



# Custodial Account Agreement and Disclosures

## Traditional SIMPLE IRA

Important legal information and disclosures related to your  
Individual Retirement Account

Effective June 1, 2024

Several recent law changes have impacted Individual Retirement Accounts (IRAs). Your IRA Plan document cannot be updated to reflect these changes until the Internal Revenue Service releases their version of the language that must appear in your Plan. As your IRA provider, we await technical guidance from the Internal Revenue Service and the Department of Labor in order to administer the enacted provisions.

Please refer to the addendum at the end of this document titled "Important Information Regarding Your Individual Retirement Account" for an outline of recent tax law changes.

Please consult with your tax, legal, or investment advisor if you have questions about how these law changes may influence your retirement planning.

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This Traditional SIMPLE Individual Retirement Custodial Account Agreement (the "Agreement") is made between Fortis Bank ("Custodian"), IRA Plan Partners, LLC DBA iPlanGroup ("Administrator") and each individual (the "Depositor") who executes an Application for the purpose of establishing a Traditional SIMPLE IRA Custodial Account under Section 408(a) and 408(p) of the Internal Revenue Code of 1986, as amended. Articles I through VII are the required provisions found in Form 5305-SA and, as permitted, Custodian has added Articles VIII through X.

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#### ARTICLE I

- 1.01 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

- 2.01 The participant's interest in the balance in the custodial account is nonforfeitable.

#### ARTICLE III

- 3.01 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)).
- 3.02 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

- 4.01 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.
- 4.02 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 1/2. 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.
- 4.03 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:
    - (1) 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)(3) 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)(3) below, over such period.
    - (2) 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)(3) below if longer.
    - (3) 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.

**SIMPLE Individual Retirement Custodial Account**  
(Under Sections 408(a) and 401(p) of the Internal Revenue Code)

Form 5305-SA

- (b) If the participant dies before the required beginning date, the remaining interest will be distributed in accordance with paragraph (1) below or, if elected or there is no designated beneficiary, in accordance with paragraph (2) below.
- (1) The remaining interest will be distributed in accordance with paragraphs (a)(1) and (a)(2) above (but not over the period in paragraph (a)(3), 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 1/2. 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 paragraph (a)(2) above (but not over the period in paragraph (a)(3), even if longer), over such spouse's designated beneficiary's life expectancy, or in accordance with paragraph (2) below if there is no such designated beneficiary.
- (2) The remaining interest will be distributed by the end of the calendar year containing the fifth anniversary of the participant's death.
- 4.04 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.
- 4.05 The minimum amount that must be distributed each year, beginning with the year containing the participant's required beginning date, is known as the "required minimum distribution" and is determined as follows.
- (a) The required minimum distribution under paragraph 4.02(b) for any year, beginning with the year the participant reaches age 70 1/2, is the participant's account value at the close of business on December 31 of the preceding year divided by the distribution period in the uniform lifetime table in Regulations section 1.401(a)(9)-9. However, if the participant's designated beneficiary is his or her surviving spouse, the required minimum distribution for a year shall not be more than the participant's account value at the close of business on December 31 of the preceding year divided by the number in the joint and last survivor table in Regulations section 1.401(a)(9)-9. The required minimum distribution for a year under this paragraph (a) is determined using the participant's (or, if applicable, the participant and spouse's) attained age (or ages) in the year.
- (b) The required minimum distribution under paragraphs 4.03(a) and 4.03(b)(1) for a year, beginning with the year following the year of the participant's death (or the year the participant would have reached age 70 1/2, if applicable under paragraph 4.03(b)(1)) is the account value at the close of business on December 31 of the preceding year divided by the life expectancy (in the single life table in Regulations section 1.401(a)(9)-9) of the individual specified in such paragraphs 4.03(a) and 4.03(b)(1).
- (c) The required minimum distribution for the year the participant reaches age 70 1/2 can be made as late as April 1 of the following year. The required minimum distribution for any other year must be made by the end of such year.
- 4.06 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**

- 5.01 The participant agrees to provide the Custodian or Administrator 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.
- 5.02 The Custodian or Administrator agrees to submit to the Internal Revenue Service (IRS) and participant the reports prescribed by the IRS.
- 5.03 The Custodian or Administrator 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**

- 6.01 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**

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

**ARTICLE VIII**

- 8.01 **Applicable Law:** This Custodial Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, where the custodian is organized. Venue for any disputes arising under this Agreement shall be proper in

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(Under Sections 408(a) and 401(p) of the Internal Revenue Code)

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the State of Colorado, Denver County, and all Parties submit to the jurisdiction of the courts in that venue for the litigation of any disputes concerning this Agreement. The term Depositor also includes the Depositor's Beneficiary, where appropriate throughout this Agreement.

**8.02 Custodian and Administrator:**

- (a) The Custodian for the Custodial Account is Fortis Bank.
- (b) The Administrator for the Custodial Account is IRA Plan Partners, LLC DBA iPlanGroup, an Ohio limited liability company.

