or Designated Beneficiary cannot reimburse the CESA for those commissions.
- (f) **Miscellaneous.** If the Responsible Individual has provided us with information we consider sufficient to demonstrate that an asset(s) in this CESA is subject to bankruptcy, reorganization, receivership or similar proceedings, or otherwise impaired, or if we receive notice of such information, the fee based upon such asset may be reduced by us at the time we receive notice of this information. However, any fees accrued and due prior to us receiving notice of information we deem acceptable continue to be owed by the CESA.
- (g) **Right to Collect Fees.** We have the right to freeze the assets held in this CESA to ensure that we are protected from any loss involving this CESA. We also have the right to liquidate, change dividend options and/or freeze assets for any unpaid fee balance. Should fees or expenses not be collected, we have the right to cease acting as custodian, close the Account and force distribute any assets held in this CESA.

14.2 Credit Card

Upon establishment of this CESA or at such time thereafter, we may require a valid credit card account number and related information. Consistent with the Responsible Individual's designation on this CESA Account Application and this Section, if you select to pay fees by credit card, this card holder authorizes us to charge that account for any account-related fees and expenses. Should the chosen form of payment fail, we have the right to select another alternate payment for fees, including charging the credit card provided to us.

- (a) The card holder authorizes us to charge the credit card on file for all current and subsequent annual maintenance fees/account-related fees, unless this authorization is revoked in writing.
- (b) If the credit card on file with us expires or otherwise is or becomes invalid, the card holder shall immediately inform us and provide us with another valid credit card and related information and hereby authorize us to charge that credit card. We have the right, consistent with industry standard practices, to use a third party service to obtain updated credit card details if the credit card on file has expired.

ARTICLE XV – BENEFICIARY(IES) & POWER OF ATTORNEY

15.1 Unless indicated on the Application, the Responsible Individual cannot change the Designated Beneficiary. If the Application permits the Responsible Individual to change the Designated Beneficiary, the Responsible Individual must choose a designated family member, as set forth in Section 529(e)(2) of the Internal Revenue Code.

15.2 The Depositor or Responsible Individual may designate one or more persons or entities as death beneficiaries of this CESA. The Custodian shall provide acceptable forms for such designation, but this designation will only be effective when it is given to the

Custodian during the lifetime of the Designated Beneficiary. If both the primary and contingent death beneficiaries have been named and no primary death beneficiary survives the Designated Beneficiary, the contingent death beneficiary will acquire the designated share of this CESA. If a death beneficiary is not named or if all beneficiary predecease the Designated Beneficiary, the estate will be deemed the Designated Beneficiary.

15.3 If the Designated Beneficiary dies before receiving all amounts in this CESA, the Custodian may require a death certificate before making any payments to successor beneficiaries. Any balance remaining in the CESA upon the death of the Designated Beneficiary will be distributed within 30 days of the Designated Beneficiary's death, unless a Death Beneficiary is named and the Death Beneficiary is a qualified family member under the age of 30. If the death beneficiary is a qualified family member under age 30, that individual will become the Designated Beneficiary as of the date of death. Qualified family members include the Designated Beneficiary's child, grandchild, stepchild, brother, sister, stepbrother, or stepsister, nephew or niece, parents, stepparents, or grandparents, uncle or aunt, spouses of all the family members

15.4 If a qualified family member becomes the Designated Beneficiary, the Custodian, may require a total distribution of the CESA by December 31 of the year following the year of the original Designated Beneficiary's death.

ARTICLE XVI – VALUATION POLICY

16.1 On an annual basis (or more frequently), we will request updated valuation information from you and/or your asset sponsor or third party designated to provide such updated valuation. It is your duty to ensure that the fair market value of the assets in your CESA Account are accurate. We report the value of the assets in your CESA Account on your account statements and we will report the value as accurately as possible using the resources available to us. Where the fair market value of an asset in your CESA Account is readily ascertainable on either an established exchange or generally recognized market used in the financial services industry, we will report such valuations. Where the fair market value of an asset in your CESA Account is not readily ascertainable, you agree that you will provide to us a qualified independent appraisal or other acceptable valuation of the asset. The frequency with which we update valuations depends upon the asset type and the frequency with which we are provided with updated valuation information.

