

# **Roth Individual Retirement Account Disclosure Statement and Custodial Agreement**

**Effective November 11, 2016**

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# WFCS ROTH Individual Retirement Account Disclosure Statement & Custodial Agreement

Effective November 11, 2016

## Section I: Disclosure Statement

### A. Introduction

Wells Fargo Clearing Services, LLC (WFCS) is the custodian of your Roth IRA. The custodian of a Roth IRA must be a bank or an entity meeting standards established by the Secretary of the Treasury. WFCS has been approved by the Internal Revenue Service ("IRS") to act as the custodian of your Roth IRA ("Roth IRA" or "IRA"). The Custodian is also referred to in this Disclosure Statement as "we", "us" or "our". Please note that Wells Fargo Clearing Services, LLC was originally known as Wachovia Securities, LLC. In 2009, Wachovia Securities, LLC was renamed Wells Fargo Advisors, LLC. In 2016, Wells Fargo Advisors, LLC was renamed Wells Fargo Clearing Services, LLC due to a subsequent merger.

Please read this Disclosure Statement and the attached materials carefully. Please note that the rules regarding Roth IRAs are subject to frequent change. Before initiating any major transaction with your Roth IRA, you should make sure that you have the most current information available. If you have any legal or tax questions concerning your Roth IRA, we urge you to discuss them with your attorney or personal tax consultant. The representatives of the Custodian, will, of course, be happy to answer any questions concerning the operation and financial aspects of your Roth IRA, but cannot give you legal or tax advice. You may obtain further information on Roth IRAs from your District Office of the IRS. In particular, you may wish to obtain IRS Publication 590A and 590B (Publication 590) Individual Retirement Arrangements (IRAs) at [www.irs.gov](http://www.irs.gov).

#### A1. How do I open a Roth IRA?

Complete an IRA application/enrollment form and return it either personally or by mail to us along with your initial contribution. If you need help in completing the form or have any questions, call us for assistance. You must complete and sign the IRA application/enrollment form in order to establish a Roth IRA with us.

#### A2. May I cancel my Roth IRA?

Yes, but to receive a full refund without penalty on your initial contribution, you must do so on or before the seventh (7th) day after you receive the Roth IRA Custodial Agreement ("Custodial Agreement") and Disclosure Statement. To cancel your Roth IRA, either deliver a written notice of cancellation to us or mail one to the address shown below before the end of the 7-day period. If the Custodial Agreement is mailed to you, you will be deemed to have received it seven days after the postmark date absent evidence to the contrary. If an important change is made to the Disclosure Statement or your Roth IRA during the 7-day period, we will notify you of the change and you will have an additional seven days from the date you receive the notice to revoke your Roth IRA.

Wells Fargo Clearing Services, LLC  
Attn: IRA Department MAC H0006-083  
One North Jefferson Ave.  
St. Louis, MO 63103

If you send your notice by first class mail, your revocation will be deemed mailed as of the date of the postmark.

Until the 7-day period for revoking your Roth IRA has lapsed, contributions may be accepted, but investment instructions for your Roth IRA may be restricted.

If you revoke your Roth IRA within the seven-day period, we will return to you the entire amount of the contributions or the actual property contributed before your revocation. You will not earn interest on the contribution if you revoke. There will be no adjustments for administrative expenses, or changes in the market value. When you revoke your Roth IRA, the initial contribution and return of the contribution are reported to the IRS. You should consult your tax advisor if you have any questions about taxes.

#### A3. Is my Roth IRA non-forfeitable?

Your interest in your Roth IRA is non-forfeitable at all times.

#### A4. Is my Roth IRA approved by the Internal Revenue Service?

Since the Custodial Agreement establishing your Roth IRA utilizes IRS form 5305-RA, as currently provided by the IRS, your Roth IRA will be treated as approved as to form. IRS approval is a determination as to the form of your Roth IRA but does not represent a determination of its merits.

In the event that the laws governing Roth IRAs are amended or changed and cause differences between our current Custodial Agreement and the new laws, we will administer your Roth IRA in accordance with the new laws and amend the Custodial Agreement when revised IRS forms are published.

## **B. Contributions to your Roth IRA**

### **B1. What is a Roth IRA contribution?**

There are two types of Roth IRA contributions:

An "annual contribution" is a non-deductible cash deposit to your Roth IRA. Individuals who are age 50 or older can contribute an additional "catch up" amount beginning in the taxable year in which the individual turns age 50.

A "qualified rollover contribution" is a deposit to your Roth IRA of funds that you receive from either another Roth IRA or from another eligible IRA. You may roll over any part of an otherwise eligible rollover distribution from your employer's retirement plan to your Roth IRA on a tax free basis if that part of the distribution is from a designated Roth account set up under the employer's retirement plan. You may roll over amounts from an employer's retirement plan to a Roth IRA as a conversion contribution if the conversion rules are met. A qualified rollover contribution from an IRA (other than another Roth IRA) or any other employer retirement plan is generally a taxable event. A rollover to a Roth IRA from another Roth IRA is generally not taxable, if certain requirements are met. All types of rollovers are subject to special rules discussed in *Section D: Rollover Contributions*.

## **C. Annual contributions**

### **C1. May I contribute to a Roth IRA?**

If at the end of a tax year either you (or your spouse if filing joint) have received compensation from employment for that year and you have not exceeded income limits, you may establish and/or contribute to a Roth IRA for that year. You may contribute to a Roth IRA even if you are older than age 70½.

Compensation includes salary, wages, commissions, fees, tips and other income you (or your spouse if filing jointly) receive for your personal services, as well as taxable alimony and separate maintenance payments received under a degree of divorce or separate maintenance. It does not include items such as earnings on investments and dividends, deferred compensation or monies from retirement plans or annuities.

You can treat non-taxable combat pay as compensation under certain circumstances. Consult your tax advisor for more information about this special contribution of non-taxable combat pay.

You are allowed to direct that all or a portion of your federal income tax refund be paid directly to your Roth IRA, or your spouse's Roth IRA if you file jointly. The direct deposit of a tax refund is considered an annual contribution and is subject to the contribution limits and the rules that apply to annual contributions, including the contribution deadline rules described in Questions C7.

If you took a "qualified reservist distribution" from your IRA or another eligible retirement plan, you may be able to repay the distribution to your Roth IRA. Any repayment of a "qualified reservist" distribution to your Roth IRA increases your basis. See Question E3(i) for more information about "qualified reservist distributions." The "qualified reservist distribution" repayments may be made even if the repayment would cause your total annual contributions to the Roth IRA to exceed the contribution limits. The repayments must be made within two years after your active duty period ends. Please consult your tax advisor for more information if you think you may be eligible for this special non-deductible contribution.

### **C2. How much may I contribute?**

Federal tax laws determine how much you may contribute. In any year you or your spouse (if filing jointly) receive compensation, you may make total annual contributions to all of your Roth and Traditional IRAs in any amount up to the lesser of the compensation you and your spouse (if filing jointly) receive for that year (less any Traditional and Roth IRA contributions made by or on behalf of your spouse) or the maximum amount as determined by federal tax laws. Contact us, refer to the IRS Publication 590 or [www.irs.gov](http://www.irs.gov) for current contribution limits. Unless otherwise specified, for purposes of explaining how much you may contribute to a Roth IRA, this disclosure statement assumes that you will not make contributions to a Traditional IRA.

You may always contribute less than the maximum amount, and do not have to contribute every year.

If, however, you contribute more than you are allowed for a tax year, you may incur a penalty for an "excess contribution." This penalty is explained in *Section H: Excess Contributions and Prohibited Transactions*.

### **C3. How will my MAGI and my annual Traditional IRA contributions affect my maximum contributions?**

If your Modified Adjusted Gross Income (MAGI) is above a specified level, the amount of the annual contributions you may make to a Roth IRA is phased out and may be eventually eliminated. If you make annual Traditional IRA contributions, the maximum Roth IRA annual contributions that you may make is further reduced by the amount of the annual Traditional IRA contributions.

#### **a) Modified Adjusted Gross Income.**

You must look at your MAGI for the year (if you and your spouse file a joint return you use your combined MAGI) to determine whether you can make an annual Roth IRA contribution. Your tax return instructions will show you how to calculate your MAGI for this purpose. If you are at or below a certain MAGI limit, you will be able to make a full or partial contribution.

**b) Contribution Limits.**

Single and joint filers may make a full or partial contribution based on their MAGI. More information regarding these income limits can be found in IRS Publication 590.

Except for married individuals filing separately, the MAGI limits will be indexed to reflect inflation in the future.

**C4. May I make a deductible contribution to my Roth IRA?**

No. You may only make non-deductible contributions to a Roth IRA. However, you may be eligible for a tax credit of up to 50% of the first \$2,000 of "qualified retirement savings contributions," provided your adjusted gross income is within specified limits. "Qualified retirement savings contributions" include contributions to a Traditional IRA, Roth IRA, elective deferrals to a qualified retirement plan, elective deferrals under an eligible deferred compensation plan maintained by a state or local government, and voluntary employee contributions to a qualified retirement plan.

The amount of the tax credit is calculated by multiplying the first \$2,000 of your "qualified retirement savings contributions" by the applicable percentage, which is determined by federal tax laws. You may obtain additional information on this tax credit in IRS Publication 590 or go to the IRS website at [www.irs.gov](http://www.irs.gov).

For purposes of calculating the tax credit, your "qualified retirement savings contributions" may be reduced by certain distributions from certain retirement plans and IRAs made in the same tax year, the two previous tax years and the period after the tax year and before the due date for filing your return for the tax year. Distributions received by your spouse are treated as distributions to you for purposes of reducing your "qualified retirement contributions" if you file a joint return for the tax year in which your spouse received the contribution. If you believe that you may be eligible for the tax credit, contact your tax adviser.

The AGI limits for this tax credit will be increased by the IRS from time to time to reflect cost of living adjustments.

**C5. May my spouse have a Roth IRA?**

Yes. He or she may establish and contribute to a Roth IRA under the same rules just discussed for you. The total of both of your maximum Roth contributions is the lesser of your combined compensation (reduced by any contributions made to your Traditional or Roth IRAs) for that year or the maximum contribution allowed for you plus the maximum contribution allowed for your spouse (see C2 above). You can never contribute more than the maximum individual contribution limit to either Roth IRA. To take advantage of a spousal contribution, you must file a joint federal tax return for that year. A spousal contribution can be made even if a contribution is not made to the working spouse's Roth IRA.

**C6. May my employer contribute to my Roth IRA for me?**

No.

**C7. When may I contribute to my Roth IRA?**

Roth IRA annual contributions for a calendar year taxpayer may be made at any time during the calendar year or no later than April 15th of the following year (the tax filing deadline). This applies even if you receive an extension for filing your return. If you make a contribution after the end of the calendar year (but no later than April 15th) that is intended to be a contribution for the prior year, you must inform us at the time of your deposit.

If you served in or in support of the armed forces in a designated combat zone or qualified hazardous duty area, you may have a special extended contribution period to make IRA contributions for the prior year. Consult your tax advisor for more information about this special extension.