**8.03 Appointment of the Administrator and the Custodian:** The Depositor hereby appoints IRA Plan Partners, LLC DBA iPlanGroup to act as Administrator of the Custodial Account and appoints Fortis Bank to act as the Custodian. The Depositor understands that the Administrator has entered into an administrative services agreement with the Custodian under which the Administrator is to provide administrative services for the Custodial Account. Under the terms of the administrative services agreement, all communication between the Depositor and the Custodian shall be handled through the Administrator. The Administrator shall perform duties which include, but are not limited to, executing applications or adoption agreements, transfers, stock powers, escrow accounts, purchase agreements, notes, deeds, conveyances, liens, placing assets or liabilities in the Administrator's name for the benefit of the Depositor to provide administrative feasibility for such transactions, depositing contributions, and income, paying liabilities and distributions, and government reporting for Depositors who have established a Custodial Account with the Custodian. All limitations of duties to the Depositor, and releases or indemnifications of the Custodian by the Depositor in this Agreement shall apply equally to the Administrator. The Depositor acknowledges and agrees that the Administrator is independent of the Custodian and not empowered or authorized to be obligated or bound by the Custodian, and vice versa. Furthermore, nothing in this Agreement shall be construed to render the Administrator, any future trust entity, affiliate, employee, joint venture partner, strategic partner, as an agent of, or with the Custodian.

**8.04 Annual Accounting:** The Administrator shall, at least annually, provide the Depositor or Beneficiary (in the case of death) with an accounting of such Depositor's account. Such accounting shall be deemed to be accepted by the Depositor or the Beneficiary if the Depositor or Beneficiary does not object in writing within 60 days after the mailing of such accounting statement.

**8.05 Amendment:** The Depositor irrevocably delegates to the Custodian the right and power to amend this Custodial Agreement. Except as hereafter provided, the Custodian will give the Depositor 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 Depositor 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 Depositor shall be deemed to have consented to any such amendment unless the Depositor notifies the Custodian to the contrary within 30 days after notice to the Depositor and requests a distribution or transfer of the balance in the account.

**8.06 Resignation and Removal of Custodian or Administrator:**

- (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 or Administrator and replace the Custodian or Administrator with a successor trustee or custodian of the Depositor's choice by giving 30 days' notice of such removal and replacement. The Custodian or Administrator shall then deliver the assets of the account as directed by the Depositor. However, the Custodian or Administrator 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 or administrator upon satisfaction of such fees and expenses.
- (c) The Custodian or Administrator 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 or Administrator of the name and address of the successor trustee or custodian, and provide the Custodian or Administrator 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 or Administrator 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 or Administrator 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 trust, and the Depositor shall be wholly responsible for the tax consequences of such distribution.

In either case, the Custodian or Administrator 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 or Administrator 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 or Administrator shall pay over any remainder of the reserve to the successor trustee or custodian or to the Depositor, as the case may be.

- (d) Administrator may at any time select a qualified successor custodian by giving the Depositor and Custodian written notice at least 30 days prior to the effective date of such 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 Custodial Account balance or designate a different successor trustee or custodian and notify the Custodian and Administrator of such designation. If the Depositor does not request distribution of the Custodial Account balance or notify the Administrator 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 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 Custodial Account to the successor custodian. The successor custodian may rely on any information, including beneficiary designations, previously provided by the Depositor to the Custodian.

**8.07 Custodian's and Administrator's Fees and Expenses:**

- (a) This Section 8.06 of the Custodial Agreement shall be governed by the requirements of Section 408(p)(7) and IRS Notice 97-6, Section J, and is further explained in the accompanying SIMPLE IRA Disclosure Statement.
- (b) The Depositor 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 Depositor 30 days prior written notice.
- (c) The Depositor agrees to pay any expenses incurred by the Custodian or the Administrator 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, a valuation fee from a qualified independent third-party appraiser pursuant to section 8.03, 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 Depositor, but the Depositor shall be responsible for any deficiency.
- (e) In the event that for any reason the Custodian or Administrator is not certain as to who is entitled to receive all or part of the Custodial Funds, the Custodian or Administrator reserves the right to withhold any payment from the Custodial account, to request a court ruling to determine the disposition of the Custodial account assets, and to charge the Custodial account for any expenses incurred in obtaining such legal determination.
- (f) The Custodian shall be entitled to receive, from the assets held in the Custodial Account, a fee equal in amount to all income that is generated from any Undirected Cash (defined as any cash in the Custodial Account not invested pursuant to a specific investment direction by Depositor). Custodian's fees from the Undirected Cash in the Custodial Account are associated with cash management activities, including, but not limited to, account maintenance, depository bank services, transaction processing, sub-accounting, record keeping, and other services performed under the terms of this Agreement. Custodian retains the right, but does not have the obligation, to reduce this fee by rebating a portion of the fee into the Custodial Account. The Depositor agrees that this fee may be retained by the Custodian as compensation for the services provided by Custodian under this Agreement. The Custodian may pay all or an agreed portion of this fee to the Administrator as agreed between the Custodian and the Administrator. The Custodian reserves the right to change all or part of the Custodial Fee Schedule at its discretion with 30 days advance written notice to Depositor.
- (g) Depositor shall be responsible for paying any transaction fees that may be charged by 3<sup>rd</sup> parties in connection with opening, maintaining, and transacting in this account.
- (h) Custodian shall retain the right to protect itself from loss involving a Depositor's account, including the authority to freeze the assets of the account, liquidate assets, or change dividend options for any unpaid fee balance.

