



**SIMPLE IRA  
CUSTODIAL AGREEMENT & DISCLOSURE STATEMENT**

**SIMPLE Individual Retirement Custodial Account**

(under Sections 408(a) and 408(p) of the Internal Revenue Code)

**Article I**

- 1.1 The Custodian will accept cash contributions made on behalf of the participant by the participant's employer under the terms of a SIMPLE IRA plan described in section 408(p). In addition, the Custodian will accept transfers or rollovers from other SIMPLE IRAs of the participant and, after the 2-year period of participation defined in section 72(t)(6), transfers or rollovers from any eligible retirement plan (as defined in section 402(c)(8)(B)) other than a Roth IRA or designated Roth account. No other contributions will be accepted by the Custodian.

**Article II**

- 2.1 The participant's interest in the balance in the custodial account is non-forfeitable.

**Article III**

- 3.1 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 custodial fund or common investment fund (within the meaning of section 408(a)(5)).
- 3.2 No part of the custodial account funds may be invested in collectibles (within the meaning of section 408(m)) except as otherwise permitted by section 408(m)(3), which provides an exception for certain gold, silver, and platinum coins, coins issued under the laws of any state, and certain bullion.

**Article IV**

- 4.1 Notwithstanding any provision of this agreement to the contrary, the distribution of the participant's interest in the custodial account shall be made in accordance with the following requirements and shall otherwise comply with section 408(a)(6) and the regulations thereunder, the provisions of which are herein incorporated by reference.
- 4.2 The participant's entire interest in the custodial account must be, or begin to be, distributed not later than the participant's required beginning date, April 1 following the calendar year in which the participant reaches age 70 ½ or 72 (See 4.4 below). By that date, the participant may elect, in a manner acceptable to the Custodian, to have the balance in the custodial account distributed in:
- (a) A single sum or
  - (b) Payments over a period not longer than the life of the participant or the joint lives of the participant and his or her designated beneficiary.
- 4.3 If the participant dies before his or her entire interest is distributed to him or her, the remaining interest will be distributed as follows:
- (a) If the participant dies on or after the required beginning date and:
    - (i) the designated beneficiary is the participant's surviving spouse, the remaining interest will be distributed over the surviving spouse's life expectancy as determined each year until such spouse's death, or over the period in paragraph (a)(iii) below if longer. Any interest remaining after the spouse's death will be distributed over such spouse's remaining life expectancy as determined in the year of the spouse's death and reduced by 1 for each subsequent year, or, if distributions are being made over the period in paragraph (a)(iii) below, over such period.
    - (ii) the designated beneficiary is not the participant's surviving spouse, the remaining interest will be distributed over the beneficiary's remaining life expectancy as determined in the year following the death of the participant and reduced by 1 for each subsequent year, or over the period in paragraph (a)(iii) below if longer.
    - (iii) there is no designated beneficiary, the remaining interest will be distributed over the remaining life expectancy of the participant as determined in the year of the participant's death and reduced by 1 for each subsequent year.
  - (b) If the participant dies before the required beginning date, the remaining interest will be distributed in accordance with (i) below or, if elected or there is no designated beneficiary, in accordance with 4.03(b)(ii) below:
    - (i) The remaining interest will be distributed in accordance with paragraphs 4.03(a)(i) and 4.03(a)(ii) above (but not over the period in paragraph 4.03(a)(iii), even if longer), starting by the end of the calendar year following the year of the participant's death. If, however, the designated beneficiary is the participant's surviving spouse, then this distribution is not required to begin before the end of the calendar year in which the participant would have reached age 70 ½ or 72 (See 4.4 below). But, in such case, if the participant's surviving spouse dies before distributions are required to begin, then the remaining interest will be distributed in accordance with 4.03(a)(ii) above (but not over the period in paragraph 4.03(a)(iii),

even if longer), over such spouse's designated beneficiary's life expectancy, or in accordance with 4.03(b)(ii) below if there is no such designated beneficiary.

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

- 4.4 If the participant dies before his or her entire interest has been distributed and if the designated beneficiary is not the participant's surviving spouse, no additional contributions may be accepted in the account.
- 4.5 If the Applicant/Plan Participant has reached age 70 1/2 prior to December 31, 2019 and has not chosen any of the distribution methods under Article IV of this custodial agreement by the April 1st following the calendar year in which the Applicant/Plan Participant reaches age 70 1/2, distribution shall be determined based upon the distribution period in the uniform lifetime distribution period table in Treasury Regulation Section 1.401 (a)(9)-9. If the Applicant/Plan Participant has reached age 72 after December 31, 2019 and has not chosen any of the distribution methods under Article IV of this custodial agreement by the April 1st following the calendar year in which the Applicant/Plan Participant reaches age 72, distribution shall be determined based upon the distribution period in the uniform lifetime distribution period table in Treasury Regulation Section 1.401 (a)(9)-9. However, in either event, no payment will be made until the Applicant/Plan Participant provides the Custodian with a proper distribution request in form and substance acceptable to the Custodian. Custodian reserves the right to require a minimum balance in the account in order to make periodic payments from the account. Upon receipt of such distribution request, the Applicant/Plan Participant may switch to a joint life expectancy in determining the required minimum distribution if the Applicant/Plan Participant's spouse was the sole beneficiary as of the January 1st of the distribution calendar year and such spouse is more than 10 years younger than the Applicant/Plan Participant.
- 4.6 The owner of two or more IRAs (other than Roth IRAs) may satisfy the minimum distribution requirements described above by taking from one IRA the amount required to satisfy the requirement for another in accordance with the regulations under section 408 (a)(6).

#### Article V

- 5.1 The participant agrees to provide the Custodian with all information necessary to prepare any reports required by sections 408(i) and 408(l)(2) and Regulations sections 1.408-5 and 1.408-6.
- 5.2 The Custodian agrees to submit to the Internal Revenue Service (IRS) and participant the reports prescribed by the IRS.
- 5.3 The Custodian also agrees to provide the participant's employer the summary description described in section 408(l)(2) unless this SIMPLE IRA is a transfer SIMPLE IRA.

#### Article VI

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

#### Article VII

- 7.1 This agreement will be amended as necessary to comply with the provisions of the Code and the related regulations. Other amendments may be made with the consent of the persons whose signatures appear on the SIMPLE IRA Adoption Agreement.

#### Article VIII

- 8.1 **Applicable Law:** This custodial agreement is subject to all applicable Federal Statutes and Regulations and shall be governed by and construed under all applicable Statutes and regulations of the state of South Dakota.

If any provision of this custodial agreement is determined to be invalid or illegal, those provisions shall be stricken, and the remaining provisions shall remain fully enforceable. A failure to enforce any of the provisions of this agreement by either you or custodian shall not be construed as a waiver of such provisions or of any right to enforce such provisions thereafter.

Any suit filed against custodian arising out of or in connection with this custodial agreement shall only be instituted in the Federal District Court for the District of South Dakota, Southern Division in Sioux Falls, South Dakota or, lacking Federal Jurisdiction, in the county courts of Minnehaha County, South Dakota in Sioux Falls, South Dakota where custodian maintains its principal place of business and you agree to submit to such jurisdiction both in connection with any such suit you may file and in any such suit custodian may file against you.

- 8.2 **Annual Accounting:** The Custodian shall, at least annually, provide the Participant or Beneficiary (in the case of death) with an

accounting of such Participant's account. Such accounting shall be deemed to be accepted by the Participant or Beneficiary, if the Participant or Beneficiary does not object in writing within 60 days after the mailing of such accounting statement.

- 8.3 **Amendment:** The Participant irrevocably delegates to the Custodian the right and power to amend this Custodial Agreement. Except as hereafter provided, the Custodian will give the Participant 30 days prior written notice of any amendment. In case of a retroactive amendment required by law, the Custodian will provide written notice to the Participant of the amendment within 30 days after the amendment is made, or if later, by the time that notice of the amendment is required to be given under regulations or other guidance provided by the IRS. The Participant shall be deemed to have consented to any such amendment unless the Participant notifies the Custodian to the contrary within 30 days after notice to the Participant and requests a distribution or transfer of the balance in the account.