16.2 If you do not provide a valuation or appraisal, we may report that asset's value at its last known fair market value, at its acquisition cost, or we may, at our discretion, use a third-party source to value the asset. We may charge your CESA Account a fee if you fail to provide us with a valuation or appraisal and/or if we use a third-party source to value the asset.

16.3 We may require that you provide such an appraisal or validation with an updated valuation of the asset for any transaction which results in a taxable event, such as a distribution. You are solely responsible for the tax consequences of asset values reported to the Internal Revenue Service in connection with a distribution of any assets in your IRA Account or any other taxable event.

16.4 We have no obligation to conduct appraisals or valuations of assets in your CESA Account and we have no duty to verify the values provided to us. We neither provide a guarantee of value nor an opinion with regard to any independent appraisal and we assume no responsibility for the valuations reported or their accuracy. Valuation information should not be used as a basis for making investment decisions, including but not limited to purchasing, retaining or disposing of an asset. The reported value of any asset may differ materially from its actual value. We reserve the right to reject a valuation change if the information

is inconsistent with our procedure or process requirements. For assets that have passed their maturity date, we may require you to provide information to show the current status of the asset.

16.5 We may use the value of the asset to determine fees owed to us. If you believe that an asset in your CESA Account should be reported at a different value, or does not have any value, it is your responsibility to provide us with information sufficient to demonstrate that the asset's reported value should be changed. You may provide us with this information through a qualified appraisal or through means we consider acceptable to evidence the new value of the asset. If this is the only asset held in your IRA Account, we have the right to devalue, distribute the asset and close your IRA Account. If you do not provide sufficient information to devalue the asset, we may continue to report the asset at the last known value given to us or use a third-party source to value the asset. If we become aware that an asset has lost value or is no value, we may notify you of such information and may reduce the value of such asset/or distribute the asset to you.

ARTICLE XVII – TERMINATION OF AGREEMENT, RESIGNATION, OR REMOVAL OF CUSTODIAN

17.1 Either party may terminate this Agreement at any time by giving written notice to the other party. We can resign as Custodian at any time effective 30 days after we mail written notice of our resignation to the Responsible Individual. Upon receipt of that notice, the Responsible Individual must make arrangements to transfer this CESA to another financial organization. If the Responsible Individual does not complete a transfer of this CESA within 30 days from the date we mail the notice, we have the right to transfer this CESA's assets to a successor CESA custodian or trustee that we choose in our sole discretion, or we may pay or distribute the assets to you in a single sum or assignment. If we transfer the CESA, the existing CESA documents will govern the CESA relationship with the new custodian or trustee unless the successor custodian/trustee notifies the Responsible Individual in writing of any changes and/or requires new CESA documents to be signed. We shall not be liable for any actions or failures to act on the part of any successor custodian or trustee, nor for any tax consequences that may be incurred that result from the transfer or distribution of the assets pursuant to this section.

17.2 If this Agreement is terminated, we may charge to this CESA a reasonable amount necessary to cover any associated costs, including but not limited to, one or more of the following:

- (a) any fees, expenses or taxes chargeable against this CESA; and
- (b) any penalties or surrender charges associated with the early withdrawal of any savings instrument or other investment in this CESA.

17.3 After this CESA with us is closed, the Responsible Individual is responsible for ensuring that all assets previously in this Account are properly titled, registered and transferred out of our name.

17.4 If we are required to comply with Regulations section 1.408-2(e), and we fail to do so, or we are not keeping the records, making the returns or sending the statements as are required by forms or Regulations, the IRS may, after notifying the Responsible Individual substitute another trustee or custodian.

17.5 If our organization changes its name, reorganizes, merges with another organization (or comes under the control of any federal or state agency), or if our entire organization (or any portion which includes your CESA) is bought by another organization, that organization (or agency) shall automatically become the trustee or custodian of your CESA, but only if it is the type of organization authorized to serve as a CESA trustee or custodian.