- (i) If an arrangement is in effect for a third party to pay fees for the servicing of a Depositor's account, Depositor shall become responsible for payment of fees in the event the third party fails to do so in a timely fashion or if the arrangement between the Depositor and the third party is terminated by either party.
- (j) In addition to any portion of the Custodian's fee that the Administrator receives from the Custodian as provided in Section 8.07(e), the Administrator shall be entitled to fees for account opening, asset purchases and sales, distributions, transfers, terminations, and annual administration of the Custodial Account, along with other miscellaneous fees, as disclosed in a fee schedule provided by the Administrator to the Depositor. The Custodian or Administrator may change its fee schedule at any time by giving the Depositor 30 days prior written notice. If payment is not received within thirty (30) days from the due date reflected on an invoice, a past due notice will be mailed to Depositor and a late fee equal to the lower of (a) 1.5% of the outstanding invoice for every month or partial month that the invoice is outstanding or (b) the maximum late penalty permitted under the state law where the Administrator is organized, shall be assessed to the Custodial Account. Additionally, assets may be liquidated from the account, without notice, for any outstanding fee which has not been paid. If fees are not paid within thirty (30) days after Administrator has mailed the past due notice, Administrator will begin the process of closing the Custodial Account. Any asset distributed directly to Depositor as part of closing the Custodial Account will be reported to the IRS on Form 1099-R and may subject the Depositor to possible taxes and penalties. Accounts with past due fees, unfunded accounts, and accounts with zero value will continue to incur administration fees until such time as Depositor notifies Administrator (on a form prescribed by Custodian) of Depositor's intent to close the account or until Custodian resigns.

8.08 **Withdrawal Requests:** All requests for withdrawal shall be in writing on a form provided by the Administrator. Such written notice must also contain the reason for the withdrawal and the method of distribution being requested. The Custodian or Administrator reserves the right to reject any withdrawal request it may deem appropriate and to apply to a court of competent jurisdiction to make a determination with respect to the proper party eligible to receive a distribution from the account.

8.09 **Age 70 1/2 Default Provisions:** If the Depositor does not choose any of the distribution methods under Article IV of this Custodial 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 Administrator with a proper distribution request acceptable to the Custodian or Administrator. The Administrator 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 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 1<sup>st</sup> of the distribution calendar year and such spouse is more than 10 years younger than the Depositor.

8.10 **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 or Administrator with a proper distribution request acceptable to the Administrator and other documentation that may be required by the Custodian or Administrator. A beneficiary may at any time request a complete distribution of his or her remaining interest in the Custodial Account. The Administrator 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 Administrator with a proper distribution request acceptable to the Custodian or Administrator and other documentation that may be required by the Custodian or Administrator. A beneficiary may at any time request a complete distribution of his or her remaining interest in the Custodial Account. The Administrator reserves the right to require a minimum balance in the account in order to make periodic payments from the account.

8.11 **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.

8.12 **Responsibilities:** Depositor agrees that all information and instructions given to the Administrator by the Depositor is complete and accurate and that the Custodian or Administrator shall not be responsible for any incomplete or inaccurate information provided by the Depositor or Depositor's beneficiary(ies). Depositor and Depositor's beneficiary(ies) agree 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 or the Administrator.

8.13 **Designation of Beneficiary:**

- (a) Except as may be otherwise required by State law, in the event of the Depositor's death, the balance in the account shall be paid to the beneficiary or beneficiaries designated by the Depositor on a beneficiary designation form acceptable to and filed with the Administrator. The Depositor may change the Depositor's beneficiary or beneficiaries at any time by filing a new beneficiary designation with the Administrator. If no beneficiary designation is in effect, if none of the named beneficiaries survive the Depositor, or if the Custodian or Administrator cannot locate any of the named beneficiaries after reasonable search, any balance in the account will be payable to the Depositor's estate.
- (b) If the Custodian or Administrator 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 Administrator. 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**

9.01 **Investment of Contributions:**

- (a) At the direction of the Depositor (or of the beneficiary upon the Depositor's death), the Administrator shall invest all contributions to the account and earnings thereon in investments acceptable to the Custodian, which may include marketable securities traded on a recognized exchange or "over the counter" (excluding any securities issued by the Custodian), covered call options, certificates of deposit, real or personal property, deeds of trust, mortgages and other forms of notes, limited liability companies or limited liability partnerships, private stock, private placements, cryptocurrency, and other investments to which the Custodian consents, in such amounts as are specifically selected and specified by the Depositor in orders to the Administrator in such form as may be acceptable to the Custodian or Administrator, without any duty to diversify and without regard to whether such property is authorized by the laws of any jurisdiction as a trust investment. The Administrator shall be responsible for the execution of such orders and for maintaining adequate records thereof. However, if any such orders are not received as required, or, if received, are unclear in the opinion of the Custodian or Administrator, all or a portion of the contribution may be held uninvested without liability for loss of income or appreciation, and without liability for interest pending receipt of such orders or clarification, or the contribution may be returned.
- (b) Depositor hereby acknowledges and agrees that the Administrator will deposit all Undirected Cash in the Custodial Account into pooled deposit accounts at one or more FDIC or other United States government insured institutions or in United States government securities or in securities that are insured or guaranteed by the United States government pending further investment direction by Depositor. All income generated by Undirected Cash in Custodian's pooled deposit accounts shall be retained by Custodian as fees, as described in paragraph 8.06(e) above. Depositor authorizes Custodian to transfer any Undirected Cash in the Custodial Account into any FDIC insured financial institution or in United States government securities or in securities that are insured or guaranteed by the United States government without any further approval or direction by the Depositor. The account is insured for up to the amount available under FDIC insurance; amounts in excess of FDIC insurance limits are not insured.
- (c) Depositor hereby acknowledges that investments other than Undirected Cash described in section 9.01(b) are:
  - (a) not insured by the Federal Deposit Insurance Corporation (FDIC) or any other federal or state deposit guaranteed fund;
  - (b) not guaranteed by the Custodian, the Administrator, and/or agents; and
  - (c) are subject to investment risk, including the possible loss of the entire amount invested.

