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# AUTOMATIC ROLLOVER TRADITIONAL IRA CUSTODIAL AGREEMENT

Under Section 408(a) of the Internal Revenue Code

Form 5305-A (Rev. March 2002)  
Department of the Treasury  
Internal Revenue Service

**DO NOT FILE  
with the  
INTERNAL REVENUE SERVICE**

Pursuant to a written agreement between Millennium Trust Company, LLC, an Illinois limited liability company (hereinafter called the "Custodian") and the plan sponsor and/or plan administrator of a retirement plan (hereinafter called the "plan sponsor") intended to satisfy the fiduciary responsibility provisions of 404(a) of the Employee Retirement Income Security Act of 1974, as amended, and Title 29 of the Code of Federal Regulations Section 2550.404a-2 and 404a-3, as applicable, and in accordance with Section 401(a)(31)(B) of the Internal Revenue Code, the plan sponsor made a distribution in a direct rollover to the Custodian on behalf of a former participant in the plan who did not elect to have such a distribution paid directly to an eligible retirement plan in a direct rollover or to receive the distribution directly in accordance with the terms of the plan. This Automatic Rollover Traditional IRA Custodial Agreement (hereinafter called the "Agreement") governs the Traditional Individual Retirement Account (hereinafter called the "Custodial Account" or "Account") established under Section 408 (a) of the Code with the Custodian by the plan sponsor acting in the name of, on behalf of and for the benefit of the individual (hereinafter called the "Account Owner" or "you") for whom the direct rollover was made. The Account Owner information on the Adoption Agreement was provided by the plan sponsor from the most recent records of the plan sponsor and the employer. The Adoption Agreement is being or has been presented to the Account Owner for review and correction in accordance with the disclosure requirements of Section 408 of the Code under Section 1.408-6 of the Treasury Regulations. The Custodian shall provide all services as described herein based upon the information on the Adoption Agreement, as provided by the plan sponsor and as updated by the Account Owner from time to time. The Custodian shall be fully protected in relying on the accuracy of the information contained in the Adoption Agreement and shall not be responsible for any losses, damages, taxes, interest, penalties or other similar expenses resulting from the plan sponsor's or the Account Owner's failure to provide the Custodian with accurate, complete and updated information on the Adoption Agreement.

This Agreement includes the text of Internal Revenue Service ("IRS") Form 5305-A (Rev. March 2002), as modified to reflect an automatic rollover contribution under Section 401(a)(31)(B) of the Code and/or Title 29 of the Code of Federal Regulations Sections 404a-2 and 404a-3, as applicable, and to reflect other changes as deemed necessary and appropriate by the Custodian in its sole discretion in the manner as permitted under IRS Form 5305-A.

## Article I

Except in the case of a rollover contribution described in section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), an employer contribution to a simplified employee pension plan as described in section 408(k), or a recharacterized contribution described in section 408A(d)(6), the custodian will accept only cash contributions up to \$3,000 per year for tax years 2002 through 2004. That contribution limit is increased to \$4,000 for tax years 2005 through 2007 and \$5,000 for 2008 and thereafter. For individuals who have reached the age of 50 before the close of the tax year, the contribution limit is increased to \$3,500 per year for tax years 2002 through 2004, \$4,500 for 2005, \$5,000 for 2006 and 2007, and \$6,000 for 2008 and thereafter. For tax years after 2008, the above limits will be increased to reflect a cost-of-living adjustment, if any.

## Article II

The Account Owner's interest in the balance in the Custodial Account is non-forfeitable.

## Article III

1. No part of the Custodial Account funds may be invested in life insurance contracts, nor may the assets of the Custodial Account be commingled with other property except in a common trust fund or common investment fund (within the meaning of section 408(a)(5)).

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

## Article IV

1. Notwithstanding any provision of this Agreement to the contrary, the distribution of the Account Owner's interest in the Custodial Account shall be made in accordance with the following requirements and shall otherwise comply with section 408(a)(6) and the regulations there under, the provisions of which are herein incorporated by reference.

2. The Account Owner's entire interest in the Custodial Account must be, or begin to be, distributed not later than the Account Owner's required beginning date, April 1 following the calendar year in which the Account Owner reaches age 70½. By that date, the Account Owner may elect, in a manner acceptable to the custodian, to have the balance in the custodian account distributed in:

- (a) A single sum, or
- (b) Payments over a period not longer than the life of the Account Owner or the joint lives of the Account Owner and the designated beneficiary.

3. If the Account Owner dies before the entire interest is



distributed, the remaining interest will be distributed as follows:

(a) If the Account Owner dies on or after the required beginning date, and:

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

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

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

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

(i) The remaining interest will be distributed in accordance with paragraphs (a)(i) and (a)(ii) above (but not over the period in paragraph (a)(iii), even if longer), starting by the end of the calendar year following the year of the Account Owner's death. If, however, the designated beneficiary is the Account Owner's surviving spouse, then this distribution is not required to begin before the end of the calendar year in which the Account Owner would have reached age 70½. But, in such case, if the Account Owner's surviving spouse dies before distributions are required to begin, then the remaining interest will be distributed in accordance with (a)(ii) above (but not over the period in paragraph (a)(iii), even if longer), over such spouse's designated beneficiary's life expectancy, or in accordance with (ii) below if there is no such designated beneficiary.