**D. Rollover Contributions****D1. What is a qualified rollover contribution?**

A qualified rollover contribution is a deposit to a Roth IRA of funds you receive as a qualified distribution from either a Traditional IRA, another Roth IRA, or amounts from an employer retirement plan to a Roth IRA. A rollover is often complex and we suggest you seek professional tax advice before receiving and rolling over a distribution.

**D2. What is an employer retirement plan?**

Generally, employer retirement plans are pension, profit sharing, thrift, employee stock ownership, stock bonus, SIMPLE IRA or self-employed retirement plans. They also include annuity plans for employees of certain tax-exempt employers and certain governmental retirement plans.

**D3. May I roll over a distribution from another Roth IRA?**

You may roll over amounts you withdraw from a Roth IRA to another Roth IRA as long as you have not made such a rollover of any of your IRAs in the previous 12 months (or consecutive 365 days). If you are the beneficiary of your spouse's Roth IRA, you may also roll over part or all of a distribution you receive from a Roth IRA by reason of the death of your spouse. However, you may not roll over any part of a distribution you receive from a Roth IRA by reason of the death of anyone else. For additional resources and information regarding IRA rollovers, visit [www.irs.gov](http://www.irs.gov).

**D4. May I roll over/convert distributions from a Traditional IRA?**

Yes, you may roll over amounts you withdraw from a Traditional IRA. The taxable amount rolled over into a Roth IRA will be taxed in the year of the distribution under the regular rules for taxing distributions from IRAs. This type of rollover is called a conversion contribution. See *Section F: Roth IRA Conversions* for more information about rollovers

from Traditional IRAs to Roth IRAs.

**D5. May I roll over/convert distributions from an employer retirement plan?**

You may roll over any part of an otherwise eligible rollover distribution from your employer's retirement plan to your Roth IRA on a tax free basis if that part of the distribution is from a designated Roth account set up under the employer's retirement plan. You may also roll over other eligible rollover distributions from an employer's eligible retirement plan to a Roth IRA as a taxable conversion contribution if the conversion rules are met.

**D6. Must I roll over the entire amount of a Roth IRA distribution?**

No. You may keep some of the funds and "roll" the remaining amount into a Roth IRA. The amount rolled into a Roth IRA from another Roth IRA will not be taxed until withdrawn and will continue earning income on a tax-free basis. The amount not rolled over will be taxed under the regular rules for taxing distributions from Roth IRAs. Again, we suggest that you seek professional tax advice before you receive your distribution.

**D7. Is there a deadline for making a rollover contribution?**

Yes, you must complete a rollover contribution within 60 days after you receive a distribution from another Roth IRA. If you do not complete the rollover within the 60-day period, the taxable portion of the Roth IRA distribution may be taxed as ordinary income for the year in which it was received and may be subject to penalties as explained in Question E2 and E3. The IRS may waive the 60-day limitation in some very limited situations, such as in the case of a disaster, casualty or other events beyond your reasonable control. You should contact your tax advisor if you believe that you may qualify for a waiver.

**D8. May a deceased spouse's distribution be rolled over?**

Yes. If you receive a partial or total distribution which could have been rolled over by your spouse before death, you may roll the distribution over to another Roth IRA in the same manner your spouse could have during his or her lifetime.

**D9. May I transfer funds directly from one Roth IRA to another?**

Yes. Instead of making a rollover contribution, you may transfer funds held in a previously established Roth IRA to a new Roth IRA by giving directions for the transfer to the Trustee/Custodian of each Roth IRA. Transfers are not subject to the "once in twelve months rule" of rollover contributions.

**D10. May I transfer funds directly from my Roth IRA to my HSA?**

If you are otherwise eligible to make contributions to a health savings account ("HSA"), you may elect to make a once in a lifetime transfer of the taxable amounts from your Roth IRA to your HSA on a tax-free basis. The transfer election is irrevocable. This special transfer only applies to amounts in your Roth IRA that would otherwise be taxable if distributed. Special rules apply to determine the amount that may be transferred. Transfers from SEP-IRAs and SIMPLE IRAs to HSAs are not permitted.

The transfer amount is limited to the maximum HSA contribution amount for the tax year for your type of high deductible health plan ("HDHP") coverage (i.e., self-only or family coverage) and reduces the amount of HSA contributions that you may make for the same tax year. In the year in which you make a special transfer from your IRA, you may make a second transfer, but only if the second transfer is a result of converting from single to family coverage under the HDHP.

You must remain eligible to make HSA contributions for the 13-month period beginning with the month in which the transfer is made to your HSA to avoid income tax and a 10% penalty tax on the amount transferred. The income tax and 10% penalty tax is waived if your loss of coverage under the HDHP is due to your death or "disability." Please consult your tax advisor for more details about this special rule, including the meaning of "disability," determining the amount that may be transferred and any future guidance from the IRS.

**D11. May I repay a distribution I took in connection with a disaster relief distribution?**

If you took a disaster relief distribution from your IRA or another eligible retirement plan under the tax relief provided for a natural disaster, you may be able to repay the distribution to your Roth IRA as a rollover contribution and avoid taxes on the distribution. The repayment is first considered to be a repayment of earnings. Any repayments in excess of earnings will increase your basis in the Roth IRA. The repayment must be made within three years after the "qualified disaster relief distribution." Please consult your tax advisor for more information if you think that you may be eligible for a special repayment opportunity.

**E. Withdrawals from your Roth IRA**

**E1. When may I make a withdrawal from my Roth IRA?**

You may withdraw funds from your Roth IRA at any time before or after you retire. If, however, you make withdrawals before age 59½, you may not receive the full tax benefits of a Roth IRA (see Question E2), and you may be subject to tax penalties on the amounts withdrawn as explained in Question E3.

**E2. How are withdrawals taxed?**

For tax purposes, all Roth IRAs are aggregated and treated as one IRA. In other words, all distributions made from all of your Roth IRAs in the same tax year are treated as one distribution, all annual contributions made for the same tax year to all of your Roth IRAs are aggregated and added to the undistributed total annual contributions for prior tax

years (including annual contributions to a Traditional IRA recharacterized as annual contributions to a Roth IRA for the tax year) and all conversions received during the same tax year by all of your Roth IRAs are aggregated. If the distribution occurs more than five years after your first Roth IRA contribution (either an annual Roth IRA contribution or a conversion contribution) and if it is a "qualified distribution," all of the Roth IRA distribution will be tax-free (including earnings). A "qualified distribution" is any payment made:

- a) After the date you attain age 59½;
- b) To your beneficiary after your death;
- c) On account of your disability; or
- d) To pay the expenses of a first-time homebuyer. (See Question E-3 for a description of a first-time homebuyer).

A "qualified distribution" does not include distributions of "excess contributions" and related earnings from a Roth IRA. If a distribution is not a "qualified distribution," it will be taxable to the extent of any earnings on your contributions. Such a non-qualified distribution will be treated as if the distribution was first paid from your contributions and will not be taxed to the extent the distribution does not exceed your total contributions. The portion of the total non-qualified distributions that exceed your total contributions to the Roth IRA will be taxable.

Non-qualifying distributions from Roth IRAs may be subject to taxation and are considered to be made in the following order (determined as of the end of a tax year and exhausting each category before moving to the next): (1) from annual Roth IRA contributions; (2) from conversion contributions, on a first-in-first-out basis; and (3) from earnings. Distributions of conversion contributions are subject to special rules. See Questions F5 and F6 for more information about distributions of conversion contributions.

The following contributions are ignored for purposes of the source rules described in the preceding paragraph: (1) recharacterizations of annual contributions or conversion contributions made to a Roth IRA as contributions to a Traditional IRA (without regard to earnings); (2) rollovers between Roth IRAs for purposes of determining the amount of contributions and distributions (without regard to earnings); and (3) corrective distributions of excess contributions (including earnings) for purposes of determining the amount of contributions, distributions and earnings.

### **E3. What is the early withdrawal penalty?**

If you make a withdrawal before age 59½ and do not roll over the amount withdrawn to another Roth IRA, you will have to pay a 10% Federal tax penalty on the taxable amount of the withdrawal unless you qualify for one of the exceptions to the 10% penalty tax. These exceptions include:

- a) Distributions on account of your permanent disability;
- b) Distributions made to your designated beneficiary after your death;
- c) Distributions made as a series of substantially equal periodic payments (not less frequently than annually) made for your life expectancy, or for the joint life expectancies of you and your beneficiary;
- d) Distributions for medical expenses to the extent that the distributions do not exceed your unreimbursed, deductible medical expenses as outlined in IRS Publication 502;
- e) Distributions used to pay health insurance premiums while you are unemployed. This exception only applies if you receive unemployment compensation for 12 consecutive weeks under Federal or State law, and the distributions are made during the tax year in which the unemployment compensation is paid or during the next tax year. This exception does not apply to distributions made after your reemployment, if you have been employed for at least 60 days after your initial separation from service;
- f) Distributions used to pay qualified higher education expenses. Qualified higher education expenses are post-secondary education expenses (tuition, fees, books, supplies & equipment and certain room and board if the student is at least half-time) furnished to you, your spouse, or your or your spouse's child or grandchild. The amount of qualified higher education expenses is reduced for certain scholarships;
- g) Distributions used within 120 days by a "first time home buyer" to pay certain costs of acquiring a principal residence. Permissible acquisition costs include the costs of acquiring, constructing, or reconstructing a residence, including reasonable settlement, financing, or other closing costs. A "first time home buyer" can be you or your spouse, or a child, grandchild or ancestor of you or your spouse. The first time home buyer and his/her spouse cannot have owned a home for two years prior to receiving the distribution and there is a lifetime dollar limitation of \$10,000;
- h) Distributions made on account of a federal tax levy on your Roth IRA; and
- i) Distributions that are "qualified reservist distributions." You are eligible for a "qualified reservist distribution" from your IRA if you were ordered or called to active duty after September 11, 2001 for a period of more than 179 days (or for an indefinite period) because you are a member of a "reserve component" and the distribution was made no earlier than the date of the order or call to active duty and no later than the end of the active duty period. A "reserve component" is any of the following units: Army National Guard of the U.S., Army Reserve, Naval Reserve, Marine Corps Reserve, Air National Guard of the U.S., Air Force Reserve, Coast Guard Reserve, or the Reserve Corps of the Public Health Service.

The tax penalty is in addition to the income taxes which are payable on the taxable amount of the withdrawal. Please consult with your tax advisor to determine if these exceptions apply to your particular situation. (See *Section F: Roth IRA Conversions* for information about special tax penalties for distributions after a conversion.)

**E4. How about income tax withholding?**

Federal tax laws require us to generally withhold 10% of each withdrawal by you for payment of your federal income taxes unless you instruct us in writing not to withhold. Some states also require us to withhold a portion of your distributions for payment of your state income taxes. Please consult your state tax authority to determine if your state requires withholding.

**E5. What are the methods of withdrawal from my Roth IRA?**

You may make a withdrawal from your Roth IRA at any time, although any restriction and penalties applicable to the investments you have chosen for your IRA will apply.