9.02 **Indemnification:** The Custodian or Administrator shall have no duty other than to follow the written instructions of the Depositor, shall be under no duty to question said instructions, and shall not be liable for any investment losses sustained by the Depositor under any circumstances. By performing services under this Agreement, the Custodian or Administrator are acting as the agent of Depositor, and nothing in this Agreement shall be construed as conferring fiduciary status on the Custodian or Administrator. Depositor agrees to indemnify and hold harmless the Custodian or Administrator from any and all claims, damages, liability, actions, costs, expenses (including reasonable attorneys' fees) and any loss to the Custodial Account, to the Depositor or to Depositor's beneficiary(ies) as a result of any action taken (or omitted to be taken) pursuant to and/or in connection with any investment transaction directed by Depositor or Depositor's investment advisor or resulting from serving as the Custodian or Administrator, including, without limitation, claims, damages, liability, actions and losses asserted by the Depositor or the Depositor's beneficiary(ies).

9.03 **Registration:** All assets of the Custodial Account shall be registered in the name of the Custodian, or in the name of the Administrator, who shall be the nominee of the Custodian for purposes of holding assets of the Custodial Account. The same Administrator may be the nominee of the Custodian with respect to the holding of assets of other investors whether

or not held under agreements similar to this one or in any capacity whatsoever; and the Custodian may commingle the assets so held to the extent permitted by law. However, the Custodial Account and each other account or asset so held shall each be separate and distinct; a separate account therefore shall be maintained by the Custodian (or by the Administrator on behalf of the Custodian). The assets of the Custodial Account may be held by the Custodian in individual or bulk segregation either in the Custodian's vaults or vaults of the Custodian's agent or through brokerage accounts of entities permitted to hold assets of the applicable type under the Securities Exchange Act of 1934.

- 9.04 **Transfers In:** Depositor acknowledges that Custodian or Administrator are not liable or responsible for actions or omissions in the administration, custody, or investments of the assets transferred from a prior custodian until such date as Custodian shall complete acceptance as successor Custodian and shall be in possession of the assets, nor shall Custodian or Administrator have any duty or responsibility to inquire into or take any action with respect to any acts performed by the prior custodian, trustee, or administrator.
- 9.05 **Interested Party:** The Depositor may appoint an Interested Party for the SIMPLE IRA Account using a form provided by the Administrator. An Interested Party will have the authority to view Depositor's account and access account related information, as well as communicate with the Administrator regarding the account. An Interested Party shall not have the authority to transact on or make changes to an account. Any Interested Party acts as Depositor's agent, and shall not be viewed as an affiliate, agent, or employee of the Custodian or Administrator. Depositor may remove an Interested Party by providing written notice on a form acceptable to the Custodian or Administrator.
- 9.06 **Power of Attorney:** The Depositor may grant the power of attorney for the SIMPLE IRA Account to a designated individual using a form or document provided by or acceptable to the Custodian or Administrator. A person granted power of attorney will be subject to the provisions of this Agreement, and shall possess only those powers specifically listed in the form or document designating the power of attorney. Depositor may remove a designation of power of attorney by providing written notice on a form provided by or acceptable to the Custodian or Administrator.
- 9.07 **Referring Representatives:** If the services of the Custodian or Administrator are suggested by the referral of a financial advisor, CPA, attorney, self-directed plan document provider, or other third party (a "Referring Representative"), such Referring Representative shall not be deemed an agent, affiliate, or employee of the Custodian or Administrator. Custodian and Administrator are not responsible for, and shall not be bound by any statements, representations, warranties, or agreements made by any Referring Representative.
- 9.08 **Investment Advisor:** The Depositor may appoint an Investment Advisor, qualified under Section 3(38) of the Employee Retirement Income Security Act of 1974, to direct the investment of Depositor's SIMPLE IRA. The Depositor shall notify the Administrator in writing of any such appointment by providing the Administrator 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 it 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 or Administrator shall comply with any investment directions furnished to it by the Investment Advisor, unless and until it receives written notification from the Depositor that the Investment Advisor's appointment has been terminated. The Custodian or Administrator shall have no duty other than to follow the written investment directions of such Investment Advisor, shall be under no duty to question said instructions, and shall not be liable for any investment losses sustained by the Depositor as a result of the Investment Advisor's instructions under any circumstances.
- 9.09 **No Investment Advice:** The Depositor acknowledges and agrees that the Custodian and Administrator do not provide or assume responsibility for tax, legal or investment advice with respect to the investment and assets of Depositor's account and shall not be liable for any loss which results from Depositor's exercise of control over the custodial account. The Depositor and the Depositor's beneficiary(ies) release, indemnify and agree to hold the Custodian and Administrator harmless in the event that any investment or sale of the assets in the Custodial Account pursuant to a direction by the Depositor or the Depositor's Investment Advisor violates any federal or state law or regulation or otherwise results in a disqualification, penalty, tax or fine imposed upon the Custodian, the Administrator, the Depositor, or the Custodial Account.
- 9.10 **Investments:** The Depositor may, at the Depositor's discretion, direct the Administrator to purchase "alternative" investments which shall include, but not be limited to, investments which are individually negotiated by the Depositor and/or the Depositor's agent, or part of a private placement of securities offered in reliance upon exemptions provided by Sections 3(B) and 4(2) of the Securities Act of 1933 and Regulation D promulgated thereunder. It is the Depositor's sole responsibility to determine whether or not the Depositor's selected investment(s) is required to be registered as a security with any applicable federal and/or state regulatory authority. The Custodian and Administrator reserve the right to not follow such direction or process such investment(s) for administrative reasons. Such action should not be construed as investment advice or an opinion by the Custodian or Administrator as to the investment's prudence or viability. If the Depositor or the Depositor's agent should direct the Administrator to purchase an alternative investment, as defined above, the following special certifications and provisions shall apply:
- (a) The Depositor agrees to submit or cause to be submitted all offering documentation related to the alternative investment for an administrative review by the Administrator or Custodian, if so requested. The Custodian or Administrator reserve the right to charge a reasonable fee for such administrative review.