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

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

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

(a) The required minimum distribution under paragraph 2(b) for any year, beginning with the year the Account Owner reaches age 70½, is the Account Owner's account value at the close of business on December 31 of the preceding year divided by the distribution period in the uniform lifetime table in Regulations section 1.401(a)(9)-9. However, if the Account Owner's designated beneficiary is their surviving

spouse, the required minimum distribution for a year shall not be more than the Account Owner's account value at the close of business on December 31 of the preceding year divided by the number in the joint and last survivor table in Regulations section 1.401(a)(9)-9. The required minimum distribution for a year under this paragraph (a) is determined using the Account Owner's (or, if applicable, the Account Owner and spouse's) attained age (or ages) in the year.

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

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

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

#### **Article V**

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

2. The Custodian agrees to submit to the Internal Revenue Service (IRS) and Account Owner the reports prescribed by the IRS.

#### **Article VI**

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

#### **Article VII – Amendments**

This Agreement will be amended from time to time to comply with the provisions of the Code and related regulations. As permitted under the appropriate IRS model form, Millennium Trust Company, LLC has added additional provisions to the Agreement.

Without prior notice to or consent of the Account Owner or Account Owner's beneficiaries, the Custodian may amend this Agreement from time to time in order to comply with the provisions of the Internal Revenue Code. Notice of such amendment shall be sent to the Account Owner within thirty (30) days after such amendment is to be effective.

The Custodian may also amend this Agreement for any reason other than to comply with the Internal Revenue Code without the consent of the Account Owner or the Account Owner's beneficiaries; provided notice of such amendments shall be sent to the Account Owner thirty (30) days before the date such amendment is to be effective. Pronouns herein shall refer to both male and female Account Owners.

#### **Article VIII – General Powers and Duties of the Custodian and Limits Thereon**

1. The Custodian is hereby authorized and empowered:

(a) To receive from the retirement plan in which the Account Owner was formerly a participant a rollover contribution to the custodial account representing the Account Owner's entire vested interest from such plan. Notwithstanding anything herein to the contrary, the Custodian shall invest the automatic rollover contribution in one or more investment products designed to preserve principal and provide a reasonable rate of return, whether or not such return is guaranteed, consistent with liquidity. Investment products selected shall seek to maintain, over the term of the investment, the dollar value that is equal to the amount invested in the product by the IRA and shall be offered by a state or federally regulated financial institution, which shall be a bank or savings association, the deposits of which are insured by the Federal Deposit Insurance Corporation; a credit union, the member custodial accounts of which are insured within the meaning of Section 101(7) of the Federal Credit Union Act; an insurance company, the products of which are protected by state guaranty associations; or an investment company registered under the Investment Company Act of 1940. As for the initial investment of the IRA, the Custodian agrees to invest the IRA proceeds in an FDIC insured bank demand account ("Bank Account"), which satisfies the provisions of Section 2550.404a-2 and 404a-3 of Title 29 of the Code of Federal Regulations. If the Custodian shall have agreed to accept assets in-kind, including annuities, from the plan sponsor, those assets shall be held in the Custodial Account without change and the Custodian shall not have any responsibility for their investment; provided that in-kind assets with a minimum value, or as reasonably determined by the Custodian, may be sold by the Custodian and the proceeds invested as provided herein. Anything in this Agreement to the contrary notwithstanding, the provisions of this Article VIII-1(a) shall govern the investment of the Custodial Account until such time as the Account Owner or the duly authorized agent, shall direct the Custodian to invest such sums or assets in other investment vehicles as provided hereunder.

(b) To hold funds received from time to time from the Account Owner or other source, such as rollovers and trust-to-trust transfers, including in-kind transfers, on behalf of the Account Owner which shall, when aggregated with any interest earned thereon, be collectively referred to as the Custodial Account. The Custodian may refuse to accept any in-kind transfer of any specific asset or assets. The Custodian shall be empowered to hold any and all universal trust or custodial funds or cash received from the Account Owner, or other sources during its administration of this Custodial Account in any one or more accounts, with any banking or savings institution, subject to all rules and regulations of the institution and applicable law governing the administration of such accounts or in any one or more money market mutual funds, subject to all rules and regulations of said money market mutual funds and applicable law governing the administration of money market mutual funds, for the benefit of the Account Owner, until such time as the Account Owner or the duly authorized agent, shall direct the Custodian to invest such sums in other investment vehicles as authorized hereunder.

(c) To invest and reinvest the Custodial Account at the direction of the Account Owner or the authorized agent in any form of property, including, but not by way of limitation, the following described investments: stocks, bonds, limited partnership interests, limited liability companies, money market funds, mutual funds, certificates of deposit, options, futures contracts, annuities, treasury securities, tax lien

certificates, mortgages, promissory notes, certain precious metals, real estate, hedge funds and such other investments as may be consistent with the terms of this Agreement, other related documents executed hereto, and applicable federal laws and regulations. The Custodian reserves the right to refuse to custody an investment for any reason found to be appropriate within the Custodian's discretion. Account Owner recognizes and agrees that early distributions or certain investment directions may result in penalties, loss of equity or other consequences adverse to the Custodial assets, and the Custodian is relieved from responsibility therefore.