#### 8.4 Resignation and Removal of Custodian:

- (a) The Custodian may resign and appoint a successor trustee or custodian to serve under this agreement or under another governing agreement selected by the successor trustee or custodian by giving the Depositor written notice at least 30 days prior to the effective date of such resignation and appointment, which notice shall also include or be provided under separate cover a copy of such other governing instrument, if applicable, and the related disclosure statement. The Depositor shall then have 30 days from the date of such notice to either request a distribution of the entire account balance or designate a different successor trustee or custodian and notify the Custodian of such designation. If the Depositor does not request distribution of the account balance or notify the Custodian of the designation of a different successor trustee or custodian within such 30 day period, the Depositor shall be deemed to have consented to the appointment of the successor trustee or custodian and the terms of any new governing instrument, and neither the Depositor nor the successor shall be required to execute any written document to complete the transfer of the account to the successor trustee or custodian. The successor trustee or custodian may rely on any information, including beneficiary designations, previously provided by the Depositor to the Custodian.
- (b) The Depositor may at any time remove the Custodian and replace the Custodian with a successor trustee or custodian of the Depositor's choice by giving 30 days notice of such removal and replacement. The Custodian shall then deliver the assets of the account as directed by the Depositor. However, the Custodian may retain a portion of the assets of the IRA as a reserve for payment of any anticipated remaining fees and expenses, and shall pay over any remainder of this reserve to the successor trustee or custodian upon satisfaction of such fees and expenses.
- (c) The Custodian may resign and demand that the Depositor appoint a successor trustee or custodian of this IRA by giving the Depositor written notice at least 30 days prior to the effective date of such resignation. The Depositor shall then have 30 days from the date of such notice to designate a successor trustee or custodian, notify the Custodian of the name and address of the successor trustee or custodian, and provide the Custodian with appropriate evidence that such successor has accepted the appointment and is qualified to serve as trustee or custodian of an individual retirement account.
- (1) If the Depositor designates a successor trustee or custodian and provides the Custodian evidence of the successor's acceptance of appointment and qualification within such 30-day period, the Custodian shall then deliver all of the assets held by the Custodian in the account (whether in cash or personal or real property, wherever located, and regardless of value) to the successor trustee or custodian.
- (2) If the Depositor does not notify the Custodian of the appointment of a successor trustee or custodian within such 30 day period, then the Custodian may distribute all of the assets held by the Custodian in the account (whether in cash or personal or real property, wherever located, and regardless of value) to the Depositor, outright and free of custodial, and the Depositor shall be wholly responsible for the tax consequences of such distribution.

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

#### 8.5 Custodian's Fees and Expenses:

- (a) This Section 8.5 of the Custodial Agreement shall be governed by the requirements of Section 408(p)(7) and IRS Notice 98-4, Section J, and is further explained in the accompanying SIMPLE IRA Disclosure Statement.
- (b) The Participant agrees to pay the Custodian any and all fees specified in the Custodian's current published fee schedule for establishing and maintaining this SIMPLE IRA, including any fees for distributions from, transfers from, and terminations of this SIMPLE IRA. The Custodian may change its fee schedule at any time by giving the Participant 30 days prior written

notice.

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

8.6 **Withdrawal Requests:** All requests for withdrawal shall be in writing on the form provided by the Custodian. Such written notice must also contain the reason for the withdrawal and the method of distribution being requested.

8.7 **Age 70 1/2 Default Provisions:** If the Depositor does not choose any of the distribution methods under Article IV of this Trust Agreement by the April 1st following the calendar year in which the Depositor reaches age 70 1/2, distribution shall be determined based upon the distribution period in the uniform lifetime distribution period table in Regulation section 1.401(a)(9)-9. However, no payment will be made until the Depositor provides the Custodian with a proper distribution request acceptable to the Custodian. Upon receipt of such distribution request, the Depositor may switch to a joint life expectancy in determining the required minimum distribution if the Depositor's spouse was the sole beneficiary as of the January 1st of the distribution calendar year and such spouse is more than 10 years younger than the Depositor. **(NOTE: The SECURE Act has changed the RMD age to 72. See Article IV 4.4 above.)**

8.8

#### 8.9 **Death Benefit Default Provisions:**

- (a) If the Depositor dies before his or her required beginning date and the beneficiary does not select a method of distribution described in Article IV, Section 4.03(b)(i) or (ii) by the December 31st following the year of the Depositor's death, then distributions will be made pursuant to the single life expectancy of the Designated Beneficiary determined in accordance with IRS regulations. However, no payment will be made until the beneficiary provides the Custodian with a proper distribution request acceptable to the Custodian and other documentation that may be required by the Custodian. A beneficiary may at any time request a complete distribution of his or her remaining interest in the Custodial Account. The Custodian reserves the right to require a minimum balance in the account in order to make periodic payments from the account.
- (b) If the Depositor dies on or after his or her required beginning date, distribution shall be made in accordance with Article IV, Section 4.03(a). However, no payment will be made until the beneficiary provides the Custodian with a proper distribution request acceptable to the Custodian and other documentation that may be required by the Custodian. A beneficiary may at any time request a complete distribution of his or her remaining interest in the Custodial Account. The Custodian reserves the right to require a minimum balance in the account in order to make periodic payments from the account.

8.10 **Transitional Rule for Determining Required Minimum Distributions for Calendar Year 2002:** Unless the Custodian provides otherwise, if a Depositor (or beneficiary) is subject to required minimum distributions for calendar year 2002, such individual may elect to apply the 1987 proposed regulations, the 2001 proposed regulations, or the 2002 final regulations in determining the amount of the 2002 required minimum. However, the Custodian, in its sole discretion, reserves the right to perform any required minimum distribution calculations through its data systems or otherwise based upon any of the three sets of regulations delineated in the previous sentence.

8.11 **Investment Provisions:** All contributions shall be invested and reinvested by the Custodian as directed by the Participant (or the direction of the beneficiary upon the Depositor's death)(1) in a class or classes of savings accounts with the Custodian, which the Custodian shall designate as the class or classes of savings accounts to be offered for investment of SIMPLE IRA funds, (2) if the Custodian consents in a class or classes of savings accounts in another insured institution, or (3) other investments agreed to from time to time by the Custodian, including but not limited to US Series EE Savings Bonds. Pursuant to IRS Notice 98-4, Q&A J-4, if the Custodian is the Designated Financial Institution (DFI) and the Participant timely elects that his or her balance be transferred without cost or penalty to another SIMPLE IRA in accordance with the provisions described in the accompanying SIMPLE IRA Disclosure Statement, the Custodian reserves the right to restrict the participant's choice of investment alternatives as determined by the Custodian.

8.12 **Responsibilities:** Participant agrees that all information and instructions given to the Custodian by the Participant is complete and accurate and that the Custodian shall not be responsible for any incomplete or inaccurate information provided by the Participant or Participant's beneficiary(ies). Participant agrees to be responsible for all tax consequences arising from contributions to and

distributions from this Custodial Account and acknowledges that no tax advice has been provided by the Custodian.

### 8.13 Designation of Beneficiary:

- (a) Except as may be otherwise required by State law, in the event of the Participant's death, the balance in the account shall be paid to the beneficiary or beneficiaries designated by the Participant on a beneficiary designation form acceptable to and filed with the Custodian. The Participant may change the Participant's beneficiary or beneficiaries at any time by filing a new beneficiary designation with the Custodian. If no beneficiary designation is in effect, if none of the named beneficiaries survive the Participant, or if the Custodian cannot locate any of the named beneficiaries after reasonable search, any balance in the account will be payable to the Participant's estate.
- (b) If the Custodian permits, in the event of the Depositor's death, any beneficiary may name a subsequent beneficiary(ies) to receive the balance of the account to which such beneficiary is entitled upon the death of the original beneficiary by filing a Subsequent Beneficiary Designation Form acceptable to and filed with the Custodian. Payments to such subsequent beneficiary(ies) shall be distributed in accordance with the payment schedule applicable to the original beneficiary or more rapidly if the subsequent beneficiary requests. In no event can any subsequent beneficiary be treated as a designated beneficiary of the Depositor. The preceding sentence shall not apply with respect to the subsequent beneficiary(ies) if any, designated by the original spouse beneficiary where the Depositor dies before his or her required beginning date. In this case, the original spouse beneficiary is treated as the Depositor. If the balance of the account has not been completely distributed to the original beneficiary and such beneficiary has not named a subsequent beneficiary or no named subsequent beneficiary is living on the date of the original beneficiary's death, such balance shall be payable to the estate of the original beneficiary.