**SIMPLE Individual Retirement Custodial Account**  
(Under Sections 408(a) and 401(p) of the Internal Revenue Code)

Form 5305-SA

- (b) If the alternative investment(s) contains a provision for future contractual payments or assessments, including margin calls, the Depositor acknowledges that such payments shall be borne solely by the Depositor's Account, that authorization to make such payments shall come from the Depositor or the Depositor's agent, and that making such payments may reduce or exhaust the value of the Depositor's Account. The Depositor further agrees to maintain sufficient liquid funds in the Depositor's Account to cover any such payments or assessments and agrees that the Custodian or Administrator is not responsible for monitoring the balance of the account to verify compliance with this Section.
- (c) If the alternative investment(s) contain administrative and/or management requirements or duties beyond the Custodian's or Administrator's capabilities or expertise to provide, then the Depositor agrees to seek out suitable agents or counsel necessary to perform such duties and deliver a written service agreement acceptable to the Custodian or Administrator for execution on behalf of the Depositor's Account.
- (d) If the Depositor directs the Administrator to enter into an individually negotiated debt instrument, including a promissory note, deed of trust, real estate contract, mortgage note or debenture, the Custodian and Administrator strongly encourage the Depositor to retain the services of a third-party and provide a note servicing agreement with a third-party agent on a form acceptable to the Custodian or Administrator. Said note servicing agent shall be the Depositor's agent and not the agent of the Custodian or Administrator and shall be responsible for administering the terms of the debt instrument on behalf of the Depositor's Account. Should the note servicing agent ever become unwilling or unable to perform the duties outlined in the note servicing agreement, then the Depositor understands and agrees that all duties of the note servicing agent shall revert to the Depositor until a successor agent is named. The Custodian or Administrator will not act as a note servicing agent, i.e., the Custodian does not monitor the Depositor's account to ensure receipt of note payments, notify the Depositor in the event of default, prepare or compute payoff balances, prepare or file Form 1098, etc.
- (e) The Administrator is responsible for safekeeping only those documents which the Depositor or the Depositor's agent delivers to the Administrator.
- (f) The Depositor agrees to be responsible for any and all collection actions, including contracting with a collection agency or instituting legal action, and bring any other suits or actions which may become necessary to protect the rights of the account as a result of the operation or administration of the investment(s).
- (g) Once the Depositor or the Depositor's agent authorizes funds to be distributed from the Depositor's account for purposes of investment, the Depositor agrees to be responsible for the following:
  - (1) verifying that the individual or investment company that the Depositor selected placed the Depositor's funds into the proper investment;
  - (2) obtaining the necessary documentation from the individual or investment company to verify that the funds are correctly invested, including, but not limited to, shares or units, proper recordation, loan to value ratio, etc.; and
  - (3) sending the original documentation evidencing the investment to the Administrator or, in the case of a promissory note investment, to a third-party servicing agent. The Custodian or Administrator will not monitor the account to ensure receipt of such documentation and will rely solely on the Depositor to provide this information.

9.11 **Prohibited Transactions:** The Depositor acknowledges and agrees that the Custodial Account is subject to the provisions of section 4975, which defines certain prohibited transactions. Custodian or Administrator shall make no determination as to whether any transaction or investment in the Custodial Account is prohibited under sections 4975, 408(e), or 408A, or under any other state or federal law. The Depositor understands that should the Custodial Account engage in a prohibited transaction, and depending on the type of prohibited transaction, certain assets of the Custodial Account will be deemed to have been distributed and may be subject to taxes as well as possible penalties. The Depositor agrees that he or she will consult with a tax or legal professional to ensure that none of the investments in the Custodial Account will constitute a prohibited transaction, and that investments comply with all applicable federal and state laws, regulations, and requirements.

9.12 **Prohibited Assets:** Depositor affirms that no assets deemed illegal or impermissible investments under Colorado or federal law shall be transferred into or invested into with the account. Illegal or impermissible investments include, but are not limited to holdings of cannabis or other illegal substances, illegal gambling, or illegal artifacts. Should the account ever come to hold an illegal or impermissible investment under Colorado or federal law, Depositor will immediately notify the Administrator.

9.13 **Unrelated Business Income Tax:** The Depositor acknowledges and agrees that the Custodial Account is subject to the provisions of Internal Revenue Code Sections 511-514 relating to Unrelated Business Taxable Income (UBTI) of tax-exempt organizations. If the Depositor directs the Administrator to make an investment in the Custodial Account which generates UBTI, the Depositor agrees to prepare or have prepared an IRS Form 990-T tax return, an application for an Employer Identification Number (EIN) for the Custodial Account (if not previously obtained), and any other documents that may be required, and to submit them to the Administrator for filing with the Internal Revenue Service at least ten (10) days prior to the date on which the return is due. Depositor will also provide instructions authorizing the Custodian or Administrator to execute the forms on behalf of the Custodial Account and to pay the applicable tax from the assets in the Custodial Account. Depositor understands and acknowledges that the Custodian or Administrator shall not make any

determination of whether or not investments in the Custodial Account generate UBTI; and have no duty to monitor whether the Custodial Account has incurred UBTI. Custodian or Administrator shall have no duty with respect to UBTI other than to file Form 990T upon the direction of the Depositor.