(d) To collect any income generated from the property and add such sums to the Custodial Account; to make payments, disbursements or distributions from the fund as directed by the Account Owner or the authorized agent, or as provided under the provisions of this Agreement; to purchase, sell, convey, assign, exchange, mortgage or pledge any property in the Custodial Account in such manner and upon such terms as instructed by the Account Owner, and in conformity with the terms of this Agreement and federal regulations of Individual Retirement Accounts.

2. The Account Owner shall vote on any investments or any matters pertaining to the Custodial Account. You may direct the Custodian to vote on your behalf. The Account Owner agrees that the Custodian may, but shall not be required (unless required under applicable law), to inform the Account Owner by forwarding materials or otherwise communicating with Account Owner as to any questions, decisions or other matters for which a vote may be requested, necessary or helpful, and Custodian shall thereafter have no responsibility whatsoever with respect thereto.

Account Owner acknowledges and agrees that unless required by applicable law, Custodian is not responsible for communicating, forwarding or notifying any party, including the Account Owner, with respect to any communication or matter which comes to the attention of or is received by the Custodian with respect to Custodial Account investments, and that Account Owner is responsible for making separate arrangements for receiving such communications.

3. The Custodian shall be responsible only for such funds or assets received by it hereunder. The Custodian shall act only with the consent and approval of the Account Owner in the investment, management, disbursement and disposition of the custodial assets for the purposes, and in accordance with the provisions of this Agreement. The Account Owner or the duly authorized agent shall direct the Custodian as to investment and reinvestment of the Custodial Account. Custodian shall have no duty or obligation to inquire into or investigate the suitability or propriety of any direction of the Account Owner or the authorized agent. The terms of this Agreement shall be binding upon the Custodian and Account Owner.

4. The Custodian shall have no duty to review the assets held in Custodial Account in respect to their safety, risk, or timeliness, and shall render no opinion as to property so held or as to the advisability of initial and subsequent purchases directed by the Account Owner or the authorized agent. The Custodian shall not be held liable or otherwise accountable for losses incurred by reason of investment selections in accordance with Account Owner's or the authorized agent's directions or the actions of any broker.

5. The Custodian shall have no responsibility for determining whether an IRA account is subject to excise taxes. It is the Account Owner's responsibility to determine if excise tax is due and to pay such excise tax.

The Custodian shall have no responsibility for determining whether an investment made in the IRA Account earned income that is deemed to be unrelated business income which is subject to federal income tax. It is the Account Owner's responsibility to file Form 990-T when such unrelated business income is earned. However, the Account Owner may submit this information to the Custodian for filing. If the Account Owner submits this information to Custodian for filing, the Account Owner agrees that the Custodian is under no obligation or duty to verify the accuracy of this information. The Account Owner may also direct to have the Custodian directly receive this information. In such circumstance, the Custodian is under no obligation or duty to verify the accuracy of the information received. In the event that the Account Owner fails to file Form 990-T, the Account Owner agrees to indemnify the Custodian for any liability incurred due to failure to file.

6. The Account Owner hereby grants the Custodian explicit permission to deposit or arrange for deposit any securities purchased or received by the Custodian for the benefit of the Account Owner's IRA with the brokerage firm or other custodian of the Custodian's choice or as directed by the Account Owner in a separate account for the IRA, or a nominee account, or in an account as IRA custodian for various IRAs. Said account will be in the name of the Custodian for the benefit of the IRA Account Owner or multiple IRA Account Owners or a nominee name. Account Owner shall retain the right, should you so desire, to specify a specific brokerage house to use for said deposit of his or her particular securities. The Custodian is not liable for the actions of any broker and does not provide any recommendation or endorse any particular broker.

Where the Account Owner and the Custodian have agreed that the Account Owner may give investment instructions for execution directly to a broker, any issues which arise with the broker shall be handled directly by the Account Owner.

7. The Custodian may respond to any subpoena without prior notice to the Account Owner.

8. Agreeing to the custody of a specific asset does not constitute marketing, distributing or raising capital for that asset and the Custodian is not in any way endorsing the asset.

9. When the Custodian is directed to invest in assets which are not publicly traded, the Custodian shall not have any responsibility or liability if the entity or the broker/agent involved does not provide the Custodian a receipt or confirmation for/of such investment.

10. The Account Owner acknowledges that the owner of any investment held in the Account Owner's IRA is the Millennium Trust Company, LLC as Custodian of the IRA and not the Account Owner individually. Therefore the Account Owner agrees not to invest any funds into or receive or withdraw any funds from any investment held in the Custodial Account other than through the Custodian and Custodian is authorized to take any action necessary to ensure that any investment directed to be purchased by the Account Owner, or the Account Owner's authorized agent, is correctly documented as being purchased in and owned by the Account Owner's IRA.

11. All requests for withdrawals shall be in writing on a form provided by, or acceptable to the Custodian. The Account Owner's tax identification number or the tax identification number of the beneficiary must be provided to the Custodian before the Custodian is obligated to make a distribution. Any withdrawals shall be subject to all applicable tax and other laws and regulations including possible early withdrawal penalties.

12. Account Owner agrees that the Custodian has no duty to

report to you any information on any asset held in the Custodial Account which the Custodian may have learned in connection with another account or customer or from any source other than in the operation of the Account Owner's Custodial Account.