## ARTICLE IX SELF-DIRECTED SIMPLE IRA PROVISIONS

9.1 **Investment of Contributions:** At the direction of the Participant, the Custodian shall invest and reinvest all contributions to the account and earnings thereon as directed by the Participant (or the direction of the beneficiary(ies) upon the Participant's death) in investments that the Custodian, at Custodian's sole discretion, determines it can feasibly administer, which may include but are not limited to marketable securities traded on a recognized exchange or "over the counter" (excluding any securities issued by the custodian), options, mutual funds, common trust funds or other common investment funds that qualify under Section 408(b)(5) (including without limitation qualifying pooled custodial accounts and pooled custodial funds), certificates of deposit, real estate, real estate contracts, mortgages, leases, mortgage notes, debentures, individually negotiated debt instruments, promissory notes, private equity investments in closely held businesses, tax liens and tax anticipation warrants, deeds of trust, and other public, private or alternative investments that the Custodian determines it can feasibly administer, in such amounts as are specifically selected and specified by the Participant in orders to the Custodian in such form as may be acceptable to the Custodian, without any duty to diversify and without regard to whether such property is authorized by the laws of any jurisdiction as a trust investment or IRA investment or even if such investment will result in a prohibited transaction, unrelated business taxable income ("UBTI") or a reportable transaction. In addition, the account designated representative (as described below and in the SIMPLE IRA adoption agreement) may give the Custodian directions to have the Custodian buy, sell or reinvest public securities, digital assets and investments that are traded on a recognized exchange or "over the counter" (excluding any securities issued by the custodian). The account designated representative may not direct the Custodian with regard to any alternative or private investments. The Custodian shall be responsible only for the execution of such orders and for maintaining adequate records thereof. However, if any such orders are not received in a form acceptable to the Custodian as required, or, if received, are unclear or administratively unfeasible in the sole opinion of the Custodian, all or a portion of the account may be held in its current investments or remain un-invested without liability for loss of income or appreciation, and without liability for interest pending receipt of such orders or clarification as are acceptable to the Custodian in its sole discretion, or if a new contribution, the contribution may be returned. The Custodian may, but need not, establish programs under which cash deposits in excess of a minimum set by it will be periodically and automatically invested in interest-bearing investment funds. The Custodian shall have no duty other than to follow the written investment directions of the Participant, which duty shall be subject to the other terms and conditions of this agreement. The Custodian shall be under no duty to question said instructions and shall not be liable for any investment losses or adverse tax consequences of any kind whatsoever sustained by the Participant. In addition, the Custodian reserves the right to not follow a direction or process any investment for administrative or cost related reasons. Execution of Participant's instructions or refusal to execute same does not constitute investment advice or an opinion by the Custodian as to the investment's prudence or viability. Participant agrees that the Custodian shall have no discretionary power, authority or control with respect to the management, investment or disposition of the Participant's assets or any discretionary authority with regard to the management of the Participant's account. Participant agrees and acknowledges that Custodian is not a fiduciary with respect to the Participant, the Participant's account or any investment.

9.2 **Registration:** All assets of the account shall be registered in the name of the Custodian or of a suitable nominee. The same nominee may be used with respect to assets of other investors whether or not held under agreements similar to this one or in any capacity whatsoever. However, each Participant's account shall be separate and distinct; a separate account therefor shall be maintained by the Custodian, and the assets thereof shall be held by the Custodian in individual or bulk segregation either in the Custodian's vaults or in depositories approved by the Securities and Exchange Commission under the Securities Exchange Act of 1934.

- 9.3 **Account Designated Representative/Investment Advisor:** The Participant may appoint an account designated representative who may, but is not required to be, an investment advisor qualified under Section 3(38) of the Employee Retirement Income Security Act of 1974, to direct the investment of his/her IRA. The Participant shall notify the Custodian in writing of any such appointment. If the account designated representative is an investment advisor, then the Depositor shall provide the Custodian a copy of the instruments appointing the investment advisor and evidencing the investment advisor's acceptance of such appointment, an acknowledgment by the investment advisor that the investment advisor is a fiduciary of the account, and a certificate evidencing the investment advisor's current registration under the Investment Advisor's Act of 1940. The Custodian shall comply with any investment directions furnished to the Custodian by the account designated representative, but only with regard to public securities, digital assets and investments that are traded on a recognized exchange or "over the counter" (excluding any securities issued by the Custodian), and will do so until the Custodian receives written notification from the Participant that the account designated representative's appointment has been terminated. The Custodian shall have no duty other than to follow the written investment directions of such account designated representative subject to the provisions of this Agreement, shall be under no duty to question said instructions, and shall not be liable for any investment losses or adverse tax consequences sustained by the Participant.
- 9.4 **No Investment Advice:** Custodian shall have no responsibility for rendering advice with respect to the investment and reinvestment of Participant's account and shall not be liable for any loss which result from Participant's exercise of control over his/her account. Participant shall have and exercise exclusive responsibility for control over all the investment decisions concerning the assets of his/her account, and the Custodian shall have no duty to question his/her investment directives. Custodian reserves the right, in its sole discretion, to deny any investment direction that it cannot feasibly administer, which is violative of Custodian's policy or which might result in a violation of Federal, State or Local laws. Participant hereby agrees that the exercise of such right shall not be construed as Custodian providing investment or legal advice.
- 9.5 **Prohibited Transactions:** Notwithstanding anything contained herein to the contrary, the Participant shall not direct the Custodian to engage in or make any investment that Participant knows or should know involves or facilitates any criminal activity, nor shall the Participant direct the Custodian to lend any part of the corpus or income of the account to; pay any compensation for personal services rendered to the account to; make any part of its services available on a preferential basis to; acquire for the account any property, other than cash, from; or sell any property to the Participant, any member of Participant's family, or any entity controlled by Depositor through the ownership, directly or indirectly, of 50 percent or more of the total combined voting power of all classes of ownership entitled to vote, or of 50 percent or more of the total value of all ownership interests of such entity. Generally, if a Participant engages in or directs the engagement in a prohibited transaction as described in Section 4975 of the Code, the Participant's account ceases to be an IRA as of the first day of the year in which the prohibited transaction takes place, and the account is treated as having distributed all its assets to the Participant or beneficiary at their fair market values on the first day of that year which may result in taxes and penalties. Participant hereby agrees to be solely responsible for determining and avoiding prohibited transactions and reportable events and will indemnify and hold Custodian harmless should Participant engage in a prohibited transaction or other transaction described in this paragraph.
- 9.6 **Unrelated Business Taxable Income ("UBTI"):** Investments may generate taxable income within the IRA Account, referred to as Unrelated Business Taxable Income (UBTI). Such income must be considered in conjunction with all such income from all IRA accounts and may be taxable to the IRA account to the extent that all UBTI for a given taxable year exceeds the threshold amount set by the IRS. If the Depositor directs investment of the account in any investment which results in unrelated business taxable income, it shall be the responsibility of the Depositor to so advise the Custodian and to provide the Custodian with all forms necessary to file any required returns or reports for the account. All forms, returns and reports must be completed by the Depositor and delivered in a timely manner to Custodian for signature and filing. In such instances, the IRS requires that a Form 990-T be filed for the IRA account along with the appropriate amount of tax.

The Depositor, by signing this agreement, understands the Custodian:

1. does not make any determination of UBTI;
2. does not monitor whether the account has UBTI; and
3. does not prepare Form 990-T or other necessary forms, returns or reports.

Therefore, the Depositor must monitor UBTI for this and any other IRA account which he/she may hold and prepare, or have prepared at their expense, the proper 990-T tax form, along with any other necessary forms, returns or reports and forward it to Custodian for signatures and filing, along with authorization to pay any tax due from the IRA account.

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

9.8 **Miscellaneous Expenses:** In addition to those expenses set out in Article VIII, section 8.5 of this plan, the Depositor agrees to pay any and all expenses incurred by the Custodian in connection with the account, including, but not limited to, expenses of valuation of account assets, tax payments, and filing of any returns and reports with regard to UBTI. Moreover, all estimated taxes, together with any transfer and other taxes, including any interest and penalties thereon, as well as any expenses incurred in connection with the investment or reinvestment of the assets of the account shall be paid by the Depositor. The Custodian may, at the Depositor's expense, retain suitable accountants, attorneys, or other agents to advise and assist the custodian in performing their respective duties under this agreement.