- 9.14 **Disclosures and Voting:** The Administrator shall deliver, or cause to be executed and delivered, to Depositor all notices, prospectuses, financial statements, proxies, and proxy soliciting materials relating to assets credited to the account. The Custodian or Administrator 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 Administrator of adequate written instructions from Depositor.
- 9.15 **Valuations:** The assets in the Custodial Account shall be valued annually at the end of each calendar year in accordance with section 408(i) and other guidance provided by the IRS, but Custodian or Administrator retains the right to value the assets in the Custodial Account more frequently. In valuing the assets of the Custodial Account for record keeping and government reporting purposes, Custodian or Administrator will ascertain the fair market value of each investment through utilizing various third-party pricing sources and designated valuation agents. However, Custodian or Administrator does not guarantee the accuracy of prices obtained from these sources. Where assets are illiquid or their value is not readily ascertainable on either an established exchange or generally recognized market, the valuation is by necessity not a true market value and is merely an estimate of value, and Depositor agrees not to rely on any such valuation for any other purposes. Depositor agrees to provide the year end value of any illiquid and/or non-publicly traded investments, which may include without limitation limited partnerships, limited liability companies, privately held stock, real estate investment trusts, hedge funds, real estate, secured and unsecured promissory notes, and any other investments as Custodian or Administrator shall designate, by no later than the following January 15th. If Custodian or Administrator does not receive a current year end fair market value by the following January 15th for any such investment, the Custodian or Administrator may take appropriate actions to receive the fair market value from an independent third-party that specializes in valuations, paying the cost of such valuation from the liquid assets held in the Custodial Account, or in the alternative after having first received the cost of the valuation from Depositor or Depositor's beneficiary(ies) if liquid investments in the Custodial Account are otherwise insufficient. For those custodial assets where fair market value is not readily ascertainable, the Depositor agrees that the Depositor will provide to the Custodian or Administrator a qualified independent appraisal of the asset. If the Depositor does not provide such an appraisal, the Custodian or Administrator may report the asset's value at its last known fair market value or at its acquisition cost. Unless Custodian or Administrator has received a written fair market valuation to the contrary, promissory notes and privately offered corporate debt will have valuations reflected at the face value shown on the original note or debt instrument, or if the note is subject to an amortization schedule and the amortization schedule has been provided to Custodian or Administrator by Depositor, valuation may be shown at the principal amount shown on the amortization schedule as of the end of the previous year. Depositor, and upon Depositor's death Depositor's beneficiary(ies), agree to indemnify and hold harmless Custodian or Administrator from any and all losses, expenses, settlements, or claims with regard to investment decisions, distribution values, tax reporting, or any other financial impact or consequence relating to or arising from the valuation of assets in the Custodial Account.
- 9.16 **Insurance, Tax and Other Payments:** Depositor acknowledges and agrees that they hold sole responsibility for obtaining insurance coverage for the assets in the Custodial Account. The Custodian or Administrator shall not bear or assume any responsibility to notify the Depositor or to secure or maintain any fire, casualty, liability, or other insurance coverage, including but not limited to title insurance coverage, on any real or personal property owned in the Custodial Account or on any property which serves as collateral under any mortgage, deed of trust, or other security instrument with respect to any promissory note or other evidence of indebtedness in the Custodial Account. The Depositor acknowledges and agrees that it is the sole responsibility of the Depositor to determine what insurance is necessary or appropriate for any investment in the Custodial Account, and to direct the Administrator in writing (on a form acceptable to the Custodian or Administrator) to pay the premiums for any such insurance. The Custodian or Administrator shall not be responsible for notification or payments of any real estate taxes, homeowners' association dues, utilities, or other charges with respect to any investment held in the Custodial Account unless the Depositor specifically directs the Administrator to pay the same in writing (on a form acceptable to the Custodian or Administrator) within a sufficient period of time for such direction to be accomplished in accordance with the normal business practices of the Custodian or Administrator, and sufficient funds are available to pay the same from the Custodial Account. The Depositor acknowledges and agrees that it shall be the Depositor's responsibility to provide to the Administrator and/or to ensure that the Administrator has received any and all bills for insurance, taxes, homeowners' dues, utilities, or other amounts due for assets held in the Custodial Account. Furthermore, the Depositor agrees that it shall be the Depositor's responsibility to determine that payments have been made by verifying the payments on the Depositor's Custodial Account statements. The Depositor shall bear any and all risk associated with the failure to obtain and/or maintain proper insurance coverage to protect the assets of the Custodial Account and/or fees and penalties associated with the Depositor's failure to pay taxes or other payments related to the assets of the Custodial Account.
- 9.17 **Legal Actions:**
- (a) Depositor assumes sole responsibility for the prosecution or defense of all legal actions involving the SIMPLE IRA which may become necessary for the protection of the assets of the SIMPLE IRA, including any actions where Custodian or Administrator is named. If Custodian or Administrator is named as a defendant in any legal proceeding in state, federal, or local court or arbitration as a result of the assets in Depositor's account, Depositor agrees to retain legal counsel to represent the Custodian or Administrator and pay any and all expenses related to the legal proceeding or retained counsel. If Depositor initiates legal actions against a 3rd party regarding the

assets in Depositor's account, Depositor agrees to act as plaintiff titled as "Fortis Bank FBO {Depositor's Name} SIMPLE IRA". Depositor further agrees to provide Custodian or Administrator with copies of all pleadings, motions, discovery, orders, and final resolution documents on request, and to execute legal actions in a manner that does not expose Custodian or Administrator to cost or legal risk.