#### **Article IX – Investment of the Account, No Custodian Responsibility**

1. Subject to Section 2 below, the Account Owner has the sole authority and discretion, fully and completely, to select and to direct the investment of all assets in your Custodial Account. The Account Owner accepts full and sole responsibility for the success or failure of any selection made. It is the Account Owner's responsibility to understand the nature of the investments, the principals and risks involved with the investments Account Owner has chosen. The Custodian has no responsibilities for the selection, continuation or sale of any assets. The Custodian is under no duty to disclose any risks associated with any investment. Notwithstanding the foregoing, until the Account Owner exercises authority and discretion, the Account Owner is deemed to direct the Custodian to invest the assets in the Custodial Account in the manner as described in Article VIII 1(a) above.

2. By notifying the Custodian on a form acceptable to the Custodian, the Account Owner may delegate the investment responsibility for all of the Custodial Account to an authorized agent. The Custodian shall assume that the appointed agent is at all times qualified to act in that capacity. The Custodian shall further assume the agent possesses the authority to direct the investment and/or manage the trading of the Custodial Account until such time as (a) the Account Owner notifies the Custodian in writing that he has appointed another agent or that the Account Owner has assumed responsibility for directing investment of the Custodial Account, or (b) the Custodian is officially notified of the death of the Account Owner.

3. The Custodian shall not be liable for the acts or omissions of the plan sponsor or its agent, or the Account Owner or your agent. The Custodian shall not have any responsibility nor any liability for any loss of income or of capital, nor for any unusual expense which the Custodian may incur, relating to any investment, or to the sale or exchange of any asset which the Account Owner or the authorized agent directs the Custodian to make or which is made or held under the terms of Article VIII-1(a) of this Agreement. The Custodian will not act as an investment advisor to the Account Owner and shall not have any duty to question, review or investigate the Account Owner's or the authorized agent's directions regarding the purchase, retention or sale of any asset. Millennium Trust Company, LLC does not assume or incur any liability by reason of, or have any duty or responsibility to inquire into, or take action with respect to, any acts performed or omitted to be performed by the plan sponsor or by a former custodian or trustee of any qualified plan or IRA which has transferred all or any portion of its assets to Millennium Trust Company, LLC. The Custodian does not assume or incur any liability by reason of, or have any duty or responsibility to inquire into, or take action with respect to, any acts performed by the plan sponsor or a former custodian or trustee of the plan which has transferred assets to the Custodian.

4. The Custodian shall not be responsible for the investment of assets or their performance after the Account Owner's death as the Custodian shall not assume any duties or responsibilities after the Account Owner's death in addition to the duties and responsibilities specifically provided for and assigned to the Custodian in this Agreement.

5. The Custodian shall not be responsible to investigate any

investment or any principles involved with any investment.

6. In connection with certain investments Account Owner may execute certain ancillary documents. If Account Owner has agreed to provide services or has appointed an agent to provide services pursuant to such ancillary documents, the Custodian shall not have any responsibility for the performance or nonperformance of those services.

7. Reference to the applicable law and IRS rules and regulations is based on the date of this Agreement or the respective ancillary document is delivered to Account Owner. The applicable law and IRS rules and regulations may change from time to time. It is the Account Owner's responsibility to consult with an attorney or tax advisor prior to making any decisions or executing any documents. The Custodian does not offer any tax or legal advice.

#### **Article X – Prohibited Transactions**

If you make transactions that are prohibited by law, such as the Account Owner borrowing money from the IRA Account, the IRA Account will lose some or all of its tax advantages and there could be possible penalties. In this instance, the entire amount borrowed will be treated as having been paid to you all at once and will be subject to income tax and penalties. As another example, if you pledge all or any part of your IRA as security for a loan, the amount you pledge will be treated as having been distributed to you. You also will have to pay a 10 percent penalty tax, unless you are 59½ or older or permanently disabled at the time the prohibited transaction occurs and the transaction itself may be subject to excise taxes which are paid by the Account Owner. It is the responsibility of the Account Owner and not the Custodian to determine whether a transaction constitutes a prohibited transaction. Custodian reserves the right to request certification from the Account Owner that the direction provided by the Account Owner does not create a prohibited transaction. If such certification is not forthcoming, Custodian reserves the right to take whatever action it deems within its discretion to be appropriate, including but not limited to resigning from the account and/or distributing the assets. Not requesting such a certification does not represent that the Custodian has concluded that no prohibited transaction exists or that the Custodian has even reviewed the transaction in question.

#### **Article XI – Other Administrative Powers and Duties of the Custodian**

1. The Custodian is not required to, but in its sole discretion may exercise the full power and authority to settle, compound or abandon all claims and demands in favor of or against the Custodial Account, including any claim that may be asserted for taxes under present or future laws; to maintain or defend any litigation necessary in its administration of the Custodial Account if indemnified to its satisfaction against any expenses and liabilities sustained or anticipated in connection therewith; to retain any funds subject to any dispute without liability for payment of interest or decline to make payment thereof, until final adjudication of such dispute by a court of competent jurisdiction.

2. The Custodian may make any payment or distribution required or authorized hereunder by mailing its check or other property or by ACH or by Fed wire or other electronic transfer to the payee at the address last furnished to the Custodian. The Custodian shall not be liable for any payment made in good faith without actual knowledge of any changed condition or status of any person receiving benefits hereunder.

3. The Custodian may consult with and employ other agents or

legal counsel, who may, but need not be counsel for the Custodian individually, and the Custodian shall be fully protected from liability in actions taken or omitted, in good faith, upon the advice of such counsel.