9.9 **Indemnification of Custodian:** To the extent not prohibited by Federal or State law, the depositor agrees to indemnify and hold harmless Digital Trust, its respective subsidiaries and administrators, officers, directors, managers, members, representatives, agents, employees, affiliates, successors and assigns from and against any and all claims, demands, liabilities, damages, costs, expenses, attorneys' fees, payments and assessments arising in connection with the depositor or the depositor's IRA or which may result from any good faith actions, errors or omissions and from following or attempting to follow any directions of the depositor (or the beneficiary(ies), or an account designated representative), and further agrees that the custodian shall not be subject to margin calls or have any other obligation to extend credit or otherwise disburse payment beyond the cash balance of depositor's account for any reason whatsoever.

### **General Instructions**

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

#### **Purpose of Form**

Form 5305-SA is a model custodial account agreement that meets the requirements of sections 408(a) and 408(p). However, only Articles I through VII have been reviewed by the IRS. A SIMPLE individual retirement account (SIMPLE IRA) is established after the form is fully executed by both the individual (participant) and the Custodian. This account must be created in the United States for the exclusive benefit of the participant or his or her beneficiaries. Do not file Form 5305-SA with the IRS. Instead, keep it for record purposes.

For more information on SIMPLE IRAs, including the required disclosures the Custodian must give the participant, see Pub. 590-A, Contributions to Individual Retirement Arrangements (IRAs); Pub. 590-B, Distributions from Individual Retirement Arrangements (IRAs); and Pub 560, Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans).

#### **Definitions**

**Participant/Depositor** - The participant/depositor is the person who establishes the custodial account.

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

**Identifying Number** - The Depositor's social security number will serve as the identifying number of his or her SIMPLE IRA. An employer identification number (EIN) is required only for an IRA for which a return is filed to report unrelated business taxable income. An EIN is required for a common fund created for IRAs.

#### **Transfer SIMPLE IRA**

This SIMPLE IRA is a "transfer SIMPLE IRA" if it is not the original recipient of contributions under any SIMPLE IRA plan. The summary description requirements of section 408(l)(2) do not apply to transfer SIMPLE IRAs.

#### **Specific Instructions**

Article IV.-Distributions made under this article may be made in a single sum, periodic payment, or a combination of both. The distribution option should be reviewed in the year the participant reaches age 70 ½ or 72 (See Article IV 4.4 above) -to ensure that the requirements of section 408(a)(6) have been met.

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

**FINANCIAL DISCLOSURE In General** IRS regulations require the Custodian to provide you with a financial projected growth of your SIMPLE IRA account based upon certain assumptions.

**Growth in the Value of Your SIMPLE IRA** Growth in the value of your SIMPLE IRA is neither guaranteed nor projected. The value of your SIMPLE IRA will be computed by totaling the fair market value of the assets credited to your account. At least once a year the Custodian will send you a written report stating the current value of your SIMPLE IRA assets. The Custodian shall disclose separately a description of:



(a) The type and amount of each charge; (b) the method of computing and allocating earnings, and (c) any portion of the contribution, if any, which may be used for the purchase of life insurance. **Custodian Fees** The **Custodian** may charge reasonable fees or compensation for its services and it may deduct all reasonable expenses incurred by it in the administration of your SIMPLE IRA, including any legal, accounting, distribution, transfer, termination or other designated fees. Any charges made by the **Custodian** will be separately disclosed on an attachment hereto. Such fees may be charged to you or directly to your custodial account. In addition, depending on your choice of investment vehicles, you may incur brokerage commissions attributable to the purchase or sale of assets.

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## FINANCIAL DISCLOSURE

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- (a) The type and amount of each charge;
- (b) the method of computing and allocating earnings, and
- (c) any portion of the contribution, if any, which may be used for the purchase of life insurance.

**Custodian Fees:** The Custodian may charge reasonable fees or compensation for its services and it may deduct all reasonable expenses incurred by it in the administration of your SIMPLE IRA, including any legal, accounting, distribution, transfer, termination or other designated fees. Any charges made by the Custodian will be separately disclosed on an attachment hereto. Such fees may be charged to you or directly to your custodial account. In addition, depending on your choice of investment vehicles, you may incur brokerage commissions attributable to the purchase or sale of assets.

# SIMPLE IRA DISCLOSURE STATEMENT

**RIGHT TO REVOKE YOUR SIMPLE IRA ACCOUNT:** You may revoke your SIMPLE IRA within 7 days after you sign the SIMPLE IRA Adoption Agreement by hand-delivering or mailing a written notice to the name and address indicated on the SIMPLE IRA Adoption Agreement. If you revoke your account by mailing a written notice, such notice must be postmarked by the 7th day after you sign the Adoption Agreement. If you revoke your SIMPLE IRA within the 7 day period you will receive a refund of the entire amount of your contributions to the SIMPLE IRA without any adjustment for earnings or any administrative expenses. If you exercise this revocation, we are still required to report certain information to the IRS.

## GENERAL REQUIREMENTS OF A SIMPLE IRA:

1. All SIMPLE contributions must be made in cash, unless you are making a rollover contribution or transfer, and the Custodian accepts such non-cash assets.
2. Prior to December 19, 2015, the only types of contributions permitted to be made to this SIMPLE IRA are salary reduction contributions and employer contributions under the employer's SIMPLE Retirement Plan. Beginning December 19, 2015, if your Employer's Plan permits, your SIMPLE IRA will accept rollover contributions from a qualified plan, a qualified annuity, a 403(b) plan, a 457(b) plans or from a traditional IRA, but only after you have maintained the SIMPLE IRA for 2 years, measured from the first contribution made to your SIMPLE IRA.
3. The Custodian of your SIMPLE IRA must be a bank, savings and loan association, credit union or a person who is approved to act in such a capacity by the Secretary of the Treasury.
4. No portion of your SIMPLE IRA funds may be invested in life insurance contracts.
5. Your interest in your SIMPLE IRA must be fully vested and is nonforfeitable at all times.
6. The assets in your SIMPLE IRA may not be commingled with other property except in a common trust fund or common investment fund.
7. You may not invest the assets of your SIMPLE IRA in collectibles (as described in Section 408(m) of the Internal Revenue Code.) A collectible is defined as any work of art, rug or antique, metal or gem, stamp or coin, alcoholic beverage, or any other tangible personal property specified by the IRS. However, if the Custodian permits, specially minted US Gold and Silver bullion coins and certain state-issued coins are permissible SIMPLE IRA investments.
8. Your interest in your SIMPLE IRA must begin to be distributed to you by the April 1st following the calendar year you attain the age of 70 ½ or 72 (See Article IV 4.4 above). The methods of distribution, election deadlines, and other limitations are described in detail below.
9. For purposes of the SIMPLE Plan rules, in the case of an individual who is not a self-employed individual, compensation means the amount described in section 6051(a)(3) which includes wages, tips and other compensation from the employer subject to income tax withholding under section 3401(a), and amounts described in section 6051(a)(8), including elective contributions made under a SIMPLE plan, and compensation deferred under a section 457 plan. In the case of a self-employed individual, compensation means net earnings from self-employment determined under section 1402(a), prior to subtracting any contributions made under the SIMPLE plan on behalf of the individual.
10. Contributions to a SIMPLE IRA are excludible from federal income tax and not subject to federal income tax withholding when made to the SIMPLE IRA. Salary reduction contributions are subject to FICA, FUTA or RRTA tax when made and must be reported on the employee's Form W-2 wage statement. Matching and nonelective employer contributions made to a SIMPLE IRA are not subject to FICA, FUTA or RRTA and are not required to be reported on Form W-2.
11. A SIMPLE IRA must be established by or on behalf of an employee prior to the first date by which a contribution is required to be deposited into the SIMPLE IRA.

**ELIGIBLE EMPLOYEES:** Under a SIMPLE Retirement Plan established by an Eligible Employer, all employees of the employer who received at least \$5,000 in compensation from the employer during any 2 preceding calendar years, whether or not consecutive, and who are reasonably expected to receive at least \$5,000 in compensation during the calendar year, must be eligible to participate in the SIMPLE Plan for the calendar year. An employer may impose less restrictive eligibility requirements, such as eliminating or reducing the prior year compensation requirements, the current year compensation requirement, or both, under its SIMPLE Plan.

An employer, at its option, may exclude from eligibility employees who are included in a unit of employees covered by an agreement that the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that retirement benefits were the subject of good faith bargaining between such employee representatives and such employer or employers; in the case of a trust established or maintained pursuant to an agreement that the Secretary of Labor finds to be a collective bargaining agreement between air pilots represented in accordance with Title II of the Railway Labor Act and one or more employees, all employees not covered by that agreement; and employees who are nonresident aliens and who received no earned income from the employer that constitutes income from sources within the United States.