- (b) Depositor acknowledges that Custodian or Administrator will not initiate legal actions on behalf of the Depositor or the SIMPLE IRA, and will not participate in legal actions without specific instructions from the Depositor. Depositor has sole authority and responsibility to execute legal action, and shall indemnify and hold harmless Custodian, Administrator, and their respective officers, directors, and employees from any loss, expense, or liability that may arise from legal action.
- (c) Should the Custodian or Administrator determine that separate counsel is required, the Custodian or Administrator has the right to charge Depositor, or Depositor's SIMPLE IRA, for any fees or expenses associated with the retention of counsel.

**ARTICLE X - MISCELLANEOUS PROVISIONS**

**10.01 Electronic Communication:**

- (a) Subject to any limitations contained in Treasury Regulation section 1.401(a)-21 and any other applicable federal or state law or regulation, Depositor acknowledges and agrees that the Custodial Account shall be subject to the provisions of the Uniform Electronic Transactions Act, as passed in the state where the Custodian is organized, and the federal Electronic Signature in Global and National Commerce Act (ESIGN Act, as contained in 15 U.S.C. 7001), as those laws pertain to electronic communication, electronic signatures, and electronic storage of Custodial Account records. Pursuant to Colorado Revised Statutes 24-71.3-112, in lieu of the retention of the original records, Custodian may cause any or all of its records, and records at any time in its custody, to be photographed or otherwise reproduced to permanent form, and any such photograph or reproduction shall have the same force and effect as the original thereof and may be admitted in evidence equally with the original.
- (b) Custodian is authorized to accept email as a form of written communication, and to accept instructions to act on the account via facsimile transmission.

**10.02 Telephone Recordings:** The Administrator and Custodian reserve the right to record telephone calls. Depositor acknowledges this right and expressly authorizes the Administrator or Custodian to record and play back any and all telephone calls associated with the servicing of the account.

**10.03 Notices and Change of Address:** The Administrator and Custodian shall send required notices or communications to the last known email address on record for the account, and consider such notices or communications effective as of transmission. If no email is on file, the Administrator or Custodian shall deliver required notices and communications to the last mailing address on file for the account. Depositor must immediately notify custodian if there is a change of email address or mailing address.

**10.04 Electronic Payment Authorization:** Depositor authorizes the Administrator or Custodian to make electronic payments on the account by initiating credit or debit entries to a bank account in accordance with instructions provided by the Depositor or an authorized agent or advisor of the Depositor. Depositor may revoke this authorization in writing.

**10.05 Security:**

- (a) Depositor shall be responsible for the establishment and safekeeping of credentials for secure access to the Administrator's or Custodian's online account services such as username, password, and PIN or other authentication codes. The Administrator or Custodian has no obligation to confirm the identity of any person using Depositor's credentials to access online account services, and shall not be held responsible for any breach of security caused by Depositor's failure to maintain the confidentiality of online account credentials.
- (b) If Depositor has reason to believe online account credentials have been lost, stolen, or used without the Depositor's permission, Depositor shall contact the Administrator immediately.
- (c) The Administrator and Custodian strongly discourage the transmission of confidential personal or financial information via email. If Depositor elects to send confidential information via email, Depositor assumes full responsibility and indemnifies the Administrator or Custodian from any loss or damages that may occur from any breach associated with the release of such confidential information.

**10.06 Severability:** If any provision of this Custodial Account Agreement is found to be illegal, invalid, void, or unenforceable, such provision shall be severed and such illegality or invalidity shall not affect the remaining provisions which shall remain in full force and effect. Neither Depositor's, Administrator's, or Custodian's failure to enforce at any time or for any period of time any of the provisions of this Agreement shall be construed as a waiver of such provisions, or Depositor's right, Administrator's right, or Custodian's right to enforce each and every such provision.

**10.07 Miscellaneous Expenses:** In addition to those expenses set out in Article VIII, section 8.07 of this custodial agreement, the Depositor agrees to pay any and all expenses incurred by the Administrator or Custodian in connection with the investment of the account, including expenses of preparation and filing any returns and reports with regard to unrelated business income, including taxes and estimated taxes, as well as any transfer taxes incurred in connection with the investment or reinvestment of the assets of the account.

**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.

**Do not File** Form 5305-A with the IRS. Instead, keep it with your records.

**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**

**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.

**Administrator:** A person or business the Custodian has authorized to perform certain administrative or custodial related services with respect to a Custodial Account.

**Depositor:** The Depositor is the person who establishes the custodial account.

**Identifying Number:** The Depositor's social security number will serve as the identifying number of his or her 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 Depositor reaches age 70 1/2 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 Depositor 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 Depositor, etc. Attach additional pages if necessary.

# 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:

- 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.
- 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.
- 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.
- No portion of your SIMPLE IRA funds may be invested in life insurance contracts.
- Your interest in your SIMPLE IRA must be fully vested and is nonforfeitable at all times.
- The assets in your SIMPLE IRA may not be commingled with other property except in a common trust fund or common investment fund.
- 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.
- 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 1/2. The methods of distribution, election deadlines, and other limitations are described in detail below.
- 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.
- 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.
- 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.

# SIMPLE IRA DISCLOSURE STATEMENT

## 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 excludable 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		
2005 - 2006	\$10,000		
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

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

## SIMPLE IRA DISCLOSURE STATEMENT

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	
\$245,000 for 2009	\$260,000 for 2014	
\$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.