Please note that the special tax rules relating to lump sum distribution from tax-qualified plans do not apply to Roth IRAs.

**E6. When must I start making withdrawals?**

Unlike a Traditional IRA, there is no requirement that you begin making withdrawals before April 1st of the year following the year in which you become age 70½. The minimum distribution rules that apply after your death are described in Question E7.

**E7. What happens to my Roth IRA when I die?**

Your account balance will be paid to your beneficiary. Your beneficiary is the person or persons, or legal entity or entities you designate when you open your Roth IRA. You may change your beneficiary designation at any time by contacting us. Each beneficiary designation you file with us will cancel all previous designations.

A beneficiary is subject to and bound by all the terms and conditions of the Roth IRA Custodial Agreement and Disclosure Statement. A beneficiary is required to complete and submit any and all forms deemed necessary by the Custodian in order to process a transaction such as a distribution or transfer.

If you invest all or a portion of your IRA in an annuity, the annuity is considered an investment owned within the IRA. Your account balance will be paid in accordance with either the beneficiaries you designate on your IRA or the default beneficiary provisions of this Agreement. When an annuity is held in your IRA, a spouse beneficiary may have spousal rights (i.e. spousal continuation) that he or she may be able to exercise upon your death. If you designate a non-spouse beneficiary (someone other than your spouse) upon your death any annuity will be liquidated. The annuity carrier will transfer the proceeds to your IRA to be distributed in accordance with the beneficiary designation on file with the Custodian.

If a designated beneficiary (including any contingent beneficiary) does not survive you, such beneficiary's interest shall lapse, and the percentage interest of any remaining beneficiary (including any contingent beneficiary) shall be increased on a pro rata basis unless your beneficiary designation provides otherwise.

If a designated beneficiary (including any contingent beneficiary) does not survive you or if there is no record of a designated beneficiary, your Roth IRA balance will be paid to your spouse. If a spouse does not survive you, your account will be paid to your surviving children as determined under state law. In such case, a legal or personal representative is required to provide us with a written certification listing the names of your surviving children as determined under state law. If there is no legal or personal representative, then a court order may be required. If you are not survived by a spouse or by any of your children, as certified by your legal or personal representative, then your Roth IRA will be paid to the personal representative of your estate.

If you are divorced at the time of your death and your former spouse is named as beneficiary of your Roth IRA, your former spouse will be treated as having predeceased you, unless you designated him or her as your beneficiary AFTER the date of the divorce or unless a court order provides otherwise.

The Custodian may pay to your surviving spouse such amount of your IRA to which he or she demonstrates to the satisfaction of the Custodian that he or she is entitled under marital or community property laws to the extent that you have not designated your surviving spouse to receive such amount as a beneficiary, unless your spouse has properly consented in writing otherwise. You understand that we may reasonably delay payment to your beneficiaries to the extent necessary for us to determine whom to pay and the proper amounts. It is your responsibility to determine whether such laws apply and to request your spouse to consent to your beneficiary designation if appropriate. You understand that we are not responsible if we have made any payment in good faith to a party other than your surviving spouse and that your surviving spouse may not recover such amount paid from the Custodian or its affiliates.

Your beneficiary must take minimum withdrawals over a period not extending beyond his or her life expectancy. These withdrawals must begin in the year following your death. If your spouse is a named beneficiary of the Roth IRA, the spouse may roll funds into his or her own Roth IRA. If you name a beneficiary that is not an individual (such as an estate or a non-qualifying trust), payments will be based on your life expectancy determined in the year of your death and reduced by one in each subsequent year. Your beneficiary may also choose to receive your entire account balance at a later date, not to exceed five years after your death. Beneficiaries may always accelerate the rate at which they receive payments as long as they satisfy any required minimum annual payments. If there is no legal or personal representative, then a court order may be required. If your beneficiary does not begin withdrawals within the required period and after we receive notice of your death, we may, but are not required to, distribute the assets of your



Roth IRA to your beneficiary in a single sum.

If your spouse is the sole beneficiary of all of your Roth IRAs and has elected to treat the Roth IRA as his or her own Roth IRA, distributions are treated as coming from your spouse's own Roth IRA and not your Roth IRA. Therefore, for purposes of determining whether the distribution is a "qualified distribution," it is not treated as made to a beneficiary on or after the owner's death.

Your beneficiary for purposes of calculating required minimum distribution after your death is determined on September 30 of the year after the year in which you die. Generally, if you have more than one beneficiary, the oldest beneficiary's life expectancy is used to calculate the required minimum distributions described above. However, it may be possible for each of your beneficiaries to use his/her own life expectancy to calculate the required minimum distributions if the separate account rules are satisfied. For the separate account rules to apply, your beneficiary designation must create separate interests for the beneficiaries as of your death and your beneficiaries must direct us to establish separate inherited Roth IRAs on behalf of each beneficiary after your death. The separate inherited Roth IRAs must be established by December 31 of the year after your death to use each beneficiary's life expectancy to calculate the required minimum distributions for the following year. The separate account rule does not apply if your beneficiary is a trust.

If you have more than one beneficiary who is entitled to benefits from your account after you die, each beneficiary's interest in your IRA will be considered to be a subaccount for purposes of determining required minimum distributions. The distribution rules will then be applied to each beneficiary's benefit.

For the period from the date of your death until the establishment of the separate inherited Roth IRAs, all post-death investment interest will be allocated to the separate inherited Roth IRAs on a pro rata basis in a reasonable and consistent manner among the separate IRAs. Any post-death distributions must be allocated to the separate inherited Roth IRA of the beneficiary receiving that distribution.

In all cases, withdrawals will be subject to the required minimum distribution rules published by the IRS. Withdrawals of less than required minimums may result in federal tax penalties.

If your beneficiary does not begin withdrawals within the required period and after we receive notice of your death, we may, but are not required to, distribute the assets of your Roth IRA to your beneficiary in a single sum.

Your beneficiaries may further designate beneficiaries of their portion of your IRA after your death (subject to any restriction under state law), by contacting us and providing us with the necessary forms. For instance, if you designated your children Sue and Tom as equal beneficiaries, they each could designate subsequent beneficiaries upon inheriting their portion of your IRA. Sue could designate beneficiaries to receive payments after her death and Tom could designate his estate to receive payments after his death.

If no subsequent beneficiary designation is filed with us at the time of your beneficiary's death or there is no surviving beneficiary, the subsequent beneficiary will be your beneficiary's spouse. If your beneficiary does not have a surviving spouse, the subsequent beneficiary will be the beneficiary's children, as determined under state law. In such case, a legal or personal representative is required to provide us with a written certification listing the names of your beneficiary's surviving children as determined under state law. If there is no legal or personal representative, then a court order may be required. If your beneficiary is not survived by a spouse or by any of his/her children, as certified by your beneficiary's legal or personal representative or by court order, then the inherited Roth IRA will be paid to your beneficiary's estate. Any subsequent beneficiary who inherits your IRA must continue to receive payments under the same schedule established by the original beneficiary. However, a subsequent beneficiary may choose to receive payments greater than the minimum payment amount.

If you are the beneficiary or subsequent beneficiary of a Roth IRA, you should seek professional tax advice prior to making withdrawals.

## **F. Roth IRA Conversions**

### **F1. May I convert all or part of my Traditional IRA to my Roth IRA?**

Yes. Any Traditional IRA amount converted to a Roth IRA must also satisfy the IRA rollover requirements discussed in *Section D: Rollover Contributions*, except that the one-rollover-per-year limitation does not apply.

Because of the strict rules that apply to conversions and distributions taken from Roth IRAs within five years after a conversion, you should seek professional tax advice before converting a Traditional IRA to your Roth IRA.

### **F2. How do I convert my Traditional IRA to my Roth IRA?**

You may convert all or part of your Traditional IRA to a Roth IRA. One of the following methods may be used to perform the conversion: (1) take a distribution from your Traditional IRA and contribute (roll over) the distribution to a Roth IRA within 60 days after the distribution; or (2) transfer an amount in your Traditional IRA to your Roth IRA (including a Roth IRA maintained by the same trustee or custodian) in a trustee-to-trustee transfer. All conversions (no matter the method used) are treated as a taxable distribution and a rollover contribution.

**F3. May I convert all or part of a distribution from an employer retirement plan to my Roth IRA? How about all or part of my SIMPLE IRA or SEP IRA?**

You may convert any eligible rollover distribution from an employer retirement plan directly to your Roth IRA if the rollover and conversion rules are otherwise satisfied.

You may also convert all or part of a SEP IRA to your Roth IRA on the same terms as any other Traditional IRA. All or part of a SIMPLE IRA may be converted to your Roth IRA on the same terms as a conversion from a Traditional IRA, except that you may only convert amounts if you have participated in the SIMPLE IRA for at least two years. Once an amount is converted to a Roth IRA, it is treated as a Roth IRA contribution for all purposes. Future contributions under the SEP or SIMPLE IRA plan may not be made to the Roth IRA.

**F4. Will I be taxed on the conversion?**

Yes. The amount converted from your Traditional IRA, SEP IRA, SIMPLE IRA or an employer retirement plan will be included in your gross income (except for the portion of the converted amount, if any, which represents a tax-free return of Traditional IRA nondeductible contributions or other after-tax amounts). The amount converted, however, will not be subject to the 10% additional tax on early distributions, regardless of whether you are under age 59½.

**F5. When will I be taxed on the conversion?**

Generally, conversions will be taxed all in the year of the distribution from the Traditional IRA, SEP IRA, SIMPLE IRA or an employer retirement plan.

**F6. Are there penalties that apply if I take a distribution from my Roth IRA within five years after a conversion?**

Yes. If you take a distribution from your Roth IRA within five years after the conversion, the distribution will be subject to the 10% federal penalty tax on early distributions, unless an exception to the 10% penalty tax otherwise applies. A separate five-year period applies to each conversion. The 10% penalty will apply (subject to any exception), to the taxable conversion amount distributed.

For purposes of determining the portion of a distribution that is attributable to a conversion, distributions are treated as being made in the following order: (1) annual contributions to a Roth IRA other than those made as part of a conversion; (2) contributions made as part of a conversion, on a first-in, first-out basis; and (3) earnings. Any distribution allocated to a conversion contribution is allocated first to the portion of the contribution required to be included in gross income.

**F7. Can I "undo" the conversion? What happens if I do not "undo" the conversion?**

If certain requirements are met, you may recharacterize a conversion back to a Traditional IRA and "undo" the conversion. Recharacterizations are explained in more detail in *Section G: Recharacterizations*.

**F8. If I convert my IRA to a Roth IRA and later "undo" the conversion by recharacterizing it as a contribution back to a Traditional IRA, may I later reconvert the recharacterized contribution back to a Roth IRA?**

You should seek professional tax advice before reconverting any conversion contributions that have been recharacterized.

You cannot convert an amount during the same taxable year, or if later, during the 30-day period following a recharacterization. If you reconvert during either of these periods, it will be a failed conversion.