**PARTICIPATION IN ANOTHER PLAN:** An eligible employee may participate in an employer's SIMPLE Plan, even if he or she also participates in a plan of a different employer for the same year. However, the employee's salary reduction contributions are subject to the limitation of section 402(g), which provides an aggregate limit on the exclusion for elective deferrals for any individual. The employee is responsible for monitoring compliance with these limitations.

**ELIGIBLE EMPLOYERS:** SIMPLE plans may be established by employers (including tax-exempt employers and governmental entities) that had no more than 100 employees who earned \$5,000 or more in compensation during the preceding calendar year. For purposes of the 100-

employee limitation, all employees employed at any time during the calendar year are taken into account, regardless of whether they are eligible to participate in the SIMPLE plan. This means that otherwise excludible employees (i.e. certain union employees, nonresident aliens with no U.S. source income, and those employees who have not met the plan's minimum eligibility requirements) must be taken into account.

## SIMPLE PLAN CONTRIBUTIONS:

**Elective Deferrals (Salary Reduction Contributions)** - A salary reduction contribution is a contribution made pursuant to an employee's election to have an amount contributed to his or her SIMPLE IRA, rather than have the amount paid directly to the employee in cash. An eligible employee must be permitted to elect to have salary reduction contributions made at the level specified by the employee, expressed as a percentage of compensation for the year or as a specific dollar amount. The maximum salary reduction contribution per calendar year may not exceed "the applicable annual dollar limitation" described below. Salary reduction contributions may not begin until the eligible employee completes a form provided by the employer designed to permit the employee to elect the salary reduction percentage or specific dollar amount. An employer may not place any restrictions on the amount of an employee's salary reduction contributions (e.g. by limiting the contribution percentage), except to the extent needed to comply with the annual limit.

### Applicable Annual Dollar Limitation

<u>Tax Year</u>	<u>Contribution Limit</u>	<u>Tax Year</u>	<u>Contribution Limit</u>
2001	\$ 6,500	2010 - 2012	\$11,500
2002	\$ 7,000	2013 - 2014	\$12,000
2003	\$ 8,000	2015 - 2018	\$12,500
2004	\$ 9,000	2019	\$13,000
2005 - 2006	\$10,000	2020	\$13,500
2007 - 2009	\$10,500		

The annual limit will be subject to cost-of-living increases in increments of \$500, rounded to the lower increment.

**Catch-up Contributions** - - Beginning for 2002, if an individual has attained the age of 50 before the close of the taxable year for which an annual contribution is being made and meets the other eligibility requirements for making regular SIMPLE IRA contributions, the annual SIMPLE IRA deferral limit for that individual would be increased as follows:

<u>Tax Year</u>	<u>Normal Limit</u>	<u>Additional Catch-up</u>	<u>Total Contribution</u>
2002	\$7,000	\$500	\$7,500
2003	\$8,000	\$1,000	\$9,000
2004	\$9,000	\$1,500	\$10,500
2005	\$10,000	\$2,000	\$12,000
2006	\$10,000	\$2,500	\$12,500
2007	\$10,500	\$2,500	\$13,000
2008	\$10,500	\$2,500	\$13,000
2009 - 2012	\$11,500	\$2,500	\$14,000
2013 - 2014	\$12,000	\$2,500	\$14,500
2015 - 2018	\$12,500	\$3,000	\$15,500
2019	\$13,000	\$3,000	\$16,000
2020	\$13,500	\$3,000	\$16,500

The additional catch-up amount for SIMPLE IRAs is subject to cost-of-living increases in increments of \$500, rounded to the lower increment.

## Employer Contributions - 2 Options

1. **Matching Contributions:** Under a SIMPLE plan, an employer is generally required to make a contribution on behalf of each eligible employee in an amount equal to the employee's salary reduction contributions, up to a limit of 3% of the employee's compensation for the entire calendar year.

The 3% limit on matching contributions is permitted to be reduced for a calendar year at the election of the employer, but only if: the limit is not reduced below 1%; the limit is not reduced for more than 2 years out of the 5-year period that ends with and includes the year for which the election is effective; and employees are notified of the reduced limit within a reasonable period of time before the 60-day election period during which employees can enter into salary reduction agreements as described below.

In determining whether the limit was reduced below 3% for a year, any year before the first year in which an employer (or a predecessor employer) maintains a SIMPLE plan will be treated as a year for which the limit was 3%. If an employer chooses to make nonelective contributions for a year in lieu of matching contributions, that year also will be treated as a year for which the limit was 3%.

2. **Nonelective Contributions:** Under a SIMPLE plan, an employer may make nonelective contributions in lieu of matching contributions. These nonelective contributions must be equal to 2% of each eligible employee's compensation for the entire calendar year, regardless of whether the employee elects to make salary reduction contributions for the calendar year. The employer may, but is not required to, limit nonelective contributions to eligible employees who have at least \$5,000 (or some lower amount selected by the employer) of compensation for the year. For purposes of this 2% nonelective contribution only, the compensation taken into account must be limited to the amount of compensation under section 401(a)(17) for the year. This compensation limit is subject to cost-of-living increases in increments of \$5000, rounded to the lower increment as follows:

\$220,000 for 2006	\$245,000 for 2011	\$270,000 for 2017
\$225,000 for 2007	\$250,000 for 2012	\$275,000 for 2018
\$230,000 for 2008	\$255,000 for 2013	\$280,000 for 2019
\$245,000 for 2009	\$260,000 for 2014	\$285,000 for 2020
\$245,000 for 2010	\$265,000 for 2015-2016	

An employer may substitute the 2% nonelective contribution for the matching contribution for a year only if eligible employees are notified within a reasonable period of time before the 60-day election period during which employees can enter into salary reduction agreements that a 2% nonelective contribution will be made instead of a matching contribution.

**EMPLOYEE ELECTIONS:** During the 60-day period immediately preceding January 1st of a calendar (i.e. November 2 to December 31 of the preceding calendar year), an eligible employee must be given the right to enter into a salary reduction agreement for the calendar year, or to modify a prior agreement (including reducing the amount subject to this agreement to \$0). However, for the year in which the employee becomes eligible to make salary reduction contributions, the period during which the employee may enter into a salary reduction agreement or modify a prior agreement is a 60-day period that includes either the date the employee becomes eligible or the day before that date. For example, if an employer establishes a SIMPLE plan effective as of July 1, 2014, each eligible employee becomes eligible to make salary reduction contributions on that date and the 60-day period must begin no later than July 1 and cannot end before June 30, 2014.

During these 60-day periods, employees have the right to modify their salary reduction agreements without restrictions. In addition, for the year in which an employee becomes eligible to make salary reduction contributions, the employee must be able to commence these contributions as soon as the employee becomes eligible, regardless of whether the 60-day period has ended. An employer may, but is not required to, provide additional opportunities or longer periods for permitting eligible employees to enter into salary reduction agreements or to modify prior agreements.

An employee must be given the right to terminate a salary reduction agreement for a calendar year at any time during the year even if this is outside a SIMPLE plan's normal election period. The employer's SIMPLE plan may, however, provide that an employee who terminates a salary reduction agreement at any time other than the normal election period is not eligible to resume participation until the beginning of the next calendar year.

**EMPLOYER ADMINISTRATIVE AND NOTIFICATION REQUIREMENTS:** An employer must notify each employee, immediately before the employee's 60-day election period, of the employee's opportunity to enter into a salary reduction agreement or to modify a prior agreement. If applicable, this notification must disclose an employee's ability to select the financial institution that will serve as the trustee or custodian of the employee's SIMPLE IRA. Such notification must also include the Summary Description required under section 408(l)(2)(B). Such notification must also include whether the employer will be making either matching contributions (including the employer's election to reduce the matching contribution below 3%) or nonelective contributions as previously described.

If an eligible employee who is entitled to a contribution under the employer's SIMPLE plan is unwilling or unable to establish a SIMPLE IRA with any financial institution prior to the date on which the contribution is required to be made to the SIMPLE IRA of the employee, the employer may execute the necessary SIMPLE IRA documents on the employee's behalf with a financial institution selected by the employer.

The employer must deliver the salary reduction contributions to the financial institution maintaining the SIMPLE IRA as of the earliest date on which the contributions can reasonably be segregated from the employer's general assets, but no later than the close of the 30-day period following the last day of the month in which amounts would otherwise have been payable to the employee in cash.

Matching and nonelective employer contributions must be made to the financial institution maintaining the SIMPLE IRA no later than the due date for filing the employer's income tax return, including extensions, for the taxable year that includes the last day of the calendar year for which the contributions are made.