4. The Custodian may perform any and all other acts which in its judgment may be necessary or appropriate for the proper administration of the custodial assets. In the performance of its duties and responsibilities under this Agreement the Custodian may employ such agents and vendors as it feels appropriate without notice to the Account Owner.

5. The Custodian may, but shall not be obligated to, pay any estate, inheritance, income, or other tax or assessment attributable to any property or interest held in the Custodial Account out of the assets of the Custodial Account upon such information or direction as it may require. Before payment of any benefit, the Custodian may also require releases or other related documentation from the taxing authority and require indemnification from such payee as may be necessary for the Custodian's protection against tax liability.

After the death of the Account Owner, the Custodian reserves the right to request such documentation and certification as it deems appropriate within its discretion to verify and establish the identity of the beneficiary or the estate, if the assets are to be distributed to the Account Owner's estate. Prior to a distribution of assets to a beneficiary or the estate of the Account Owner, Custodian reserves the right to request from the beneficiary or the estate of the Account Owner, indemnification and discharge from any liability.

6. Anything in this Agreement to the contrary notwithstanding, the Custodian may choose to request direction from the Account Owner as to any specific action or situation that arises with the Custodial Account, and if a request for direction is made, the Custodian shall incur no liability for following the Account Owner's direction or for taking no action if no such direction is furnished to the Custodian. The Custodian shall have the right, at the expense of the Custodial Account, to seek a direction or approval of its accounts from a court of competent jurisdiction whenever the Custodian shall in its sole discretion deem it appropriate.

#### **Article XII – Designation of Beneficiaries**

1. The Account Owner can designate future beneficiaries.

(a) At any time and from time to time the Account Owner shall have the right to designate one or more beneficiaries to whom distribution of the balance of the Custodial Account shall be made in the event of the Account Owner's death prior to the complete distribution of the Custodial Account. Any such beneficiary designation shall be deemed legally valid only when submitted fully completed, duly executed, and on a form provided or approved by the Custodian. Subject to the foregoing sentence, any such beneficiary designation shall be effective upon receipt by the Custodian. Any such beneficiary designation may be revoked at any time, and shall be automatically revoked upon receipt by the Custodian of a subsequent beneficiary designation in valid form bearing a later execution date.

A beneficiary designation form shall not become revoked in its entirety upon receipt by the Custodian of a subsequent beneficiary designation form if the subsequent beneficiary designation form clearly provides that the Account Owner is adding to or changing a portion of the then current beneficiary designation form, but such addition or change shall modify the prior beneficiary designation to the extent provided.

The Custodian reserves the right to reject, or not to accept, beneficiary designations other than beneficiary designations to named individuals or specific entities.

(b) If no beneficiary should survive the Account Owner, or all beneficiaries renounce their rights to receive any benefit from the Custodial Account, or in the absence of a valid beneficiary designation on file with the Custodian at the time of death, the Custodian shall, upon receipt of notice of the death supported by a certified copy of the death certificate or other appropriate evidence of the fact of death satisfactory to the Custodian, make distribution of the Account Owner's Custodial Account to the beneficiary or beneficiaries in the following order of preference:

- (i) To the Account Owner's spouse; but if no such spouse shall survive the Account Owner, then to
- (ii) The natural and adoptive children of the Account Owner in equal shares per capita; but if there shall be no such child or children who survives the Account Owner then living to
- (iii) The personal representative of the Account Owner's estate;

provided, however, that the Custodian shall have no duty, obligation or responsibility to make any inquiry or conduct any investigation concerning the identification, address, or legal status of any individual or individuals alleging the status of beneficiary (designated or otherwise), nor to make inquiry or investigation concerning the possible existence of any beneficiary not reported to the Custodian within a reasonable period after the notification of the Account Owner's death (or that of the Account Owner's designated beneficiary) and previous to the distribution of the account. The Custodian may conclusively rely upon the veracity and accuracy of all matters reported to it by any source ordinarily presumed to be knowledgeable respecting the matters so reported. With respect to any distribution made by reason of the death of the Account Owner (or the Account Owner's designated beneficiary) the Custodian shall have no higher duty than the exercises of good faith, and shall incur no liability by reason of any action taken in reliance upon erroneous, inaccurate or fraudulent information reported by any source assumed to be reliable, or by reason of incomplete information in its possession at the time of such distribution. Upon full and complete distribution of the Custodial Account pursuant to the provisions of this Section, the Custodian shall be fully and forever discharged from all liabilities respecting such Custodial Account.

### **Article XIII – Distributions**

Subject to Article XI, distributions from the Custodial Account shall be made only upon the request of the Account Owner (or the Account Owner's beneficiary in the event of the Account Owner's death), provided however, that the Custodian is empowered to make a distribution absent such instruction if directed to do so pursuant to a court order, or an IRS levy or other valid and enforceable levy, and the Custodian shall in such event incur no liability for acting in accordance with such court order or levy.

### **Article XIV – Records, Reports, and Valuation of Custodial Accounts**

1. The Custodian shall furnish or cause to be furnished to the Account Owner a statement concerning the status of the Account. This Custodial Account statement shall be provided at least annually to the Account Owner. The Account Owner can choose to have such statements mailed or the Account Owner

can access and retrieve the statements through the internet. The records of the Custodial Account shall be opened to inspection by the Account Owner during the Custodian's regular business hours.