If you reconvert amounts in violation of the rules, the "failed" reconversion is treated as a distribution from the distributing IRA or plan and as an annual contribution to your Roth IRA (unless, after the impermissible reconversion, the amount is transferred back to a Traditional IRA by means of a recharacterization). An impermissible reconversion will otherwise be treated as a valid reconversion.

**F9. If I am age 70½ or older, may I convert an amount from my Traditional IRA, SEP IRA, SIMPLE IRA or employer retirement plan to a Roth IRA? May the conversion occur before I receive my required minimum distribution for the year of the conversion?**

If you are age 70½ or older, you may still convert all or part of your Traditional IRA, SEP IRA, SIMPLE IRA or employer retirement plan to a Roth IRA. Because conversion amounts must satisfy the rollover rules (even if the conversion is in the form of a trustee-to-trustee transfer), you may not, however, convert amounts required to be distributed to satisfy the required minimum distribution rules. Since the first dollars distributed from an IRA are treated as consisting of the required minimum distribution for the year, you may not convert any amount in your Traditional IRA, SEP IRA, SIMPLE IRA or employer retirement plan to a Roth IRA until the required minimum distribution for the IRA or plan has been distributed for the year. This prohibition applies beginning with the year in which you reach age 70½ and all later years. However, if a required minimum distribution is contributed to a Roth IRA it is treated as having been distributed and taxed under the normal taxation rules, and then contributed as an annual contribution to a Roth IRA. The amount of the required minimum distribution is not a conversion contribution. See IRS Publication 590 for more information about required minimum distributions from Roth IRAs.

## G. Recharacterizations

### **G1. May I recharacterize contributions made to my Roth IRA for a tax year as contributions made to a different type of IRA?**

Yes. You may recharacterize your Roth IRA contributions (including conversion contributions) for a tax year by transferring (in a trustee-to-trustee transfer) your Roth IRA contributions (or a portion of the contributions) and the related earnings to a Traditional IRA, at any time before the due date for filing your federal income tax return (including extensions) for the tax year for which the contribution was made or any other time permitted by the IRS.

The contribution will be treated as having been made to the second IRA on the same date and for the same taxable year as the contribution was originally made to the first IRA for federal tax purposes. Once a recharacterization is made it may not be revoked.

To calculate the net income that is required to be transferred as part of the recharacterization, you multiply the recharacterized amount by a fraction, the numerator of which is the difference between the "adjusted closing balance" and the "adjusted opening balance" and, the denominator of which is the "adjusted opening balance." The "adjusted opening balance" is the fair market value of the Roth IRA at the beginning of the "computation period" plus the amount of any contributions or transfers (including the contribution that is distributed as a returned contribution and recharacterizations of contributions) made to the Roth IRA during the "computation period." The "adjusted closing balance" is the fair market value of the Roth IRA at the end of the "computation period" plus the amount of any distributions or transfers (including recharacterizations) made from the Roth IRA during the "computation period." The "computation period" is the period beginning immediately before the particular contribution is made to the Roth IRA and ending immediately before the removal of the contribution being returned. If more than one contribution was made as an annual contribution and is being returned from the Roth IRA, the "computation period" begins immediately before the first contribution being returned was contributed. For more information about the calculation of net income, see your tax adviser.

Because of the strict rules that apply to recharacterization, you should seek competent tax advice before recharacterizing your IRA contributions.

### **G2. May I recharacterize an amount contributed to my IRA in a tax-free transfer?**

No. Amounts contributed to an IRA in a tax-free transfer (including a tax-free rollover) may not be recharacterized as contributions to another type of IRA.

### **G3. May I recharacterize amounts contributed by my employer on my behalf under a SIMPLE IRA plan or SEP?**

No. Employer contributions (including pre-tax contributions) made under a SIMPLE IRA retirement plan or a SEP may not be recharacterized as contributions to another IRA. However, a conversion from a SEP-IRA or SIMPLE IRA to a Roth IRA may be recharacterized as a contribution to a SEP-IRA or SIMPLE IRA (as applicable), including the original SEP or SIMPLE IRA.

### **G4. How do I make an election to recharacterize a contribution to an IRA for a tax year?**

On or before the date a transfer is made to recharacterize a contribution, you must notify both the trustee of the original IRA and the second IRA that you are electing to treat the contribution as having been made to the second IRA instead of the first IRA, for federal tax purposes. The notification must include the type and amount of the contribution to the first IRA that is to be recharacterized, the date on which the contribution was made to the first IRA and the year for which it was made, a direction to the trustee of the first IRA to transfer the amount of the contribution and earnings allocable to the contribution to the trustee of the second IRA, the names of the trustee of the first IRA and the second IRA, and any other information needed or requested by the trustees to make the transfer.

You must report the recharacterization and treat the contribution as being made to the second IRA, instead of the first IRA on your federal income tax return for the applicable tax year in accordance with the federal tax forms and instructions.

### **G5. If I initially make a contribution to an IRA for a tax year, and then move the contribution (with related earnings) in a tax-free transfer to another IRA, can the tax-free transfer be disregarded, so that the original contribution that was transferred may be recharacterized?**

Yes. If an amount is contributed to an IRA for a taxable year and then is moved (with related earnings) in a tax-free transfer to another IRA of the same type, the tax-free transfer is disregarded and the initial contribution to the first IRA may be recharacterized, if done in a timely manner.

### **G6. Is a recharacterization treated as a rollover for purposes of the one-rollover-per-year limitation?**

No. Recharacterizing a contribution is not treated as a rollover for purposes of the one-rollover-per-year limit.

## H. Excess Contributions and Prohibited Transactions

### **H1. What is an excess contribution?**

An excess contribution is any amount you contribute to your Roth IRA for a tax year that exceeds the maximum amount you are permitted to contribute for that tax year. There is a 6% federal tax penalty on an excess contribution for each year that it remains in your Roth IRA.

## **H2. How may I avoid the 6% penalty?**

If you withdraw the excess contribution for a year and any earnings or losses on it before the filing date of your income tax return for that year, including extensions (or any other time permitted by the IRS), you will not have to pay the 6% tax penalty. The earnings on the excess contribution are calculated in the same manner as net income on recharacterized contributions described in Question G1. If you do not withdraw the excess contribution by the applicable date, you will be charged the 6% penalty for that year. In order to avoid subsequent tax penalties, you must either:

- a) contribute less than the maximum allowable contribution in later years, or
- b) withdraw the excess contribution in accordance with applicable rules.

## **H3. What is a prohibited transaction?**

Generally, a prohibited transaction is any improper use of your Roth IRA by you, your beneficiary or any disqualified person. Prohibited transactions include such actions as you selling property to your Roth IRA or buying property from it. To learn more about prohibited transactions and who is a disqualified person, refer to IRS Publication 590.

## **H4. What happens if I engage in a prohibited transaction?**

If you or your beneficiary engages in a prohibited transaction, your Roth IRA will lose its tax-exempt status and you will have to include the entire balance (subject to any applicable basis therein) in your taxable income for that year.

Furthermore, you will be subject to the 10% federal tax penalty on the entire balance unless you are over age 59½ or met one of the other exceptions to the tax penalty. If someone other than you or your beneficiary engages in a prohibited transaction with respect to your Roth IRA, that person may be liable for certain excise taxes.

## **H5. May I use my Roth IRA as security for a loan?**

You should not. If you use all or part of your Roth IRA as security for a loan, the amount used would be considered a withdrawal made by you in that year. You would have to include that amount in your taxable income for that year. You would be subject to the 10% federal tax penalty on that amount unless you were over age 59½ or met one of the other exceptions to the tax penalty.

# **I. Investments**

## **I1. Who is responsible for investing my Roth IRA assets?**

You are solely responsible for making any investment decision regarding your Roth IRA assets. You may designate someone other than yourself to direct the investment of the assets in your Roth IRA by executing a valid trading authorization or power of attorney on a form acceptable to us and by naming a person or entity acceptable to the Custodian. All investment directions shall be given in a form that complies with the reasonable requirements and procedures imposed by us. Such requirement may include that certain representations and warranties accompany certain directions, including indemnification.

You (or your duly authorized representative) are making all investment decisions, and thus we will have no investment responsibility (and neither the Custodian nor any of its employees will accept such responsibility) other than to make investments pursuant to your (or your duly authorized representative's) direction. The Custodian has no duty to and will not question such direction. In addition, the Custodian is indemnified and held harmless for any liability which may arise in the performance of our duties under the Custodial Agreement, except for any liability arising from gross negligence or willful misconduct as broker or custodian.

## **I2. What assets may not be held in my Roth IRA?**

Your Roth IRA may not be invested in life insurance contracts and, except for investments pooled in a common trust fund or common investment fund, may not be commingled with other property. The Custodian in its discretion may refuse to hold any investment. Further, assets in your Roth IRA may not be invested in commodities, "collectibles," alcoholic beverages, or any other tangible personal property. The term "collectibles" includes works of art, rugs, antiques, metals, gems, stamps, coins (other than certain gold, silver or platinum coins of the United States or a state and certain bullion, if on our approved list of investments). You also may not invest the assets of your Roth IRA in any investment that the Custodian determines, in its sole discretion, is administratively or operationally burdensome.

The Custodian has no responsibility for monitoring your Roth IRA investments. Thus, if you, or your duly authorized representative, engage in a non-qualifying investment or prohibited transaction with respect to your Roth IRA, neither the Custodian nor any of its employees will be liable for any adverse investment, tax or other legal consequences that may result from such purchase. Also, if your investment direction results in a prohibited transaction, the tax-favored status of your Roth IRA will be affected. See *Section H: Excess Contributions and Prohibited Transactions* for more information.

## **I3. Can I have a margin account?**

No. We do not allow margin loans in your Roth IRA.

## **I4. Is there any interest earned on amounts awaiting investment or disbursement?**

The Custodian, or an affiliate of the Custodian, may retain any interest earned on assets awaiting investment or disbursement. You understand and agree that this interest (generally referred to as "float") will be retained by us as additional compensation for our provision of services with respect to your Roth IRA. Such interest shall generally be a

prevailing interest rate.

Assets awaiting investment include (a) new deposits to your Roth IRA, including interest and dividends, and (b) any uninvested assets held by your Roth IRA caused by an instruction to us to purchase or sell securities where investment instructions are received too late in the day to be completed. We may also earn float on distributions from the time funds are distributed from your IRA until you cash the check or other payment is completed.

## **J. Other Questions and Answers**

### **J1. Am I required to file any tax forms for my Roth IRA?**

You must file a Form 8606 (Nondeductible IRAs) in any year in which you convert all or a portion of another eligible IRA to your Roth IRA or you take a distribution from your Roth IRA. A Form 5329 (Additional Taxes On Qualified Plans (including IRAs) and Other Tax-Favored Accounts) must be filed with the IRS for any year for which any of the following applies: (1) you are subject to the 6% penalty for excess contributions; (2) you are subject to the 10% penalty for withdrawals before age 59½ and the proper distribution code is not shown on your Form 1099-R (Distributions from Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc.); (3) you meet an exception to the 10% penalty, but the proper distribution code is not shown on your Form 1099-R; or (4) your beneficiary is subject to the 50% penalty for failing to take a required minimum distribution after your death.