ARTICLE XVIII - APPLICABLE LAW; WAIVER; AND VENUE

18.1 This Agreement is subject to all applicable federal laws and regulations and shall be governed by and construed under the applicable laws of the State of South Dakota. The laws of the State of South Dakota shall not govern any procedural matters, including but not limited to any applicable limitation period.

18.2 **THE RESPONSIBLE INDIVIDUAL AGREES THAT ANY CLAIM OR CAUSE OF ACTION AGAINST CUSTODIAN ARISING OUT OF OR RELATING IN ANY WAY TO THIS AGREEMENT, CUSTODIAN'S DUTIES OR RESPONSIBILITIES THEREUNDER, OR YOUR CESA ACCOUNT MUST BE FILED WITHIN ONE (1) YEAR AFTER THE CLAIM OR CAUSE OF ACTION ACCRUED, OR IF THE APPLICABLE LAW REQUIRES A LONGER LIMITATIONS PERIOD, WITHIN THE SHORTEST PERIOD OF TIME PERMITTED BY THAT LAW. THE RESPONSIBLE INDIVIDUAL AGREES TO WAIVE ANY STATUTE OF LIMITATIONS TO THE CONTRARY.**

18.3 **THE PARTIES TO THIS AGREEMENT FURTHER AGREE THAT CUSTODIAN SHALL NOT BE LIABLE FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES, AND THE PARTIES AGREE TO WAIVE ANY SUCH CLAIMS OR DAMAGES AGAINST CUSTODIAN TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.**

18.4 If any part of this Agreement is held to be illegal or invalid, the remaining parts shall not be affected. No waiver of any part of this Agreement shall be deemed to constitute a waiver of any other part, and any such waiver shall not constitute a continuing waiver and shall not affect the parties or our ability to thereafter enforce any and all parts of this Agreement.

18.5 **THE PARTIES TO THIS AGREEMENT AGREE THAT ANY ACTION FILED AGAINST CUSTODIAN ARISING OUT OF OR RELATING IN ANY WAY TO THIS AGREEMENT OR OUR ROLE AS CUSTODIAN, SHALL BE EXCLUSIVELY BROUGHT IN THE COUNTY COURTS OF CUYAHOGA COUNTY, OHIO OR IN THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO EASTERN DIVISION-CLEVELAND, AND YOU AGREE TO SUBMIT TO THE JURISDICTION OF THESE COURTS BOTH IN CONNECTION WITH ANY SUCH ACTION YOU MAY FILE AND IN CONNECTION WITH ANY ACTION WHICH CUSTODIAN MAY FILE AGAINST YOU.**

ARTICLE XIX - IMPORTANT MISCELLANEOUS PROVISIONS

19.1 **Security.** We take the protection of your personal information seriously. Access to account information is provided only to authorized parties after proper authentication procedures are successful. It is your responsibility to promptly report any suspected or actual security breach or unauthorized transaction.

19.2 **Confidentiality.** Our Privacy Notice, sent to the Responsible Individual annually, sets forth the type of information we collect and whether and how we share all non-public personal information. We restrict access to non-public personal information to those employees, third parties and agents who need to know that information to provide services made available under this Agreement and to evaluate business operations and analyze service or process improvements. Account information may also be shared to respond to court orders and subpoenas without prior notice to you.

19.3 **Notices and Change of Address.** Any required notice or communication regarding your CESA will be considered effective when we send it to you at the last known email address we have in our records. If no email address is on file, we will send notices and communication to you at the last mailing address we have in our records. We will presume that you are able to access the email address you provided to us. The notice will direct you to any communication unless you specifically request paper copies of such notice. You must promptly notify us of any change of email or mailing address. Should your mailing address be invalid

in any way or if we receive returned mail, we may cease using that address as a means of contact until you update our records to ensure proper delivery. Any notice to be given to us will be considered effective when we actually receive it.