2. The Custodian may grant the Account Owner online access to the Account through the Custodian's website. The website can be made available for view access only or to allow the Account Owner to place trades as well as execute certain other Account related services online. Custodian does not guarantee the performance or privacy of the online system or the internet. Website access may be unavailable at times such as when (a) systems require regular maintenance or upgrades; (b) unforeseen maintenance is necessary; or (c) major unforeseen events occur, such as earthquakes, fires, floods, computer failures, interruption in telephone service, electrical outages, civil unrest or riots, war, or acts or threatened acts of terrorism or other circumstances beyond Custodian's control. Custodian is in no way and under no circumstances liable for the unavailability of access to the website, data entry errors and other errors made by the Account Owner, or for any loss for any reason associated with website or online access or use by the Account Owner. The Account Owner shall have a password which will allow the Account Owner access to the Account online. It shall be the Account Owner's responsibility to keep the password private. The Account Owner shall be responsible for all actions taken by any person using the Account Owner's password whether or not such use was authorized by the Account Owner.

3. The Custodian agrees to submit reports to the Internal Revenue Service and the Account Owner at such time and in such manner and containing such information as is prescribed by the Internal Revenue Service.

4. Account Owner shall have 45 days after either (a) the date of mailing of a paper Custodial Account statement or (b) the posting of a Custodial Account statement online at the Custodian's website to file any written objections or exceptions with Custodian. The failure to file any objections or exceptions within said 45 day period shall signify Account Owner's approval of the statement and preclude Account Owner from making future objections or exceptions regarding the statement. Such approval by Account Owner shall be full acquaintance and discharge of Custodian regarding the transactions and information on such statement.

5. It is a requirement that the Account Owner receive a statement of the fair market value ("FMV") of the Account as of December 31 of each year. This FMV must be provided by the following January 31. This FMV shall be furnished to the Account Owner in the Custodian's regular fourth quarter Account statement. The Custodian (in its discretion) may furnish the Account Owner with other Account statements periodically during the year. For securities that have publicly available quoted prices, the Custodian will use such quoted prices to value those securities. Although such prices are obtained from quotation services and other sources the Custodian believes to be reliable, the Custodian cannot guarantee their accuracy. Where a brokerage account (including an account that is used to trade in futures) is held as an asset of the Account at a broker, the Custodian's reported FMV shall reflect only the total value of the brokerage account as reported by the brokerage firm to the Custodian for that Account.

### **Article XV – Spendthrift Provisions, Account Owner May Not Pledge Assets**

Neither the Account Owner nor any beneficiary shall have any

right to pledge, assign, anticipate, hypothecate, or in any manner create a lien upon any assets, payments, or benefits while such are held in the Custodial Account. No interest in the Custodial Account shall be liable in any manner for the debts, defaults, obligations or liabilities of the Account Owner, the Account Owner's beneficiaries, spouse, or heirs-at-law. Each distribution, transfer or payment of any part of the Custodial Account by the Custodian shall be made to the person entitled thereto (or in the event of such person's legal disability, then to their legal representative) and only to them and upon their personal receipts or endorsements, free of anticipation or alienation, voluntary or involuntary. The assets in the Account shall not be subject to or responsible for the debts, contracts or torts of any person whether or not entitled to distributions under this Agreement.

**Article XVI – No Duty For Contributions, Hold Harmless and Indemnification, Arbitration**

The Custodian shall not be responsible in any way for determining the amount of the rollover distribution due the Account Owner from any retirement plan, the permissible amount of contributions; the collection of contributions to the IRA under this Agreement; the selection, retention or disposition of the investments of the Custodial Account; the amount, character, timing, purpose, propriety of any withdrawal, or any other action or non-action taken at the Account Owner's or the authorized representative's request. The Account Owner, the authorized representatives, or designated beneficiaries shall at all times fully indemnify and hold harmless the Custodian, Millennium Trust Company LLC, their affiliates, successors and assigns, from any liability arising from withdrawals so made or actions so taken, and from any and all other liability, damages, costs including legal costs, taxes and penalties on the Custodial Account, losses and expenses (collectively, "Damages") whatsoever which may arise in connection with this Agreement, except Damages arising from the gross negligence or willful misconduct of the Custodian. The Custodian shall not be responsible for any taxes, penalties, judgments and expenses incurred by the Account.

The Custodian shall be fully protected in taking or failing to take any actions in reliance on the Adoption Agreement information as provided by the plan sponsor, from the anticipation of the default terms of this Agreement and the Adoption Agreement where the Account Owner fails to update the information in the Adoption Agreement or fails to provide written direction to the Custodian as to the investment of the Custodial Account.

The Custodian shall be under no duty to take any action other than as herein specified with respect to the Custodial Account unless the Account Owner or the Account Owner's authorized agent shall furnish the Custodian with instructions in proper form. The instructions must be actually received by the Custodian. The Custodian shall not be obliged to determine the accuracy or propriety of any such directions and shall be fully protected in acting in accordance therewith. If the instructions, in the opinion of the Custodian, are unclear, or are not given in accordance with this Agreement, the Custodian shall not be liable for any loss during the period preceding the Custodian's receipt of written clarification of the instructions.