### **J2. Does the custodian report any information about my Roth IRA to the IRS?**

All Roth IRA custodians are required to report various IRA transactions to the IRS, Social Security Administration and the state revenue department. Form 5498 reports annual, rollover and recharacterized contributions, plus the December 31 fair market value of your account.

Partial withdrawals, periodic distributions, and total distributions are reported on Form 1099-R. Unrelated business taxable income is reported on Form 990-T.

### **J3. How is a conversion of my IRA to a Roth IRA reported?**

A conversion of your Traditional IRA to a Roth IRA will be treated as a distribution from the Traditional IRA and a conversion contribution to the Roth IRA. The distribution from your Traditional IRA will be reported to the Internal Revenue Service and to you on Form 1099R. The conversion contribution to your Roth IRA will be reported to the IRS and to you on Form 5498. You must report the conversion to the Internal Revenue Service by completing and filing Form 8606.

### **J4. How are recharacterizations reported?**

If you recharacterize contributions made to an IRA, the trustee or custodian of the first IRA will report the contributions on Form 5498 as originally contributed and report the transfer to the second IRA as a distribution on Form 1099R. For recharacterized amounts received by the second IRA, the trustee or custodian of the second IRA will also report the contribution as a recharacterized contribution on Form 5498.

### **J5. Are state tax laws the same as federal tax laws for Roth IRAs?**

You should consult your professional tax advisor about the tax treatment of Roth IRAs in your state. This is especially important if you are subject to taxation by a state that does not automatically conform to the provisions found in the federal tax code.

### **J6. Can the reporting requirements be changed?**

Yes, both federal and state tax reporting requirements for your Roth IRA are subject to change and you should consult with your tax advisor to ensure proper treatment. The custodian is not obligated to notify you of these changes.

### **J7. Can my Roth IRA be changed?**

Yes. We may amend your Roth IRA Custodial Agreement by mailing you a copy of the change. You will be deemed to have automatically consented to any amendment, unless we receive written notice to the contrary within 30 days after a copy of the amendment is first mailed to you. Any notice we send you will be mailed or delivered to the last address that we have for you in our records. Although other amendments may be made, generally amendments will be made only to comply with changes in tax law. No amendment can take any part of your Roth IRA away from you or your beneficiary.

### **J8. How much will my account be worth when I'm ready to retire?**

The future value of your account will depend on your future contributions and the rate of return on your investments in your Roth IRA. The assets in your Roth IRA generally are not limited to any particular type of investment, and therefore it is impossible to project what your investment return will be or what your Roth IRA assets will look like in future years.

### **J9. Will my Roth IRA be charged any fees?**

Yes, all of the fees that may apply to your account are outlined in the fee schedule/notice you will receive when your account is opened. The fee schedule/notice may be changed from time to time, upon 30 days written notice to you. In addition, all of the fees that apply to brokerage accounts will also apply to your Roth IRA, including fees associated with the automatic cash investment service. Please review your relevant account opening documents for descriptions of these fees. If you do not pay fees by their due date, the Custodian may deduct these fees from your Roth IRA.

## **J10. What other rules apply to my Roth IRA?**

If we receive any process, summaries, levy or similar order, you authorize us either to comply with the order or to refuse to honor the order, in our sole discretion. We have no obligation to contest the order.

Any controversy regarding your Roth IRA is subject to arbitration.

## **Section II: Wells Fargo Clearing Services, LLC**

### **Roth IRA Custodial Agreement**

Wells Fargo Clearing Services, LLC, a non-bank IRA custodian ("Custodian") hereby establishes the "Wells Fargo Clearing Services, LLC Roth Individual Retirement Custodial Account" ("Custodial Account" or "Roth IRA") as a custodial account for an eligible customer ("Depositor") who enters into the Roth IRA Custodial Agreement as forth herein by executing an IRA application/enrollment form.

#### **ROTH INDIVIDUAL RETIREMENT CUSTODIAL ACCOUNT**

(Under section 408A of the Internal Revenue Code)

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

The Depositor whose name appears on the Depositor's IRA application/enrollment form is establishing a Roth individual retirement account (Roth IRA) under section 408A of the Internal Revenue Code to provide for his or her retirement and for the support of his or her beneficiaries after death.

The Custodian has given the Depositor the disclosure statement required by Regulations section 1.408-6.

The Depositor has assigned the Custodial Account the sum shown on the Depositor's Contribution Form.

The Depositor and the Custodian make the following agreement:

### **Article I**

Except in the case of a rollover contribution described in section 408A(e), a recharacterized contribution described in section 408A(d)(6), or an IRA Conversion Contribution, 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 may be increased to reflect a cost-of-living adjustment, if any.

### **Article II**

1. The annual contribution limit described in Article I is gradually reduced to \$0 for higher income levels. For a single Depositor, the annual contribution is phased out between adjusted gross income ("AGI") of \$95,000 and \$110,000; for a married Depositor who files jointly, between AGI of \$150,000 and \$160,000; and for a married Depositor who files separately between AGI of \$0 and \$10,000. In the case of a conversion, the Custodian will not accept IRA Conversion Contributions in a tax year if the Depositor's AGI for the tax year the funds were distributed from the other IRA exceeds \$100,000 or if the Depositor is married and files a separate return.

Adjusted gross income is defined in section 408A(c)(3) and does not include IRA Conversion Contributions.

2. In the case of a joint return, the AGI limits in the preceding paragraph apply to the combined AGI of the Depositor and his or her spouse.

### **Article III**

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

### **Article IV**

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 issued under the laws of any state, and certain bullion.

### **Article V**

If the Depositor dies before his or her entire interest is distributed to him or her and the Depositor's surviving spouse is not the designated beneficiary, the entire remaining interest will be distributed in accordance with (a) below or, if elected, or if there is no designated beneficiary, in accordance with (b) below:

- a.) The remaining interest will be distributed, starting by the end of the calendar year following the year of the Depositor's death, over the designated beneficiary's remaining life expectancy as determined in the year following the death of the Depositor.
  - b.) The remaining interest will be distributed by the end of the calendar year containing the fifth anniversary of the Depositor's death.
2. The minimum amount that must be distributed each year under paragraph 1(a) above is the account value at the close of business on December 31 of the preceding year divided by the life expectancy (in the single life table in Regulations section 1.401(a)(9)-9) of the designated beneficiary using the attained age of the beneficiary in the year following the year of the Depositor's death and subtracting 1 from the divisor for each subsequent year.
  3. If the Depositor's spouse is the designated beneficiary such spouse will then be treated as the Depositor.

## **Article VI**

1. The Depositor agrees to provide the Custodian with all information necessary to prepare any reports required under sections 408(i) and 408A(d)(3)(E), Regulations sections 1.408-5 and 1.408-6, or other guidance published by the Internal Revenue Service.
2. The Custodian agrees to submit to the IRS and the Depositor the reports as prescribed by the IRS.

## **Article VII**

Notwithstanding any other articles which may be added or incorporated, the provisions of Articles I through IV and this sentence will be controlling. Any additional articles that are inconsistent with section 408A and the related regulations and other published guidance will be invalid.

## **Article VIII**

This Agreement will be amended as necessary to comply with the provisions of the Code and related regulations and other published guidance. Other amendments may be made with the consent of the persons whose signatures appear on the IRA application/ enrollment form.

## **Article IX**

### **1. Definitions.**

- a) "Beneficiary" means the person or persons designated in accordance with paragraph 4.
- b) "Broker" means Introducing Firm and any other introducing firm providing investment services in connection with the Roth IRA Custodial Account.
- c) "Code" means the Internal Revenue Code of 1986, as amended.
- d) "WFCS" means Wells Fargo Clearing Services, LLC acting in its capacity as Custodian and any other capacity, its successors, permitted assigns and any affiliated organization.
- e) "Introducing Firm" means each broker-dealer who has entered into an agreement with WFCS pursuant to which WFCS, as agent for such broker-dealer, is contractually assigned the responsibility for the performance of certain back office, trade processing and custody, books and records and margin credit functions.
- f) "Participant" means the Depositor, and after the Depositor's death, the Beneficiary. For investment purposes under Article IX, paragraph 5, Participant shall also include the Depositor's or Beneficiary's legal representative or one to whom he or she has granted a valid power of attorney in a form acceptable to the Custodian.
- g) "Spouse" or "spouse" the person lawfully married to the Depositor. The Depositor's surviving Spouse is the Spouse remaining or deemed by law to remain alive after the Depositor's death.

### **2. Resignation of Custodian/Designation of New Custodian.**

- a) The Custodian may resign as custodian of the Roth IRA upon giving at least thirty (30) days prior written notice to the Participant. Prior to its resignation, the Custodian may, but shall not be required to appoint a successor custodian. If the resigning Custodian does not appoint a successor custodian or if the Participant does not consent to such appointment, the Participant shall, prior to the effective date of such resignation, appoint a successor custodian to receive funds held in the Roth IRA and deliver evidence to the Custodian of the acceptance of such appointment by such successor. The Custodian shall then deliver the balance held in the Roth IRA to its successor, or to the Participant for his delivery to its successor, on the effective date of the resignation or as soon thereafter as practical. In the event that the Participant or the Custodian shall fail or refuse to appoint a successor custodian during such thirty (30) day period, the Custodian may make distribution directly to the Participant of the balance held in the Roth IRA. The Custodian may reserve such funds as it deems necessary to cover any fees or charges against the Roth IRA.
- b) If Custodian is merged with or purchased (in part, including your IRA or in whole) by another organization authorized to serve as a custodian, then that custodian may automatically become the trustee or the custodian of your IRA.
- c) The Custodian may at any time and in its sole discretion appoint a successor custodian of the Roth IRA, provided that such successor is an affiliate of the Custodian.