## **ROLLOVERS:**

**Rollover Contributions from Another SIMPLE IRA** - A rollover contribution to this SIMPLE IRA is only permitted from another SIMPLE IRA. A rollover contribution from another SIMPLE IRA is any amount the participant receives from one SIMPLE IRA and redeposits some or all of it into this SIMPLE IRA. The participant is not required to roll over the entire amount received from the first SIMPLE IRA. However, any amount you do not roll over will be taxed at ordinary income tax rates for federal income tax purposes and may also be subject to an additional tax if the distribution is a premature distribution described below.

**Rollover Distributions from a SIMPLE IRA** - A distribution from any SIMPLE IRA may be rolled over only to another SIMPLE IRA during the 2-year period the participant first participated in the employer's SIMPLE plan. Thus, a distribution from a SIMPLE IRA during that 2-year period qualifies as a rollover contribution (and is not includible in gross income of the participant) only if the distribution is paid into another SIMPLE IRA and satisfies the other requirements that apply to all IRA rollovers under section 408(d)(3). After this 2-year period, a distribution from a SIMPLE IRA may be rolled over to any IRA maintained by the individual or to an employer plan, including a qualified plan, a 403(b) or a governmental 457(b) that accepts these types of rollovers. This 2-year period begins on the first day on which contributions made by the individual's employer are deposited in the individual's SIMPLE IRA.

**Rollover Contributions from Another Plan into this SIMPLE IRA** – Beginning December 19, 2015, if your Employer's Plan permits, you are permitted to rollover from a qualified plan, a qualified annuity, a 403(b) Plan, a governmental 457(b) Plan and from a Traditional IRA. Your SIMPLE IRA may only accept these rollovers after your SIMPLE IRA has been in existence for 2 years measured from the date of the first contribution into your SIMPLE IRA account.

#### **Special Rules that Apply to Rollovers -**

- The rollover must be completed no later than the 60th day after the day the distribution was received by you.
- Beginning in 2015, you can make only one rollover from an IRA to another (or the same) IRA in any 12-month period, regardless of the number of IRAs you own. The limit will apply by aggregating all of an individual's IRAs, including SEP and SIMPLE IRAs as well as traditional and Roth IRAs, effectively treating them as one IRA for purposes of the limit. (See IRS Publication 590-A for more information).
- The same property you receive in a distribution must be the same property you roll over into the second IRA. For example, if you receive a distribution from an IRA of property, such as stocks, that same stock must be rolled over into the second IRA.
- You are required to make an irrevocable election indicating that this transaction will be treated as a rollover contribution.
- You are not required to receive a complete distribution from your IRA in order to make a rollover contribution into another IRA, nor are you required to roll over the entire amount you received from the first IRA.
- If you inherit an IRA due to the death of the participant, you may not roll this IRA into your own IRA unless you are the spouse of the decedent.
- If you are age 70 ½ or 72 (See Article IV 4.4 above) or older and wish to roll over to another IRA, you must first satisfy the minimum distribution requirement for that year and then the rollover of the remaining amount may be made.

**Special Rollover Rules for Qualified Disaster Distributions** – Qualified Disaster Distributions (QDDs) are eligible to be rolled over to an IRA (or other eligible retirement plan) within a 3-year period after the eligible individual received such distribution. The maximum amount of a QDD is \$100,000 per taxpayer; is not subject to the premature distribution penalty tax of 10% (or 25% in the case of a SIMPLE-IRA), and will be taxed pro rata over a 3 year period unless the taxpayer elects to pay all of the taxes in the year of the distribution. More information on Qualified Disaster Distributions and other tax relief provisions applicable to affected individuals as well as other disaster relief can be found in IRS Publication 976 and in the instructions for Form 8915A or 8915B, whichever is applicable. Taxpayers using these tax relief provisions must file Form 8915A or 8915B with his or her Federal income tax return.

**Conversion from a SIMPLE IRA to a Roth IRA** - You are permitted to make a qualified rollover contribution from a SIMPLE IRA to a Roth IRA. [Note: Prior to 2010 only taxpayers who's Modified AGI for the year during which the distribution was not in excess of \$100,000 and you were not a married person filing a separate tax return.] This is called a "conversion" and may be done (after the 2-year holding period) at any time without waiting the usual 12 months.

**Recharacterizations** - Beginning in 2018, for conversions made in 2018, you are no longer permitted to recharacterize a conversion made to a Roth IRA back to a traditional IRA.

**Taxation in Completing a Conversion from a SIMPLE IRA to a Roth IRA** - If you complete a conversion from a SIMPLE IRA to a Roth IRA, the conversion amount (to the extent taxable) is generally included in your gross income for the year during which the distribution is made from your SIMPLE IRA that is converted to a Roth IRA. However, the 10% (or 25%, if applicable) additional income tax for premature distributions does not apply.

**EXCESS DEFERRALS:** Excess elective deferrals (amounts in excess of the "applicable") SIMPLE elective deferral limit for the year) are includible in your gross income in the calendar year of deferral. Income on the excess elective deferrals is includible in your income in the year of withdrawal from the SIMPLE IRA. You should withdraw excess elective deferrals and any allocable income, from your SIMPLE-IRA by April 15 following the year to which the deferrals relate. These amounts may not be transferred or rolled over tax-free to another SIMPLE-IRA. If you fail to withdraw excess elective deferrals, and any allocable income, by the following April 15th, the excess elective deferrals will be subject to the IRA contribution limitations of sections 219 and 408 of the Code and thus may be considered an excess contribution to your IRA. Such excess deferrals may be subject to a 6% excise tax for each year they remain in your SIMPLE-IRA. Income on excess elective deferrals is includible in your gross income in the year you withdraw it from your IRA and must be withdrawn by April 15 following the calendar year to which the deferrals relate. Income withdrawn from the IRA after that date may be subject to a 10% tax (or 25% if withdrawn within the first 2 years of participation) on early distributions. The rules for determining and allocating income attributable to excess elective deferrals and other

excess SIMPLE contributions are the same as those governing regular IRA excess contributions. The trustee or custodian of your SIMPLE-IRA will inform you of the income allocable to such excess amounts.

**DISTRIBUTIONS:** In general, all distributions from a SIMPLE IRA are subject to federal income tax by the payee or distributee, whichever the case may be. When you start withdrawing from your SIMPLE IRA, you may take the distributions in regular payments, random withdrawals or in a single sum payment. Generally, all amounts distributed to you from your SIMPLE IRA are included in your gross income in the taxable year in which they are received. However, if you have made nondeductible contributions to any regular IRA as permitted under section 408(o) of the Code, the nontaxable portion of the distribution, if any, will be a percentage based upon the ratio of your unrecovered nondeductible contributions to the aggregate of all IRA balances, including SEP, SIMPLE and rollover contributions, as of the end of the year in which you take the distribution, plus distributions from the account during the year. All taxable distributions from your SIMPLE IRA are taxed at ordinary income tax rates for federal income tax purposes and are not eligible for either capital gains treatment or 10-year averaging. An employer may not require an employee to retain any portion of the contribution in the SIMPLE IRA or otherwise impose any withdrawal restrictions.

**Premature Distributions** - In general, if you are under age 59 1/2 and receive a distribution from your SIMPLE IRA account, a 10% additional income tax will apply to the taxable portion of the distribution, unless the distribution is received due to death; disability; a series of substantially equal periodic payments at least annually over your life expectancy or the joint life expectancy of you and your designated beneficiary; medical expenses that exceed 7.5% of your adjusted gross income; health insurance premiums paid by certain unemployed individuals; qualified acquisition costs of a first time home buyer; qualified higher education expenses; a qualifying rollover distribution; the timely withdrawal of an excess deferral plus income attributable; due to an IRS Levy; qualified hurricane distributions received prior to January 1, 2007; or qualified reservist distributions. If you request a distribution in the form of a series of substantially equal payments, and you modify the payments before 5 years have elapsed and before attaining age 59 1/2, the 10% additional income tax will apply retroactively to the year payments began through the year of such modification. In addition, if you request a distribution from your SIMPLE IRA within your first 2 years of participation in the SIMPLE plan and none of the exceptions listed above applies to the distribution, the normal 10% additional income tax referred to earlier is increased to 25%.