Any dispute, claim or controversy arising out of or relating to this Agreement, or any other agreement between the Account Owner and the Custodian, or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be determined by arbitration in Chicago, Illinois before a sole arbitrator, in accordance with the laws of the

State of Illinois for agreements made in and to be performed in that State. The arbitration will be administered by Judicial Arbitration and Mediation Services ("JAMS") pursuant to its Comprehensive Arbitration Rules and Procedures. Disputes will not be resolved in any other forum or venue. The parties agree that any arbitration will be conducted by a retired judge who is experienced in dispute resolution, pre-arbitration discovery will be limited to the greatest extent provided by the rules of JAMS, the arbitration award will not include factual findings or conclusions of law, and no consequential or punitive damages will be awarded. Notwithstanding any other rules, no arbitration proceeding brought against the Custodian will be consolidated with any other arbitration proceeding without the Custodian's consent. Judgment may be entered upon any award granted in any arbitration in any court of competent jurisdiction in Chicago, Illinois, or in any other court having jurisdiction. If the Account Owner initiates the arbitration and does not prevail, the Account owner shall bear the entire cost of the arbitration including all fees paid to JAMS and the arbitrator. The Account Owner agrees that the Account Owner may only bring claims and disputes to arbitration only in his or her individual capacity and not as a plaintiff or class member in any purported class or representative arbitration.

Notwithstanding the above paragraph, the Custodian shall have the right to bring suit against Account Owner or the Custodial Account in a court in Chicago, Illinois or in any court of competent jurisdiction for the recovery of any sums owed Custodian under this Agreement, including, but not limited to, fees, costs, expenses and sums paid by Custodian in error to or for the benefit of the Custodial Account. In such event all court costs, legal expenses, reasonable compensation of time expended by the Custodian in the performance of its duties, and other appropriate and pertinent expenses and costs shall be collected by the Custodian from the Custodial Account or as part of the Court's award to the Custodian.

**Article XVII – Administrative Expense and Custodian Fees**

All reasonable costs, charges, expenses, and taxes incurred by the Custodian in the administration of the Custodial Account (including legal fees and compensation of other agents) and such compensation as provided for in the Custodian's then current IRA fee schedule applicable to the Custodial Account, payable to the Custodian may be charged to and paid from the Custodial Account by the Custodian or the Custodian's fees and expenses may be paid by the Account Owner. The Account Owner may not pay brokerage fees and other types of expenses without the risk that such payments constitute contributions to the Account. The Account Owner acknowledges that the Account Owner has had the opportunity to review the Custodian's IRA fee schedule. The Custodian shall not be required to give prior notice to the Account Owner regarding a change in the fee schedule for this Account. Custodian shall have the authority to liquidate any and all of Account Owner's Custodial Account investments at its discretion in order to cover any unpaid fees and expenses due and the Account Owner agrees not to hold the Custodian liable for any adverse consequences that result. Furthermore, in the event that any fees remain unpaid, Custodian shall have the right to seek a judicial settlement in which Account Owner would also be liable for all related costs of the suit including reasonable attorney's fees. The Custodian reserves the right to discount any of its fees within its discretion to certain account owners without notice thereof to the Account Owner.

The Custodian may be receiving fees from all the various mutual fund investments or from the bank money market demand account held in the IRA in return for providing certain

shareholder or recordkeeping services. The amount of these fees is permitted by applicable law or regulation, if any. Specifically, the Custodian either receives a fee from the money market mutual fund in which otherwise un-invested funds are held in certain IRA accounts and charges other IRA accounts a fee for such otherwise un-invested funds invested in the bank money market demand account, based on the average assets invested. See the following paragraph and the Disclosure Statement which accompanies this Agreement for further details. These fees (along with any investment and other operating expenses of the money market mutual fund) are deducted directly from the interest earnings and the net amount is paid to your account monthly. Accounts that close during a month will not be credited with interest earned for that month and any interest will be taken as part of the final closing fee by the Custodian.

With the Bank Account, the Custodian charges the Account a monthly fee at an annualized rate of up to 4.00% on the average assets invested in the Bank Account. The Custodian has no obligation to ensure that all Bank Accounts used with IRAs held by the Custodian pay the same rate of interest. This fee is for servicing and administering the Bank Accounts as well as compensation for other services rendered by Custodian in the administration of the Account. This fee can change from time to time without notice but cannot exceed the annualized rate of 4.00% without prior notice to you. This fee is deducted directly from the interest paid on the Bank Account and the net amount is paid to your IRA monthly.

You can obtain the current bank used in your Account, current interest rates and the servicing and administration fee information by calling or e-mailing a Millennium Trust Client Service Representative.

#### **Article XVIII – Removal and Appointment of Successor Custodian**

Any Custodian or Successor Custodian may resign upon giving 30 days prior written notice to the Account Owner or, if the Account Owner is then deceased, to the beneficiaries hereunder. Any Custodian or Successor Custodian may be removed by the Account Owner upon giving 30 days prior written notice to the Custodian. The appointment of a Successor Custodian and transfer of the Custodial Account assets shall be accomplished by the Account Owner delivering a written instrument to the retiring Custodian in a form acceptable to the Custodian either directing distribution of the assets in the Account directly to the Account Owner or with the acceptance of the Successor Custodian endorsed thereon. The Successor Custodian so appointed by the Account Owner shall be a bank, trust company or person approved by the Secretary of the Treasury of the United States to hold and administer assets comprising an Individual Retirement Account.