### 3. Distributions.

- a) **Discretionary Distributions.** Except as provided below, distributions shall be made upon the direction of the Participant. In its sole discretion, the Custodian may require that such direction from the Participant be in writing. The Custodian shall be under no duty or obligation to inquire as to the propriety of any distribution instruction, including any distribution instructions relating to the resignation of the Custodian. Participant is solely responsible for determining whether his or her election to withdraw all or a portion of the Roth IRA will result in the imposition of withdrawal penalties. Custodian is not obligated to make a distribution without being provided the tax identification number of the recipient.
- b) **Required Distributions.** The Custodian shall hold each Roth IRA separately and make distributions in accordance with Article V hereof and section 408A of the Code and the following provisions of this Article IX. To the extent that Article V is not consistent with section 408A, as amended, section 408A shall be controlling.
- c) **Distributions on Death.** If the Depositor dies, the balance in the Roth IRA shall be distributed, applied or held in accordance with Article V of the Roth IRA pursuant to the request of the Beneficiary. If the Custodian does not receive such a request within ninety (90) days after it receives written notice of the Depositor's death, it may distribute the balance in the Roth IRA to his Beneficiary in a single lump sum payment. The Beneficiary agrees that the Custodian is not obligated to make such payment. In its sole discretion, the Custodian may require that the Beneficiary's request be in writing.  
Notwithstanding anything to the contrary in Article V, paragraph 3 hereof, if the sole Beneficiary is the Depositor's Spouse, upon the Depositor's death, the Beneficiary shall only be treated as the Depositor if the Beneficiary elects to treat the Roth IRA as his or her own Roth IRA. The election shall be deemed to be made if the surviving Spouse Beneficiary contributes to the Roth IRA, makes a rollover contribution to or from the Roth IRA, or fails to elect to receive a distribution by December 31 of the calendar year that contains the fifth anniversary of the Depositor's death or in accordance with Article V, paragraph 1(b).
- d) **Aggregation and Ordering Rules.** When the Depositor takes a distribution from a Roth IRA, that Roth IRA is aggregated with all of the Depositor's other Roth IRAs (but not Traditional IRAs) for taxation and penalty purposes. Also, distributions from Roth IRAs are aggregated and special ordering rules are designed to determine taxation and penalties. Distributions from Roth IRAs are treated as paid in the following order:
  - i. Annual Roth IRA contributions, then
  - ii. Conversion contributions, in first-in first-out order, (by which a distribution is treated as first being paid from funds that were included in income as a result of the conversion, before the non-taxable amount of that conversion), then
  - iii. Earnings.
- e) **Payments to Children.** If a distribution upon the death of the Depositor is payable to a person known by the Custodian to be a minor or otherwise under a legal disability, the Custodian may, in its absolute discretion, make all, or any part of the distribution to such person as may be acting as a parent of such Beneficiary, or legal guardian, committee, conservator, trustee, or other legal representative, wherever appointed, of such Beneficiary and the receipt by such person shall be a full and complete discharge by the Custodian of any sum so paid.

### 4. Beneficiary.

The Depositor shall designate in writing the person or persons (or entity or entities) to receive any distribution to be made by reason of the Depositor's death. Each such designation shall be filed with the Custodian in a form acceptable to the Custodian and may be changed from time to time by the Depositor filing a new written designation with the Custodian.

The Custodian reserves the right to limit the number of beneficiaries or other directions designated on your Roth IRA. A Beneficiary is subject to and bound by all the terms and conditions of the Roth IRA Custodial Agreement and Disclosure Statement. A Beneficiary is required to complete and submit any and all forms deemed necessary by the Custodian in order to process a transaction such as a distribution or transfer.

If Depositor invests all or a portion of his or her IRA in an annuity, the annuity is an investment within the IRA. If Depositor invest all or a portion of his or her IRA in an annuity, then the account balance will be paid in accordance with either the beneficiaries the Depositor designates on his or her IRA or the default beneficiary provisions of this Agreement. When an annuity is held in Depositor's IRA, a spouse beneficiary may have spousal rights (i.e. spousal continuation) that he or she may be able to exercise upon Depositor's death. If Depositor designates a non-spouse beneficiary (someone other than his or her spouse), upon Depositor's death any annuity will be liquidated. The annuity carrier will transfer the proceeds to Depositor's IRA to be distributed in accordance with the beneficiary designation on file with the Custodian.

If a designated beneficiary (including any contingent beneficiary) does not survive Depositor, such beneficiary's interest shall lapse, and the percentage interest of any remaining beneficiary (including any contingent beneficiary) shall be increased on a pro rata basis unless Depositor's beneficiary designation provides otherwise.

In the event no designation is filed at the time of Depositor's death, there is no surviving Beneficiary, or the Beneficiary is deemed illegal or otherwise prohibited by state or local law, the Beneficiary shall be the Depositor's surviving spouse. In the event the Depositor does not have a spouse or the Depositor's spouse predeceases the Depositor, the Beneficiary shall be the Depositor's children as determined under state law. In such a case, a legal or personal representative shall provide the Custodian a written certification listing the names of the Depositor's surviving children. If there is no legal or personal representative, a court order may be required to determine the appropriate



beneficiaries. Under the foregoing circumstances, if the Depositor is not survived by children as determined under state law, the Custodial Account shall be paid to the Depositor's estate.

The Custodian may pay to Depositor's surviving spouse such amount of the Roth IRA to which he or she demonstrates to the satisfaction of the Custodian that he or she is entitled under marital or community property laws to the extent that the Depositor has not designated the Depositor's surviving spouse to receive such amount as a beneficiary, unless Depositor's spouse has properly consented in writing otherwise. Depositor understands that the Custodian may reasonably delay payment to Depositor's beneficiaries to the extent necessary for us to determine whom to pay and the proper amounts. It is Depositor's responsibility to determine whether such laws apply and to request Depositor's spouse to consent to Depositor's beneficiary designation if appropriate. Depositor understands that we are not responsible if the Custodian has made payment in good faith to a party other than Depositor's surviving spouse and that Depositor's surviving spouse may not recover such amount paid from us.

In the event that the Depositor names his or her spouse as Beneficiary of the Roth IRA, the following provisions apply:

- If Depositor designates his spouse as Beneficiary and there is a subsequent divorce, the ex-spouse will be treated like any beneficiary that predeceases the Depositor, this change may be overruled by court order (such as if the divorce decree requires that the ex-spouse remain as Beneficiary);
- If the ex-spouse is designated as Beneficiary AFTER the effective date of the divorce, he or she will remain as Beneficiary for the Roth IRA, subject to surviving Depositor; this change may be overruled by court order (such as if the divorce decree requires that the ex-spouse remain as Beneficiary); and
- The Custodian shall be released and held harmless in the event that it is not notified of the divorce prior to making payment and therefore pays to the ex-spouse.

Unless a designation led by the Depositor and agreed to by the Custodian states otherwise, if the Beneficiary dies after the Depositor, the beneficiary will be the person, persons, legal entity or entities designated by the Beneficiary. Such designation shall be filed with the Custodian on a form acceptable to the Custodian. In the event no designation is filed at the time of the Beneficiary's death or there is no surviving beneficiary designated by the Beneficiary, the beneficiary shall be the Beneficiary's surviving spouse.

In the event that the Beneficiary does not have a surviving spouse the beneficiary shall be the Beneficiary's children as determined under state law. In such a case, a legal or personal representative shall provide the Custodian a written certification listing the names of the Beneficiary's surviving children. If there is no legal or personal representative, a court order may be required to determine the appropriate beneficiaries. Under the foregoing circumstances, if the Beneficiary is not survived by children as determined under state law, the beneficiary shall be the Beneficiary's estate.

## 5. Investments.

- Participant Direction.** The Roth IRA shall be invested, as instructed by the Participant, in one or more of the investment options made available by Introducing Firm and permitted in accordance with subsection (b) hereof. Such investments shall be subject to the terms and conditions of this Agreement, and the relevant new account documents.  
All investment directions shall be given in a form that complies procedures with the reasonable requirements imposed by the Custodian. Such requirements may include that certain representations and warranties and agreements accompany such directions, including indemnification. The Participant may designate someone else to direct the investment of the assets of the IRA by executing a valid third party trading authorization or power of attorney in a form acceptable to the Custodian and by naming a person or entity acceptable to the Custodian.  
If the Custodian does not have adequate instruction from the Participant (or his or her duly authorized representative) as to how funds in the IRA are to be invested, the Custodian shall hold such funds in the sweep investment until such time as adequate instructions are provided to the Custodian.  
We shall not be liable for any loss, liability, or penalty, which results from the Participant's (or his or her duly authorized representative's) exercise of control (whether as a result of action or inaction) over the Roth IRA.
- Permitted Investments.** We shall not be liable for any liabilities, including tax liabilities, resulting from investments not compatible with its administrative and operational requirements. The Custodian, at its discretion, may refuse to hold any investment or investment type including, but not limited to, gold, silver and platinum coins issued under the laws of any state and bullion. The Custodian also has the right to refuse to accept any transfer or rollover of assets other than cash.  
The Custodian nor its affiliates will not be liable for failure to notify the Participant of any corporate actions regarding securities held in the IRA that are not provided by any service to which the Custodian subscribes. The Participant also agrees that the Custodian shall have no duty to forward to the Participant any class action lawsuit or other legal information unless compensated by the parties to the legal action for research and distribution expenses.  
The Participant acknowledges and agrees to the arbitrate controversies as described in other account opening documents.

**c) Investment Powers.**

- i. The Custodian may delegate and/or assign to one or more corporations, entities or persons, whether or not affiliated with the Custodian, the performance of record keeping and other ministerial services in connection with the Roth IRA.
- ii. The Custodian may appoint one or more sub-custodians which may include affiliates of the Custodian.
- iii. The Custodian may hold property in nominee name, in bearer form, or in book entry form, in a clearinghouse corporation or in a depository (including an affiliate of the Custodian).
- iv. If made available, assets of the IRA may be invested in deposits of Wells Fargo Bank, N.A. that bear a reasonable rate of interest.
- v. If made available, assets of the IRA may be invested in any common or collective trust fund or common investment fund maintained by Wells Fargo Bank, N.A. or its affiliate and the provisions of the document that govern any such fund, as amended, are hereby incorporated.

**d) Voting.** The Custodian shall follow Participant's (or his or her duly authorized representative's) written instructions for voting shares and exercising other rights of ownership for investments held in the Roth IRA. In absence of direction, the Custodian will not exercise any rights and will not be responsible for failing to take action.

**e) Investment Advisory Services.** Participant may enter into an agreement with an affiliate of Custodian to provide investment advisory services. Investment Advisory Services may not be available to all accounts.

**f) Use of Introducing Firm.** If you open your account through an Introducing Firm, you agree that, unless otherwise prohibited by law, any benefits, rights or protections of the Custodian under this Agreement are extended to and may be exercised by, or assigned to, the Introducing Firm and may be enforced independently or jointly by the Custodian and/or the Introducing Firm.

**6. Taxes.**

The Custodian shall have the power and right to pay from the Roth IRA any estate, inheritance, income, backup withholding or other taxes, and any interest or penalties assessed or levied with respect to the Roth IRA or the Participant's interest therein.

The Custodian shall have the power and right to pay from the Roth IRA any estate, inheritance, income, backup withholding or other taxes, and any interest or penalties assessed or levied with respect to the Roth IRA or the Participant's interest therein.

- a) The social security number shown on the IRA application/enrollment form along with any other account opening forms is the Participant's correct taxpayer identification number.
- b) The Participant is not subject to backup withholding because (1) the Participant is exempt from backup withholding, or (2) the Participant has not been notified by the IRS he or she is subject to backup withholding as a result of failure to report all interest or dividends, or (3) the IRS has notified the Participant that he or she is no longer subject to backup withholding. Or, the Participant has notified the Custodian in writing that he or she is subject to backup withholding.

**7. Excess Contributions.**

If the Depositor determines that any part or all of the contribution to the Roth IRA for any taxable year is an excess contribution as defined in section 4973(f) of the Code, he or she may give the Custodian a written request for refund of the amount of the excess contribution plus net income or loss for such taxable year. Upon receiving such request the Custodian shall refund the requested amount.