**Age 70 1/2 Required Minimum Distributions** - You are required to begin receiving minimum distributions from your SIMPLE IRA by your required beginning date (the April 1 of the year following the year you attain age 70 1/2). The year you attain age 70 1/2 is referred to as your "first distribution calendar year". Your minimum distribution for each year beginning with the calendar year you attain the age of 70 1/2 is generally based upon the value of your account at the end of the prior year divided by the factor for your age derived from the Uniform Lifetime Distribution Period Table regardless of who or what entity is your named beneficiary. This uniform table assumes you have a designated beneficiary exactly 10 years younger than you. However, if your spouse is your sole beneficiary and is more than 10 years younger than you, your required minimum distribution for each year is based upon the joint life expectancies of you and your spouse. The account balance that is used to determine each year's required minimum amount is the fair market value of each IRA you own as of the prior December 31<sup>st</sup>, adjusted for outstanding rollovers (or transfers) as of such prior December 31<sup>st</sup>. **(NOTE: The SECURE Act has changed the RMD age to 72. See Article IV 4.4 above.)**

However, no payment will be made from this SIMPLE IRA until you provide the Custodian with a proper distribution request acceptable by the Custodian. Upon receipt of such distribution request, you may switch to a joint life expectancy in determining the required minimum distribution if your spouse was your sole beneficiary as of the January 1<sup>st</sup> of the calendar year that contains your required beginning date and such spouse is more than 10 years younger than you.

The required minimum distribution for the second distribution calendar year and for each subsequent distribution calendar year must be made by December 31 of each such year.

In any distribution calendar year you may take more than the required minimum. However, if you take less than the required minimum with respect to any distribution calendar year, you are subject to a Federal excise tax penalty of 50% of the difference between the amount required to be distributed and the amount actually distributed. If you are subject to that tax, you are required to file IRS Form 5329.

**Qualified Charitable Distributions (QCDs)** - If an IRA owner is exactly age 70½ or over, the IRA owner may direct the IRA trustee or custodian to transfer up to \$100,000 per year from the IRA to a qualified charity. Such transfer will not be subject to Federal income taxes. Qualified Charitable Distributions may also be made by a beneficiary who is exactly age 70½ or over. Qualified Charitable Distributions are not subject to Federal income tax withholding. On-going (those that are still receiving contributions) SEP IRAs or SIMPLE IRAs are not permitted to be distribute QCDs.

**Reporting the Required Minimum Distribution** - Beginning for minimum distributions that are required for calendar 2003, the Custodian must provide a statement to each SIMPLE IRA owner who is subject to required minimum distributions that contains either the amount of the minimum or an offer by the Custodian to perform the calculation if requested by the SIMPLE IRA owner. The statement must inform the SIMPLE IRA owner that required minimum distributions apply and the date by which such amount must be distributed. The statement must further inform the SIMPLE IRA owner that beginning in 2004, the Custodian must report to the IRS that the SIMPLE IRA owner is required to receive a minimum for the calendar year.

**Death Distributions** - If you die before your required beginning date and you have a designated beneficiary, the balance in your SIMPLE IRA

will be distributed to your beneficiary over the beneficiary's single life expectancy. These distributions must commence no later than December 31st of the calendar year following the calendar year of your death. However, if your spouse is your sole beneficiary, these distributions are not required to commence until the December 31st of the calendar year you would have attained the age of 70 ½ or 72 (See Article IV 4.4 above), if that date is later than the required commencement date in the previous sentence. If you die before your required beginning date and you do not have a designated beneficiary, the balance in your SIMPLE IRA must be distributed no later than the December 31st of the calendar year that contains the fifth anniversary of your death.

If you die on or after your required beginning date and you have a designated beneficiary, the balance in your SIMPLE IRA will be distributed to your beneficiary over the longer of the beneficiary's single life expectancy or your remaining life expectancy. These distributions must commence no later than December 31st of the calendar year following the calendar year of your death. If you die on or after your required beginning date and you do not have a designated beneficiary, the balance in your SIMPLE IRA must be distributed over a period that does not exceed your remaining single life expectancy determined in the year of your death. However, the required minimum distribution for the calendar year that contains the date of your death is still required to be distributed. Such amount is determined as if you were still alive throughout that year.

If your spouse is your sole beneficiary, your spouse may elect to treat your SIMPLE IRA as his or her own SIMPLE IRA, whether you die before or after your required beginning date. If you die after your required beginning date and your spouse elects to treat your SIMPLE IRA as his or her own SIMPLE IRA, any required minimum that has not been distributed for the year of your death must still be distributed to your surviving spouse and then the remaining balance can be treated as your spouse's own SIMPLE IRA.

**Prohibited Transactions** - If you or your beneficiary engage in a prohibited transaction (as defined under Section 4975 of the Internal Revenue Code) with your SIMPLE IRA, it will lose its tax exemption and you must include the value of your account in your gross income for that taxable year. If you pledge any portion of your SIMPLE IRA as collateral for a loan, the amount so pledged will be treated as a distribution and will be included in your gross income for that year.

**Income Tax Withholding** - All withdrawals from your SIMPLE IRA (except a direct transfer) are subject to federal income tax withholding. You may, however, elect not to have withholding apply to your SIMPLE IRA distribution in most cases. If withholding does apply to your distribution, it is at the rate of 10% of the amount of the distribution.

**SIMPLE IRA distributions delivered outside the United States** - In general, if you are a US citizen or resident alien and your home address is outside of the United States or its possessions, you cannot choose exemption from withholding on distributions from your traditional IRA.

To choose exemption from withholding, you must certify to the payer under penalties of perjury that you are not a U.S. citizen, a resident alien of the United States, or a tax-avoidance expatriate. Even if this election is made, the payer must withhold tax at the rates prescribed for nonresident aliens.

For more information on withholding on pensions and annuities, see "Pensions and Annuities" in Chapter 1 of *Publication 505, Tax Withholding and Estimated Tax*. For more information on withholding on nonresident aliens and foreign entities, see *Publication 515, Withholding of tax on Nonresident Aliens and Foreign Entities*.

**DESIGNATED FINANCIAL INSTITUTION "DFI"**: In general, under section 408(p), an employer must permit an employee to select the financial institution for the SIMPLE IRA to which the employer will make all contributions on behalf of the employee. In this case, the financial institution is referred to as a "Non-DFI". Alternatively, under section 408(p)(7), an employer may require that all SIMPLE contributions initially be made to a single designated financial institution selected by the employer. In this case, the financial institution is referred to as a "DFI". Refer to your employer's SIMPLE Retirement Plan document to determine if the financial institution is a DFI or a Non- DFI.

**Use of a Designated Financial Institution "DFI"** - If an employer requires that all SIMPLE contributions initially be made to a DFI, the following requirements must be met:

1. The employer and the financial institution must agree that the financial institution will be a DFI for the employer's SIMPLE plan;
2. The DFI must agree that, if a participant elects before the expiration of the employee's 60-day election period, the participant's balance will be transferred without cost or penalty to another SIMPLE IRA (or after the 2-year period no longer applies, to any IRA) to a financial institution selected by the participant; and
3. Each participant is given written notification describing the procedures under which, if a participant so elects, the participant's balance will be transferred without cost or penalty to another SIMPLE IRA (or after the 2-year period no longer applies, to any IRA) to a financial institution selected by the participant.

If the participant elects before the expiration of the 60-day election period to have the balance transferred without cost or penalty as described above, such election is valid only with respect to the balance attributable to SIMPLE contributions for the calendar year following that 60-day

election period (or, for the year in which an employee becomes eligible to make salary reduction contributions for the remainder of that year) and subsequent calendar years if such election so provides.

If the participant timely elects the transfer of the balance without cost or penalty as described above, the participant's balance must be transferred on a reasonably frequent basis, such as on a monthly basis. If a participant timely elects this transfer without cost or penalty, the Custodian reserves the right to restrict the investment to a specified investment option until transferred, even though a variety of investment options are available with respect to contributions that the participant has not elected to transfer.

A transfer is deemed to be made without cost or penalty if no liquidation, transaction, redemption or termination fee, or any commission, load (whether front-end or back-end) or surrender charge or similar fee or charge is imposed with respect to the balance being transferred that the participant has filed a timely election with the DFI. However, the DFI can charge a reasonable annual administrative fee to a SIMPLE IRA from which balances must be transferred in accordance with the participant's timely transfer election.

In order to timely elect a transfer without cost or penalty, the participant must indicate such election on the SIMPLE IRA Adoption Agreement attached hereto and must be received by the DFI no later than the expiration of the 60-day election period applicable to the employee. If the participant fails to timely elect such transfers without cost or penalty, the DFI reserves the right to charge any or all fees and expenses described in Section 8.05 of this SIMPLE IRA plan agreement.