19.4 **Amendments.** We have the right to amend this Agreement at any time. Any amendment we make to comply with the Code and related Regulations does not require anyone's consent. The Designated Beneficiary, Depositor and Responsible Party will be deemed to have consented to any other amendment unless, within 30 days from the date we mail or electronically transmit the amendment, the party notifies us in writing of the lack of consent. If you timely notify us in writing that you do not consent to the amendment, you will have 30 days from the date your notification is received by us to secure a new custodian for the CESA Account and you are responsible for ensuring that all assets in the CESA Account are properly titled, registered, and transferred out of our name and into the name of the new custodian.

19.5 **Withdrawals or Transfers.** All requests for withdrawal or transfer shall be in writing on a form provided by or acceptable to us. The method of distribution must be specified in writing. The tax identification number of the recipient must be provided to us before we are obligated to make a distribution. Withdrawals shall be subject to all applicable tax and other laws and regulations, including possible early withdrawal penalties or surrender charges and withholding requirements.

19.6 **Liquidation of Assets.** We have the right to liquidate assets in this CESA if necessary to make distributions, pay our fees, expenses, indemnities, taxes, federal tax levies, and penalties or surrender charges chargeable against this CESA. The Responsible Individual, Designated Beneficiary and Depositor agree not to hold us liable for any damages or loss associated with such liquidation of assets.

19.7 **Restriction on the Assets.** No one may sell, transfer, pledge or place lien on the assets in this CESA in any manner whatsoever, except as provided by law or this Agreement. The assets in this CESA shall not be responsible for the debts, contracts or torts of any person entitled to distributions under this Agreement.

19.8 **Acknowledgment of and Authorization for Telephone Recordings.** We reserve the right to install and/or maintain automatic telephone recording equipment on telephone lines used by personnel servicing the Custodial Account in connection with trading functions and customer inquiries. By signing this Agreement, the Designated Beneficiary, Depositor and Responsible Individual acknowledge our right and expressly authorize us to record and play back any and all such telephone calls.

19.9 **CESA Account and Assets Not Guaranteed.** We do not guarantee the assets in the CESA Account, nor do we ensure against any loss or depreciation. The investments are subject to investment risk, including the possible loss of the principal invested, and the investments may lose value.

19.10 **Account Holder Verification.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires us to obtain, verify and record information that identifies who opens an account with us. The Depositor, Responsible Individual, and Designated Beneficiary acknowledge that, to comply with Federal law, we will require certain information, such as, but not limited to the name, address, date of birth and tax identification numbers before a CESA can be opened.

19.11 **Dividend Options.** We have the right to change dividend options on investments held in the CESA Account to pay our fees and/or expenses. We are not liable for the impact of changing dividend options nor required to change the dividend option(s) back to their prior selection. It is the Responsible Individual's responsibility to monitor and provide acceptable instructions to update their dividend option(s).

19.12 Unclaimed Property. Under the laws applicable to your Account, we may be required to turn over to regulatory authorities property that is in your Account and deemed abandoned. To avoid such escheatment of property, you agree to periodically show activity in your Account (by logging in) or otherwise contact us. Before remitting abandoned property, pursuant to applicable law, we will send written notice to your last known address. You agree that we are not liable for any loss arising from or related to escheatment of your Account's property under applicable law.

GENERAL INSTRUCTIONS

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

What's New

Military Death Gratuity – Families of soldiers who receive military death benefits may contribute, subject to certain limitations, up to 100 percent of such benefits into an educational savings Account. Publication 970, Tax Benefits for Education, explains the rules for rolling over the military death gratuity and lists eligible family members.

PURPOSE OF FORM

Form 5305-EA is a model Custodial Account Agreement that meets the requirements of section 530(b)(1) and has been pre-approved by the IRS. A Coverdell Education Savings Account (CESA) is established after the form is fully executed by both the Depositor and the Custodian. This Account must be created in the United States for the exclusive purpose of paying the qualified elementary, secondary, and higher education expenses of the Designated Beneficiary.

If the model Account is a trust Account, see **Form 5305-E**, Coverdell Education Savings Trust Account.

Do not file Form 5305-EA with the IRS. Instead, the Depositor must keep the completed form in its records.