**8. Amendment.**

Subject to the provisions of Article VIII, the Custodian may amend the provisions of the Roth IRA at any time by giving written notice of the amendment to the Participant. The Participant is deemed to have automatically consented to any amendment unless the Participant notifies the Custodian in writing that the Participant does not consent to the amendment and provides written notice of the Roth IRA termination within 30 days after the Custodian sends a copy of the amendment to the Participant. Any and all amendments made to comply with any changes in applicable laws or regulations shall not require the Participant's consent.

**9. Termination.**

The Roth IRA shall terminate when the Custodian receives written instructions from the Participant to transfer all of the assets of the Roth IRA to the trustee or custodian of another retirement plan or distributes directly to the Participant all of the assets of the Roth IRA in accordance with Article IX hereof. In order for the Participant to transfer all of the assets of the Roth IRA, the Participant must give the Custodian written instructions to make the transfer at least fifteen (15) days prior to the date the transfer is to be made. If the Custodian is notified by the Commissioner of the Internal Revenue Service that another custodian must be substituted for the Custodian because the Custodian has failed to comply with the requirements of Treasury regulation section 1.408-2(e) or is not keeping the records, making returns or rendering statements as required by the Internal Revenue Service's forms or regulations, the Custodian will substitute another custodian and will notify the Participant of this fact. The Participant agrees upon such notification or upon notification from the Commissioner of the Internal Revenue Service to transfer the Participant's assets to another individual retirement account or to substitute another custodian for the Custodian. The Custodian 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 resulting from the transfer or distribution of assets pursuant to this section.

The Participant may not receive interest or dividends that have accrued but that have not been credited on a terminated Roth IRA. A quarterly minimum balance fee of up to \$10 (or the balance of the account if less than \$10) may apply if your balance falls below \$50. If the fee should bring your account to a zero balance, the Custodian will terminate the Roth IRA.

#### 10. General Provisions.

The following general provisions apply to this Agreement.

- a) **Non-Assignable Interests.** The Participant shall not have any right to pledge any part of the Roth IRA as security for a loan or to assign, transfer or in any way create a lien on the Roth IRA or any payments to be made under this Roth IRA. Any indemnification agreement, cross-collateralization agreement or other grant of a security interest in favor of us in any other agreement the Participant may have with us, as set forth in any other agreement, which guarantees the payment of debits to (or by) the Custodial Account under this Agreement by (or to) a Related Account is hereby null, void, and unenforceable with respect to the Custodial Account under this Agreement, notwithstanding any contrary provisions in the Related Account agreement. For this paragraph, a "Related Account" is another account established with us where such account is subject to an agreement with us that also covers the Custodial Account and/or guarantees the payment of debits to the Plan Account. This paragraph shall be interpreted in a manner consistent with the Department of Labor's Prohibited Transaction Class exemption 80-26 and shall not limit our ability to seek any and all legal remedies against you with regard to any indebtedness. The Roth IRA shall not be subject to any execution, attachment, assignment, garnishment or other legal process by any creditor of the Participant except to the extent allowed by applicable law. Notwithstanding the foregoing, all or a portion of the Participant's interest may be transferred to the Participant's former spouse pursuant to a valid divorce decree, incorporated property settlement agreement or agreement of legal separation. Any interest so transferred shall be treated as a Roth IRA for the benefit of the former spouse and such spouse shall be treated as the Depositor of such Roth IRA. The Custodian may require any additional instruction it deems reasonable and necessary to accomplish the transfer. We will not be liable for any adverse consequences resulting from such transfer.
- b) **Construction.** If any part of the agreements governing this account is held to be illegal or invalid, the remaining parts shall not be affected. Neither the Participant's nor the Custodian's failure to enforce at any time or for any period of time any of the provisions of the governing agreements constitutes a waiver of such provisions, or the rights of either party to enforce each and every provision thereafter. The Participant further agrees to be bound by the regulations of the Custodian or any governmental agency regarding the operation of this IRA or any investment held hereunder.
- c) **Gender.** Wherever in the language of this Roth IRA the masculine gender is used, it shall be deemed equally to refer to the feminine gender.
- d) **Commissions, Expenses and Fees.**
  - i. Any brokerage commissions attributable to the acquisition or disposition of assets for the Roth IRA shall be charged to the Roth IRA, and cannot be reimbursed with funds outside the Roth IRA. All expenses incurred in connection with the administration of the Roth IRA, including fees for legal services, and such reasonable compensation to the Custodian as may be established by the Custodian, may be paid from the Roth IRA by the Custodian. The Participant acknowledges that the Roth IRA may be charged commissions or fees for execution, custody, account or security transfers or for any other services provided, and agrees to pay such commissions and fees at the then prevailing rates. Reimbursement for any expenses shall be due and payable upon demand. When the Custodial Account is established, the Custodian will furnish the Participant with a compensation schedule and thereafter will give the Participant written notice of any changes in that schedule. Other fees and expenses incurred due to the management of the Roth IRA, including but not limited to investment advisory fees, may also be paid from the Roth IRA by the Custodian at the direction of the Participant.
  - ii. All annual fees for a calendar year shall be due and payable when invoiced by us. The Custodian may charge any annual fees previously disclosed without any further notification to the Participant. In the event that the Roth IRA is terminated or transferred, a termination and/or transfer fee as well as any outstanding annual fees (including the current year annual fee) shall be due and payable on the date of the termination or transfer. The Custodian may liquidate assets held in the Roth IRA to make withdrawals, distributions or transfers or pay fees, expense liabilities, charges or taxes assessed against the Roth IRA. The Custodian is not obligated to liquidate assets and is not responsible for any tax liabilities if assets are liquidated or if they are not liquidated. If the Custodian liquidates assets and the Participant fails to instruct the Custodian as to the liquidation of such assets, assets will be liquidated in the following order to the extent held in the Roth IRA:
    - a) Amounts held in the Sweep Option or shares of money market mutual funds.
    - b) Publicly traded securities in such order as the Custodian deems reasonable.
    - c) Other investments in such order that the Custodian deems reasonable.
  - iii. The Custodian or an affiliate of the Custodian may retain any interest earned on assets awaiting investment or disbursement. Depositor understands and agrees that this interest (generally referred to as "float") will be retained by us as additional compensation for provision of services with respect to the Roth IRA. Such interest shall generally be a prevailing interest rate.

Assets awaiting investment include (1) new deposits to your Roth IRA, including interest and dividends, and (2) any uninvested assets held by your Roth IRA caused by an instruction to us to purchase or sell securities where investment instructions are received too late in the day to be completed. We may also earn out on distributions from the time funds are distributed from the IRA until the check is cashed or other payment method is completed.

- e) **Reports.** The Participant agrees to provide information to the Custodian at such time and in such manner as may be necessary to prepare any reports required pursuant to the Code and the regulations thereunder. The Participant agrees to hold the Custodian harmless against any liability arising from any inaccuracies or omissions with respect to such information.
- f) **No Representations.** The Participant shall not rely on any oral or written representations of the Custodian, its agents, affiliates, officers, directors, and employees as to the tax or other effect of any transaction relating to the Roth IRA.
- g) **Power of Attorney.** The Participant may designate one or more individuals to act as the Participant's attorney-in-fact. Such written designations shall be made in a manner acceptable to Custodian. Custodian may rely on such designation until the Custodian has received written notification to the contrary. Custodian shall be under no liability for any loss of any kind occasioned by its actions in accordance with the directions of the Participant's attorney-in-fact, and shall be under no duty to question any direction of the Participant's attorney-in-fact.  
Payments from the account may be made at our discretion to the Participant's duly authorized or qualified representative, including without limitation, guardian, committee or attorney-in-fact, during any period that the Participant is incapable of executing a valid receipt for such payments. Any payment made pursuant to the provisions of this paragraph shall be a complete discharge of any liability for the making of such payment from the Roth IRA.  
The Custodian may, at its sole discretion, prohibit any transaction and/or acts requested by the attorney-in-fact.
- h) **Authority to Contract.** The Participant acknowledges that this document and any accompanying documents constitute a contract between the Participant and the Custodian. By entering into this contract, the Participant agrees that he or she has full legal power and authority to enter into any transaction with or through the Custodian and to provide instructions related to the Roth IRA. The Participant agrees to promptly notify the Custodian in writing if their authority described above materially changes.
- i) **Effective Date.** The effective date shall be the date that the Custodian accepts the Depositor's IRA application/enrollment form.
- j) **Notice.** Notices to us concerning the Roth IRA must be in writing and must be delivered in person or sent by registered or certified mail to the mailing address specified in Question A2 of the Disclosure Document, as that address may be changed from time to time, or to any other address specified by us. We may honor any instructions in writing from the Participant sent by mail yet shall not be responsible for failure to follow any instructions not sent by certified or registered mail. Notices from us shall be in writing and sent by mail to the Participant's address listed in the IRA application/enrollment form, or other address specified by the Participant.
- k) **Extraordinary Events.** The Participant agrees that the Custodian and its affiliates shall not be liable for any loss or delay caused directly or indirectly by government restrictions, exchange or market rulings, suspension of trading, war, acts of terrorism, strikes, failure of the mail or other communication systems, mechanical or electronic failure, failure of third parties to follow instructions, or other conditions beyond the control of the Custodian.

## 11. Sharing Information.

The Participant expressly agrees that the Custodian is authorized to share such Roth IRA information which it is authorized to share with its affiliated entities, for such purposes as the Custodian, in its sole discretion, may deem necessary or appropriate.

The Custodian or its agent may submit the Participant's name address, and security positions to the agent of the issuer of the securities held in the name of the Participant or to the Custodian's agent for corporate communications unless we receive written notification from the Participant to the contrary.

## 12. Limitations on Custodial Liability and Indemnification.

The Participant and the Custodian intend that the Custodian shall have and exercise no discretion, authority, or responsibility as to any investment in connection with the Roth IRA and the Custodian shall not be responsible in any way for the purpose, propriety, or tax treatment of any contribution, or of any distribution, or any other action or inaction taken pursuant to the Participant's (or his or her duly authorized representative's) direction. Participant agrees that the acceptance of any contribution by us is not an opinion that any party will be entitled to a tax deduction or "rollover" treatment on such amount. Participant understands that we have no responsibility or obligation to calculate the amount of any distribution or to make any election for the Participant. The Participant shall bear sole responsibility for the suitability of any investment and for any adverse consequences arising from such an investment, including, without limitation, the inability of the Custodian to value or to sell an investment, or the generation of unrelated business taxable income with respect to an investment. To the fullest extent permitted by law, the Participant shall at all times fully indemnify and hold harmless the Custodian and its agents, affiliates, successors, and assigns and its officers, directors, and employees, from any and all liability arising from the Participant's investment direction under this Roth IRA and from any and all other liability whatsoever which may arise in connection with this Roth IRA, except liability arising under applicable law or liability arising from the gross negligence or willful misconduct on the part of the

indemnified person.