**Use of a Non Designated Financial Institution "Non-DFI"** - If the employer's SIMPLE plan permits the participants to select their own financial institution to serve as trustee or custodian of the SIMPLE IRA, the rules explained above do not apply and the Custodian may charge any and all fees described in Section 8.05 of the SIMPLE IRA plan agreement.

**Transfers Defined** - A direct transfer is a payment from this SIMPLE IRA directly to another trustee or custodian of a SIMPLE IRA (or, after the 2-year period no longer applies, to the trustee or custodian of any IRA). Transfers do not constitute a distribution since you are never in receipt of the funds. The monies are transferred directly to the new trustee or custodian. If you should transfer all or a portion of your SIMPLE IRA to your former spouse's IRA under a divorce decree (or under a written instrument incident to divorce) or separation instrument, you will not be deemed to have made a taxable distribution, but merely a transfer. The portion so transferred will be treated at the time of the transfer as the IRA of your spouse or former spouse. If your spouse is the beneficiary of your SIMPLE IRA, in the event of your death, your spouse may "assume" your SIMPLE IRA. The assumed IRA is then treated as your surviving spouse's IRA.

**SUMMARY DESCRIPTION REQUIREMENTS:** In general, the Custodian of any SIMPLE IRA must annually provide to the employer maintaining the SIMPLE plan a Summary Description early enough to allow the employer to meet its notification obligations. If the Custodian of this SIMPLE IRA is a DFI, the Summary Description will be provided directly to the employer by the Custodian in the underlying SIMPLE plan agreement. If the Custodian of this SIMPLE IRA is a Non-DFI, the Summary Description will be provided directly to the employee by the Custodian. The employee agrees to have the employer complete certain information contained on the Summary Description with respect to the employer's SIMPLE plan provisions. A sample Summary Description for a Non-DFI is located on the following page. The Custodian of a "transfer SIMPLE IRA" is not required to provide this Summary Description. A SIMPLE IRA is a "transfer SIMPLE IRA" if it is not a SIMPLE IRA to which the employer has made contributions under the SIMPLE plan.

**PROCEDURES FOR WITHDRAWALS:** All distributions from this SIMPLE IRA must be requested in writing on a form provided to the participant by the Custodian. After the withdrawal form has been completed and executed by the recipient, the form must be either hand-delivered to the Custodian during normal business hours or mailed to the Custodian by first class mail, certified or registered mail prepaid through the U.S. Postal Service, or through any means of an expedited delivery service. After receipt of a properly executed withdrawal form, the Custodian will process the distribution as soon as administratively feasible.

**FEDERAL ESTATE AND GIFT TAXES:** Generally, there is no specific exclusion for SIMPLE IRAs under the estate tax rules. Therefore, in the event of your death, your SIMPLE IRA balance will be includible in your gross estate for federal estate tax purposes. However, if your surviving spouse is the beneficiary of your SIMPLE IRA, the amount in your SIMPLE IRA may qualify for the marital deduction available under Section 2056 of the Internal Revenue Code. A transfer of property for federal gift tax purposes does not include an amount which a beneficiary receives from a SIMPLE IRA plan.

**PENALTIES:** If you are under age 59 1/2 and receive a premature distribution from your SIMPLE IRA, an additional 10% (or 25% for certain SIMPLE IRA distributions) income tax will apply on the taxable amount of the distribution. If you make an excess deferral to your SIMPLE IRA and it is not corrected on a timely basis, an excise tax of 6% is imposed on the excess amount. This tax will apply each year to any part or all of the excess which remains in your account. If you are age 70 1/2 or 72 (See Article IV 4.4 above) or over or if you should die, and the appropriate required minimum distributions are not made from your SIMPLE IRA, an additional tax of 50% is imposed upon the difference between what should have been distributed and what was actually distributed.

**IRS APPROVAL AS TO FORM:** This SIMPLE IRA Custodial Agreement has been approved by the Internal Revenue Service as to form. This is not an endorsement of the plan in operation or of the investments offered.



**ADDITIONAL INFORMATION:** You may obtain further information on IRAs from your District Office of the Internal Revenue Service. In particular you may wish to obtain IRS Publication 590-A Contributions to Individual Retirement Arrangements (IRAs), 590-B Distributions from Individual Retirement Arrangements (IRAs), and 560 Retirement Plans for Small Business (SEP, SIMPLE and Qualified Plans).

**AIRDROPS & BLOCKCHAIN FORKS:** If you hold digital assets inside your IRA, you may be the recipient of additional digital assets through airdrops or blockchain network forks from time to time. Digital Trust aims to support these events provided it has the technology and resources to do so and has been examined in accordance with Digital Trust's policy regarding decisions on digital assets to be custodied.

However, Digital Trust does not control these events, and may not be able to store, access and/or provide a trading venue for the new asset(s) resulting from an airdrop or fork. Furthermore, these capabilities may take an undefined amount of time to develop and are not guaranteed to be developed.

Support for airdrops and forks are evaluated on a case-by-case basis on many factors, including but not limited to: 1) client interest in the new asset(s); 2) value, liquidity and market structure of the new asset(s); 3) regulatory, legal and compliance considerations surrounding the new asset(s); and 4) administrative feasibility of supporting the airdrop or fork and associated asset(s) for clients.

You understand this policy and acknowledge that by holding digital assets inside your IRA you are not guaranteed to receive additional digital assets through airdrops or blockchain forks, and hereby indemnify and hold Digital Trust harmless from any and all damages and claims arising from or in connection with airdrops or blockchain forks or similar events involving the distribution of digital assets and the associated asset(s).

## FINANCIAL DISCLOSURE

**In General:** IRS regulations require the Custodian to provide you with a financial projected growth of your IRA account based upon certain assumptions.

**Growth in the Value of Your IRA:** Growth in the value of your IRA is neither guaranteed nor projected. The value of your IRA will be computed by totaling the fair market value of the assets credited to your account. At least once a year the Custodian will send you a written report stating the current value of your IRA assets. The Custodian shall disclose separately a description of:

- the type and amount of each charge
- the method of computing and allocating earnings, and
- any portion of the contribution, if any, which may be used for the purchase of life insurance.

**Custodian Fees:** The Custodian may charge reasonable fees or compensation for its services and it may deduct all reasonable expenses incurred by it in the administration of your IRA, including any legal, accounting, distribution, transfer, termination or other designated fees. Any charges made by the custodian will be separately disclosed on an attachment hereto. Such fees may be charged to you or directly to your custodial account. In addition, depending on your choice of investment vehicles, you may incur brokerage commissions attributable to the purchase or sale of assets.

**Non-Interest-Bearing Accounts:** You hereby appoint Digital Trust as your attorney-in-fact with respect to investments and distributions concerning your account at Digital Trust. As part of this, among other things, you direct Digital Trust:

1. to deposit all cash for which you have not already provided investment instructions into a pooled custodial deposit account or accounts with one or more third party financial organizations selected by Digital Trust at Digital Trust's sole discretion and without any further approval from you or other Account Holders provided that any and all such accounts qualify as common investment funds under IRC Section 408(a)(5), such deposit accounts may include without limitation negotiable order of withdrawal accounts, checking accounts, savings accounts, money market accounts, certificates of deposit or similar accounts,
2. to retain such interest as further compensation for the services it renders to its Account Holders and, in its sole discretion, place the funds in a non-interest-bearing pooled deposit account or accounts,
3. to enter into such sub-accounting agreements as may be required by the nature of the deposit accounts between the selected financial organizations and Digital Trust under which Digital Trust may receive a fee from the selected financial organizations to keep all records pertaining to the Account Holder's share of the pooled custodial accounts which fees will be retained by Digital Trust, and
4. to sign checks from time to time on the pooled custodial accounts which are to be honored by the financial organizations for withdrawal of Account Holder's funds from such pooled custodial accounts for distributions, investments, fees and other disbursements directed or agreed to by the Account Holder, and
5. to retain digital assets resulting from any distribution event that are administratively unfeasible as further compensation for the services it renders to Account Holders and, in its sole discretion, liquidate these holdings if possible.

You hereby indemnify and agree to hold such financial organization(s) harmless from following the directions received from Digital Trust on your behalf including but not limited to honoring checks drawn on the Account Holder's portion of the pooled custodial accounts that are written by Digital Trust.