DEFINITIONS

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

Depositor. The depositor is the person who establishes the Custodial Account.

Designated Beneficiary. The Designated Beneficiary is the individual on whose behalf the Custodial Account has been established.

Family Member. Family members of the Designated Beneficiary include his or her spouse, child, grandchild, sibling, parent, niece or nephew, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law, and the spouse of any such individual. A first cousin, but not his or her spouse, is also a "family member."

Responsible Individual. The Responsible Individual, generally, is a parent or guardian of the Designated Beneficiary. However, under certain circumstances, the Responsible Individual may be the Designated Beneficiary.

IDENTIFICATION NUMBERS

The Depositor and Designated Beneficiary's social security numbers will serve as their identification numbers. If the Depositor is a nonresident alien and does not have an identification number, write "Foreign" in the block where the number is requested. The Designated Beneficiary's social security number is the identification number of his or her CESA. If the Designated Beneficiary is a nonresident alien, the Designated Beneficiary's individual taxpayer identification number is the identification number of his or her CESA. An employer identification

number (EIN) is required only for a CESA for which a return is filed to report unrelated business income. An EIN is required for a common fund created for CESAs.

SPECIFIC INSTRUCTIONS

Note: The age limitation restricting contributions, distributions, rollover contributions, and change of beneficiary are waived for a Designated Beneficiary with special needs.

Article X. Article X and any that follow may incorporate additional provisions that are agreed to by the Depositor and Custodian to complete the Agreement. They may include, for example, provisions relating to: definitions, investment powers, voting rights, exculpatory provisions, amendment and termination, removal of the custodian, custodian's fees, state law requirements, treatment of excess contributions, and prohibited transactions with the Depositor, Designated Beneficiary, or Responsible Individual, etc. Attach additional pages as necessary.

Optional Provisions in Article V and Article VI – Form 5305-EA may be reproduced in a manner that provides only those optional provisions offered by the Custodian.

Coverdell Education Savings Account Disclosure Statement



This Disclosure Statement sets forth general terms, conditions and requirements related to your Coverdell Education Savings Account ("CESA"), including some of the requirements under IRS Form 5305-EA. This Disclosure Statement is not to be construed as giving or replacing tax or legal advice. Please consult with a tax professional concerning any tax questions related to your CESA with us.

GENERAL INFORMATION

Generally, a Coverdell Education Savings Account ("CESA") is a custodial account that is afforded certain tax benefits, such as earnings on the growth of assets held in your CESA are not subject to federal income tax and withdrawals from the account are excluded from income for federal income tax purposes. However, the earnings must be used for qualifying higher education expenses or for qualified elementary and secondary education expenses as defined within Section 530 of the Internal Revenue Code.

REQUIREMENTS OF A COVERDELL ESA

- A. A CESA may be established for the benefit of any child under the age of 18 ("Designated Beneficiary"), with the exception of a special needs beneficiary. The Account is controlled by a Responsible Individual (typically a parent or legal guardian of the Designated Beneficiary). The Depositor may or may not be the Responsible Individual and may designate the initial investment in the Account and can make additional contributions, subject to the IRS limitations. However, the Depositor has no other rights, interests or obligations related to the CESA.
- B. **Eligible Custodians** – The custodian of your CESA must be a bank, savings and loan association, credit union, or person or entity approved by the IRS.
- C. **Commingling Assets** – The assets of your CESA cannot be commingled with other property except in a common trust fund or common investment fund.
- D. **Life Insurance** – None of your assets in your CESA may be invested in life insurance.
- E. **Collectibles** – The assets of your CESA may not be invested in collectibles, as defined by IRC Section 408(m). A collectible is defined as any work of art, rug or antique, metal or gem, stamp or coin, alcoholic beverage, or other tangible personal property specified by the Internal Revenue Service. However, specially minted United States gold and silver coins, and certain state-issued coins are permissible investments. Platinum coins and certain gold, silver, platinum or palladium bullion (as described in IRC Sec. 408(m)(3)) are also permitted as investments in a CESA.