The retiring Custodian (resigning or removed) shall continue to hold and exercise the powers conferred in this Agreement necessary for the transfer and delivery of the custodial assets to the Account Owner or Successor Custodian. The retiring Custodian shall also be entitled to withhold from the custodial assets such reasonable amounts as it may deem necessary to provide for any compensation due it, to pay taxes, including any withholding or early withdrawal penalties, plus expenses incurred in the termination, transfer and delivery of the custodial assets to the Successor Custodian or Account Owner, and amounts for taxes or other liabilities as may be chargeable against the Custodial Account. The retiring Custodian shall be reimbursed by the Account Owner or the Successor Custodian for any deficiency in the amounts so

withheld if they prove to be insufficient for such settlement of accounts. The retiring Custodian reserves the right to withhold reasonable fees and expenses for handling assets received by the retiring Custodian after the Account has been closed or transferred.

The Successor Custodian shall acquire all of the powers conferred upon its predecessor, but shall not be personally liable for any act or failure to act of the former Custodian. The transfer and delivery of the custodial assets to the Successor Custodian shall constitute a full and complete discharge and exoneration of liability for the retiring Custodian (absent fraud) unless it is notified by Account Owner or the Successor Custodian within 45 days from the date of resignation or removal of irregularities in its Custodianship. If any custodian of your Account fails to comply with certain Treasury Regulations or is not keeping records, submitting returns or sending statements as required by applicable forms or regulations, the IRS may, after notifying you, require you to substitute another custodian.

If the Account Owner fails to select a Successor Custodian or direct a distribution to the Account Owner, after the 30 days written notice, the Custodian is hereby authorized: (1) to distribute the Custodial Account to the Account Owner or the beneficiaries regardless of any possible tax consequences, or (2) to appoint a successor custodian and to distribute the assets in the Account to such successor custodian.

In such cases that the value of the Custodial Account becomes worthless, or results in a negative balance, Custodian will resign from the account by notification delivered by certified mail to the Account Owner. Outstanding fees will be billed to the Account Owner. Custodian will not be held liable for negative balances due to the investment decisions of the Account Owner.

Anything herein to the contrary notwithstanding, if the Custodian merges into or becomes consolidated with another entity qualified to act as an IRA custodian, or is succeeded in its business by purchase or otherwise by an entity qualified to act as an IRA custodian, then such entity shall become the Custodian of the Account Owner's IRA without the necessity of the prior approval of the Account Owner.

#### **Article XIX – Notices**

Any and all notices or other communications directed to be given to the Custodian hereunder shall not be deemed delivered until actually received by the Custodian, in writing, at its place of business. The Custodian shall not be required to determine the validity of any receipt, affidavit, notice or other paper or agreement required to be delivered to it under this Agreement, but it shall be sufficient that such a document is delivered to it by one of the parties as herein required and that the same shall be in apparently correct form and signed or otherwise executed by the party required to sign or execute the same, and the Custodian shall be relieved of any liability or responsibilities for the sufficiency thereof as long as it purports on its face to be such form and executed by such person as is required by this Agreement. Any notice provided by the Custodian to the Account Owner for any circumstance shall be sent to the last known address of the Account Owner by regular mail or, where the Account Owner has provided the Custodian an e-mail address, to the most recent e-mail address of record for the Account Owner, and for purposes of this Agreement shall be considered delivered as of the date of the mailing or e-mailing. The Account Owner shall be responsible to notify the Custodian in writing of a change of address or e-mail address.

**Article XX – Applicable Law**

All questions arising with respect to the provisions of this Agreement shall be determined by application of the laws of the State of Illinois. This Agreement is subject to all applicable Federal and State laws and regulations. If any part of this Agreement is held to be illegal or invalid, the remaining parts shall not be affected. Neither the Account Owner's nor the Custodian's failure to enforce at any time or for any period of time any of the provisions of this Agreement shall be construed as a waiver of such provisions, or the Custodian's right or Custodian's right thereafter to enforce each and every such provision.

**Article XXI – Account Owner Representations**

Account Owner represents and warrants that any information you have given or will give with respect to this Custodial Account is complete and accurate. Further, Account Owner agrees that any directions Account Owner, or Account Owner's authorized agent give the Custodian, or any actions Account Owner, or Account Owner's authorized agent take will be proper under this Agreement and that the Custodian is entitled to rely upon any such information or directions. The Custodian shall not be responsible for losses of any kind that may result from such directions to the Custodian or from the Account Owner's actions, or the Account Owner's authorized agent's

actions, or failures to act of both. Account Owner agrees to reimburse the Custodian for any losses the Custodian may incur as a result of such directions, actions or failures to act.

**Article XXII – Employer Contributions**

If the Account Owner's Custodial Account becomes at some point the type of IRA which may receive contributions from the Account Owner's employer, the Custodian shall not be liable for any losses, damages, costs, penalties or expenses incurred as a result of the failure of the employer of the Account Owner to make any contributions to the Custodial Account required under Account Owner's IRA plan. The Custodian is not responsible for monitoring the employer's contributions to your Custodial Account or notifying Account Owner of the employer's contributions. If applicable, the Account Owner is responsible for contacting the employer regarding its contributions and monitoring those contributions.

**Article XXIII – Third Party Actions**

The Custodian shall not be liable to the Account Owner for any statements, representations, actions or inactions of any broker or other salesperson or principal of any investment purchased for this Custodial Account.