We will be responsible only for the cash and property actually received by it under the terms of the Roth IRA and will not be responsible for the collection of contributions to the Roth IRA. Establishment of or subsequent contribution to this Roth IRA is not intended to be a transfer or gift under any state Uniform Transfers to Minors Act or any comparable act under the laws of any state which may have jurisdiction over this Roth IRA. Our only duties and responsibilities with respect to the Roth IRA shall be those specifically set forth in this Roth IRA.

### **13. Recording Conversations.**

The Participant understands and agrees that the Custodian and the Introducing Firm may electronically record any of the Participant's telephone conversations with the Custodian or the Introducing Firm. The Participant waives all rights to object to the admissibility into evidence of such recording in any legal or other proceeding between the Participant and the Custodian, its employees or affiliates, or in any proceeding brought by an exchange or governmental agency to which the Custodian, its employees or affiliates, are party or in which records are subpoenaed.

### **14. Holding Account Assets.**

The Participant hereby authorizes us to comply with any process, summary, order, injunction, execution, distribution, levy, lien, or notice of any kind ("Process") received by or served upon us which in our sole opinion affects the Roth IRA. The Participant authorizes us to, at its option and without liability, thereupon refuse to honor orders to pay or withdraw monies from the Roth IRA and to either hold the balance therein until the Process is disposed of to our satisfaction, or to pay the balance over to the source of the Process. In any event, we shall have no obligation to contest the service of any such Process, or the jurisdiction of said service. The Custodian may also require additional clarification or support for any court order or other document if it deems that the terms or effectiveness of the order or document are unclear.

In addition, the Custodian has a right to freeze or hold an account balance in the event that it believes that ownership of the account or any proceeds therein are in dispute and may continue to hold or freeze the account until the dispute is resolved to its satisfaction.

If the Custodian is unable to make a distribution to the appropriate party within 6 months after such distribution is to be made because the Custodian is unable to contact the Participant by mailing to the most recent address provided to us by the Participant for purposes of the Roth IRA, the Custodian may, without liability for so doing, sell any securities in the Roth IRA and, subject to applicable limitations, deposit the proceeds and any other funds in a bank deposit or a money market mutual fund, as designated by us from time to time, until such time as disbursement is possible to the appropriate party or until such funds escheat to a governmental agency by operation of law.

### **15. Counterparts.**

The IRA application/enrollment form may be executed in any number of counterparts, each one of which shall be deemed to be the original although the others have not been produced.

## **Section III: Additional Information**

### **A. Periodic Statements For Your Roth IRA Investment Options.**

You will receive a periodic statement reflecting all of the investments in your Roth IRA. In addition, you will receive a statement reflecting activity following any month in which there is activity in your Roth IRA.

If you have questions about your Roth IRA statement, please contact us. You must notify us within 10 days in writing of any discrepancies noted on your statement, otherwise the statement will be deemed correct and conclusive.

### **B. How to Determine Your Annual Contributions to Date.**

To determine the amount you have contributed to your Roth IRA at any point in time, you should refer to your statement. Each statement will include a total of contributions made during that tax year.

### **C. Tax Reporting.**

Any discrepancies or errors in any tax reporting by the Custodian must be reported to the Custodian within 60 days after the reporting is mailed by the Custodian to the Participant.



**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

**DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224**

July 1, 2003

Wachovia Securities LLC  
901 East Byrd Street  
Richmond, VA 23219

EIN Number: 34-1542819

Ladies and Gentlemen:

In a letter dated March 21, 2003, as supplemented by a facsimile transmitted on June 23, 2003, your authorized representative requested a written notice of approval that Wachovia Securities LLC may act as a nonbank custodian of medical savings accounts established under section 220 of the Internal Revenue Code, plans qualified under section 401, accounts described in section 403(b)(7), individual retirement accounts (IRAs) established under sections 408, 408A (dealing with Roth IRAs), and 530 (dealing with Coverdell education savings accounts), and eligible deferred compensation plans described in section 457(b).

Section 220(d)(1)(B) of the Code (dealing with Archer MSAs (medical savings accounts)) provides, in pertinent part, that the trustee of a medical savings account must be a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section. Q & A-10 of Notice 96-53, 1996-2 C.B. 219 provides, in pertinent part, that persons other than banks, insurance companies, or previously approved IRA trustees or custodians may request approval to be a trustee or custodian in accordance with the procedures set forth in section 1.408-2(e) of the Income Tax Regulations.

Section 401(f)(1) of the Code provides that a custodial account shall be treated as a qualified trust under this section if such custodial account would, except for the fact it is not a trust, constitute a qualified trust under this section. Section 401(f)(2) provides that the custodian must be a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such other person will hold the assets will be consistent with the requirements of section 401 of the Code. Section 401(f) also provides that in the case of a custodial account treated as a

qualified trust, the person holding the assets of such account shall be treated as the trustee thereof.

Section 403(b)(7)(A) of the Code requires, in part, that for amounts paid by an employer to a custodial account to be treated as amounts contributed to an annuity contract for his employee, the custodial account must satisfy the requirements of section 401(f)(2). That section also requires, in order for the amounts paid by an employer to be treated as amounts contributed to an annuity contract for his employee, that the amounts are to be invested in regulated investment company stock to be held in the custodial account, and under the custodial account no such amounts may be paid or made available to any distributee before the employee dies, attains age 59 1/2, has a severance from employment, becomes disabled (within the meaning of section 72(m)(7)), or in the case of contributions made pursuant to a salary reduction agreement (within the meaning of section 3121(a)(1)(D)), encounters financial hardship.

Section 408(h) of the Code provides that a custodial account shall be treated as a trust under this section if the assets of such account are held by a bank (as defined in subsection (n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such other person will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an IRA described in subsection (a). Section 408(h) also provides that, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

Section 408A of the Code provides, in general, that a Roth IRA shall be treated in the same manner as an individual retirement plan. Section 7701(a)(37)(A) defines an individual retirement plan as an individual retirement account described in section 408.

Section 530(g) of the Code (dealing with Coverdell education savings accounts) provides that a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an account described in subsection (b)(1). For purposes of title 26 of the Code, in case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

Section VII of Notice 98-8, 1998-1 C.B. 355 (guidance relating to the requirements applicable to eligible deferred compensation plans described in section 457(b) of the Code), provides, in pertinent part, that for purposes of the trust requirements of section 457(g)(1), a custodial account will be treated as a trust if the custodian is a bank, as described in section 408(n), or a person who meets the nonbank trustee requirements of section VIII of this notice, and the account meets the requirements of section VI of

this notice, other than the requirement that it be a trust. Section VIII provides that the custodian of a custodial account may be a person other than a bank only if the person demonstrates to the satisfaction of the Commissioner that the manner in which the person will administer the custodial account will be consistent with the requirements of section 457(g)(1) and (g)(3) of the Code. To do so, the person must demonstrate that the requirements of paragraphs (2)-(6) of section 1.408-2(e) of the regulations relating to nonbank trustees will be met.

The Income Tax Regulations at section 1.408-2(e) contain the requirements that such other person must comply with in order to act as trustee or custodian, for purposes of sections 220, 401(f), 403(b)(7), 408(a)(2), 408(h), 408(q), 408A, 457(b) and 530 of the Code. One of the requirements of section 1.408-2(e) states that such person must file a written application with the Commissioner demonstrating, as set forth in that section, its ability to act as a trustee or custodian.

Based on all the information submitted to this office and all the representations made in the application, we have concluded that Wachovia Securities LLC meets the requirements of section 1.408-2(e) of the regulations and, therefore, is approved to act as a nonbank custodian of medical savings accounts established under section 220 of the Internal Revenue Code, plans qualified under section 401, accounts described in section 403(b)(7), individual retirement accounts (IRAs) established under sections 408, 408A (dealing with Roth IRAs), and 530 (dealing with Coverdell education savings accounts), and eligible deferred compensation plans described in section 457(b).

This letter authorizes Wachovia Securities LLC to act as a passive or non-passive nonbank custodian. When Wachovia Securities LLC acts as a passive nonbank custodian (within the meaning of section 1.408-2(e)(6)(i)(A) of the regulations), it is authorized only to acquire and hold particular investments specified by the custodial agreement. It may not act as a passive custodian if under the written custodial agreement it has discretion to direct investments of the custodial funds.

Wachovia Securities LLC may not act as a custodian unless it undertakes to act only under custodial agreements that contain a provision to the effect that the grantor is to substitute a trustee or another custodian upon notification by the Commissioner that such substitution is required because Wachovia Securities LLC has failed to comply with the requirements of section 1.408-2(e) of the regulations or is not keeping such records, or making such returns or rendering such statements as are required by forms or regulations. For example, one such form is Form 990-T for IRAs that have \$1000 or more of unrelated business taxable income that is subject to tax by section 511(b)(1) of the Code.

Wachovia Securities LLC is required to notify the Commissioner of Internal Revenue, Attn: T:EP:RA, Internal Revenue Service, Washington, D.C. 20224, in writing, of any change which affects the continuing accuracy of any representations made in its application. Further, the continued approval of Wachovia Securities LLC to act as a



nonbank custodian of medical savings accounts established under section 220 of the Internal Revenue Code, plans qualified under section 401, accounts described in section 403(b)(7), individual retirement accounts (IRAs) established under sections 408, 408A (dealing with Roth IRAs), and 530 (dealing with Coverdell education savings accounts), and eligible deferred compensation plans described in section 457(b) is contingent upon the continued satisfaction of the criteria set forth in section 1.408-2(e) of the regulations.

This approval letter is not transferable to any other entity. An entity that is a member of a controlled group of corporations, within the meaning of section 1563(a) of the Code, may not rely on an approval letter issued to another member of the same controlled group. Furthermore, any entity that goes through an acquisition, merger, consolidation or other type of reorganization may not necessarily be able to rely on the approval letter issued to such entity prior to the acquisition, merger, consolidation or other type of reorganization. Such entity may have to apply for a new notice of approval in accordance with section 1.408-2(e) of regulations.

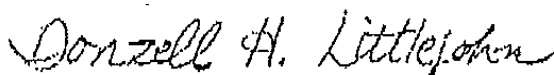
This letter constitutes a notice that Wachovia Securities LLC may act as a nonbank custodian of medical savings accounts established under section 220 of the Internal Revenue Code, plans qualified under section 401, accounts described in section 403(b)(7), individual retirement accounts (IRAs) established under sections 408, 408A (dealing with Roth IRAs), and 530 (dealing with Coverdell education savings accounts), and eligible deferred compensation plans described in section 457(b) and does not bear upon its capacity to act as a custodian under any other applicable law. This is not an endorsement of any investment. The Internal Revenue Service does not review or approve investments.

This notice of approval is effective as of the date of this letter and will remain in effect until withdrawn by Wachovia Securities LLC or revoked by the Service. This notice of approval does not authorize Wachovia Securities LLC to accept any fiduciary account before this notice becomes effective.

In accordance with the power of attorney on file in this office, this letter is being sent to your authorized representative.

If you have any questions, please contact Mr. C. Thompson (Badge No. 50-07262) at (202) 283-9596.

Sincerely,



Donzell H. Littlejohn, Acting Manager  
Employee Plans Technical Group 1