REQUIREMENTS OF A COVERDELL ESA

- A. **Cash Contributions** – A CESA contribution must be in cash.
- B. **Maximum Contribution** – The maximum amount that can be contributed to a CESA is \$2,000 per year, excluding rollover and transfer contributions. With the exception of a special needs child, contributions can only be made for the benefit of a Designated Beneficiary under 18 years of age.

However, there are limitations on contributions. For example, if the Depositor's modified adjusted gross income exceeds \$95,000 (or \$190,000 for married taxpayers filing jointly), the allowable contribution is reduced. Please see Section 530 of the IRC for further information. In addition, taxpayers with modified adjusted gross incomes above \$110,000 (\$220,000 for married taxpayers filing jointly) cannot make contributions to anyone's CESA. The Modified Adjusted Gross Income (MAGI) limits apply only to depositors that are individuals.

Contributions to a CESA can be made by the Designated Beneficiary and a Depositor not related to the Designated Beneficiary.

- C. **Deductibility of Contributions** – No deduction is allowed for CESA contributions, including transfer and rollover contributions.
- D. **Contribution Deadline** – The deadline for making a CESA contribution is the tax filing deadline for such year, which is typically April 15th (not including extensions). The Depositor may designate a contribution as a contribution for the preceding taxable year in a manner acceptable to the custodian. For example, if the depositor is a calendar-year filer and makes a Coverdell ESA contribution on or before the tax filing deadline, the contribution is considered to have been made for the previous tax year if the Depositor designates it as such.
- E. **Excess Contributions** – Aggregate contributions for the benefit of a Designated Beneficiary in excess of \$2,000 for a calendar year are treated as excess contributions. In order to avoid a penalty tax of 6 percent on the excess contribution, all excess contributions must be withdrawn prior to the first day of the sixth month of the taxable year following the taxable year for which the contribution was made. However, even if the excess tax was avoided, any earnings attributable to the excess must be included in the Designated Beneficiary's taxable income for the year in which the excess contribution was made. Penalty taxes should be reported and filed with the IRS with Form 5329, along with your income tax return.

REQUIRED DISTRIBUTIONS

- A. The assets of the CESA are required to be distributed to the Designated Beneficiary within 30 days of when the Designated Beneficiary reaches the age of 30. The Designated Beneficiary will be subject to both income tax and an additional 10 percent penalty tax on the portion of the distribution that represents earnings, if the Designated Beneficiary does not have any qualified education expenses in that year.
- B. In addition, any balance remaining in the CESA upon the death of the Designated Beneficiary will be distributed within 30 days of the Designated Beneficiary's death, unless a Death Beneficiary is named and the Death Beneficiary is a qualified family member under the age of 30. If the death beneficiary is a qualified family member under age 30, that individual will become the Designated Beneficiary as of the date of death. Qualified family members include the Designated Beneficiary's child, grandchild, stepchild, brother, sister, stepbrother, or stepsister, nephew or niece, parents, stepparents, or grandparents, uncle or aunt, spouses of all the family members listed above, cousin, and the Designated Beneficiary's spouse.
- B. If a qualified family member becomes the Designated Beneficiary, the Custodian, may require a total distribution of the CESA by December 31 of the year following the year of the original Designated Beneficiary's death.

TAX CONSEQUENCES

- A. **Tax-Deferred Earnings** – The investment earnings of the CESA are not subject to federal income tax as they accumulate in the CESA. In addition, withdrawals from the CESA are tax-free

to the Designated Beneficiary to the extent the amount of the withdrawal does not exceed the Designated Beneficiary's qualified education expenses. However, if a Designated Beneficiary takes a distribution from the CESA that exceed the qualified education expenses for the same year, or the distributions are not used for qualified education expenses, a portion of the distributions will be taxable. The taxable portion of this non qualified distribution may also be subject to an additional 10 percent penalty tax, unless certain exceptions apply, such as a distribution on Account of a Designated Beneficiary and distributions for a disabled Designated Beneficiary as found in 26 U.S.C. Section 530 (d)(4).

- B. **Qualified Education Expenses** – Qualified Education Expenses means qualified higher education expenses and qualified elementary and secondary education expenses. Qualified higher education expenses include expenses for tuition, fees, books supplies, and equipment required for enrollment or attendance of the Designated Beneficiary at an eligible educational institution. Qualified higher education expenses also include amounts contributed to a qualified state tuition program. Qualified higher education expenses also include room and board (generally the school's posted room and board charge, or \$2,500 per year for students living off-campus and not at home) if the Designated Beneficiary is at least a half-time student at an eligible education institution.

Qualified elementary and secondary education expenses means expenses for tuition, fees, academic tutoring, special needs services, books, supplies and other equipment which are incurred in connection with the enrollment or attendance of the Designated Beneficiary as an elementary or secondary school student at a public, private, or religious school. Room and board, uniforms and transportation are included if required or provided by a public, private or religious school in connection with the enrollment or attendance.

An Eligible Educational Institution is any college, university, vocational school or other postsecondary educational institution that is described in Section 481 of the Higher Education Act of 1965.

The Hope Scholarship Credit and Lifetime Learning Credit can be claimed in the same year the child takes a tax-free withdrawal from the CESA, provided the distribution from the CESA is not used for the same expenses for which a credit is claimed.

- C. **Income Tax Withholding** – Any withdrawal from the Coverdell ESA is not subject to federal income tax withholding.

ROLLOVERS

- A. All amounts distributed from a CESA and rolled over to another CESA for the benefit of the same Designated Beneficiary or certain members of the Designated Beneficiary's family is not taxable so long as the requirements under Section 530(d)(5) of the IRC are met. For example, if the rollover is to a Designated Beneficiary's family member, the family member must not have attained the age of 30 (unless special needs family member) as of the date of the rollover contribution.
- B. The Designated Beneficiary is allowed only one rollover per a 12 month period and the amount of the rollover must be completed no later than 60 days after the distribution is received.
- C. Members of the Designated Beneficiary's family for purposes of the above include the Designated Beneficiary's child, grandchild, stepchild, brother, sister, stepbrother, or stepsister, nephew or niece, parents, stepparents, or grandparents, uncle or aunt, spouses of all the family members listed above, cousin, and the Designated Beneficiary's spouse.
- D. Families of soldiers who receive military death benefits may contribute, subject to certain limitations, up to 100 percent of

such benefits into an educational savings Account. Publication 970 explains the rules for rollover over the military death gratuity and lists eligible family members.

RESTRICTIONS

- A. **Gift Tax** – Transfers of CESA assets to a death Designated Beneficiary made during the Designated Beneficiary's life and at his or her request or because of the Designated Beneficiary's failure to instruct otherwise, may be subject to federal gift tax under IRC Section 2501.
- B. **Prohibited Transactions** – If the Responsible Individual or Designated Beneficiary engages in a prohibited transaction, the CESA will lose its tax exempt status. If this occurs, the Designated Beneficiary would then have to include the value of the earnings in his or her Account in his or her gross income for the year.
- C. **Pledging** – If the Responsible Individual any portion of the CESA as collateral for a loan, the amount so pledged will be treated as a distribution and may be included in the Designated Beneficiary's gross income for that year to the extent that it represents earnings.

OTHER

- A. **IRS Plan Approval** – The Agreement used to establish this CESA has been approved by the IRS. The IRS approval is a determination only as to form. It is not an endorsement of the plan in operation or of the investments offered.
- B. **Additional Information** – As the tax rules for CESAs are complex, you should consult your tax advisor if you have any questions about the information in this document. In addition, further information on CESAs may be obtained from the District Office of the IRS. In particular IRS Publication 970, Tax Benefits For Higher Education, may be obtained by calling 1-800-TAX-FORM, or by visiting www.irs.gov on the Internet.
- C. **Important Information About Procedures for Opening a New Account** – To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial organizations to obtain, verify, and record information that identifies each person who opens an Account. Therefore, when the Depositor opens an Account, he or she is required to provide his or her name, residential address, date of birth, and identification number. We may require other information that will allow us to identify the Depositor.