## SIMPLE IRA DISCLOSURE STATEMENT

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 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 1/2 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.



# SIMPLE IRA DISCLOSURE STATEMENT

## 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 5/10 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% (applies to 2017 and 2018) 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; or due to an IRS Levy; qualified disaster distributions as defined in IRS Publication 976; 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>.

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.

## SIMPLE IRA DISCLOSURE STATEMENT

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 31<sup>st</sup> 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 31<sup>st</sup> of the calendar year you would have attained the age of 70 1/2, 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 31<sup>st</sup> 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 beneficiary's single life expectancy. These distributions must commence no later than December 31<sup>st</sup> 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 SMPLE 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. In addition to Federal income tax withholding, distributions from IRAs may also be subject to state income tax withholding.

**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:

## SIMPLE IRA DISCLOSURE STATEMENT

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

## SIMPLE IRA DISCLOSURE STATEMENT

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 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 and SIMPLE IRAs from your District Office of the Internal Revenue Service. In particular you may wish to obtain IRS Publications 590-A and 590-B (Individual Retirement Arrangements).

### 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 or Administrator will send you a written report stating the current value of your SIMPLE IRA assets. The Custodian or Administrator 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 and Administrator Fees:** The Custodian or Administrator 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. Dividends, interest or other income, including net realized capital gains, if any, from your SIMPLE IRA assets will be credited to your SIMPLE IRA and invested as you direct the Custodian or Administrator. All charges made by the Custodian or Administrator 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.

# IMPORTANT INFORMATION REGARDING YOUR INDIVIDUAL RETIREMENT ACCOUNT

Several recent law changes have impacted Individual Retirement Accounts (IRAs). Your IRA Plan document cannot be updated to reflect these changes until the Internal Revenue Service releases their version of the language that must appear in your Plan. As your IRA provider, we await technical guidance from the Internal Revenue Service and the Department of Labor in order to administer the enacted provisions. In the meantime, we would like to take this opportunity to provide you with an informational summary to retain with your current IRA plan document.

## SECURE Act – Setting Every Community Up for Retirement Enhancement Act of 2019

### Repeal of maximum age for traditional IRA contributions

- Individuals will be able to make contributions to their IRA even after attaining the age of 70 ½ (now 72), as long as income is earned.
- Effective for taxable years beginning after December 31, 2019.

### Increase in age for required beginning date for mandatory distributions

- The required beginning date for mandatory distributions has been amended from age 70 ½ to age 72.
- This only applies to persons turning 70 ½ after December 31, 2019. Anyone who turned 70 ½ prior to 2020 must begin taking, and continue to take, distributions under pre-SECURE Act rules.

### Modification of required distribution rules for designated beneficiaries

- Upon the death of an IRA account owner, distributions of the entire account balance to anyone other than an “eligible designated beneficiary” must generally be made within 10 years of the account owner’s death.
- An eligible designated beneficiary includes the surviving spouse, a child of the IRA account owner who has not yet reached the age of majority (age 21 as defined in IRS regulations), a disabled individual, a chronically ill individual, or an individual who is not more than 10 years younger than the decedent.
- This change eliminates the ability to have “stretch IRAs” by limiting the distribution period for certain beneficiaries.
- Effective for distributions on behalf of IRA account owners who die after December 31, 2019.

### Penalty-free withdrawals from retirement plans for individuals in case of birth of child or adoption

- Distributions from a retirement plan, in the case of a qualified birth or adoption, are exempt from the 10% early withdrawal penalty.
- The child must be under 18 years of age, the distribution must be made within the 1-year period after the birth or adoption date of the child, and the distribution exception is capped at \$5,000 per child, per parent.
- These funds may be repaid to the plan by a rollover, and the repayment would be treated as a nontaxable direct rollover (reported as a “repayment”).
- Effective for distributions made after December 31, 2019.

Tax-exempt “difficulty of care payments”, a type of qualified foster care payment to individual care providers under a state Medicaid Home and Community-Based Services waiver program (Medicaid Waiver payments), may be treated as compensation for purposes of making an IRA contribution.

For tax years beginning after December 31, 2019, certain taxable non-tuition fellowship and stipend payments are treated as compensation for the purpose of IRA contributions. Compensation will include any amount included in gross income and paid to aid in pursuit of graduate or postdoctoral study.

## CARES Act – Coronavirus Aid, Relief, and Economic Security Act of 2020

The CARES Act provided assistance to the American people from the public health and economic impact of COVID-19. The provisions under the CARES Act were mostly available during 2020, but the highlights are listed here:

- Coronavirus-related distributions - a coronavirus-related distribution (CRD) is a distribution made on or after January 1, 2020 and before December 30, 2020 to a qualified individual from an IRA, qualified plan, 403(b), or governmental 457(b) of up to \$100,000 in the aggregate for any taxable year. A CRD was directly repaid (i.e., rolled over) to any IRA or other eligible plan that accepts rollovers ratably within 3 years. Amounts not repaid could be taxed over a 3-year period.
- The CARES Act provides for 2 special coronavirus-related loan conditions to qualified individuals: 1) increases the amount that can be borrowed; and 2) extends the time to repay an existing loan. Loans are not permitted from individual retirement accounts, however.

### Waiver of Required Minimum Distribution (RMD)

All Required Minimum Distributions were waived for the calendar year 2020 under the CARES Act, including for a participant whose required beginning date is in 2020 (e.g. Initial year 2019 RMDs due by April 1, 2020). Beneficiaries required to take RMDs from inherited IRAs were included in the waiver.

The 2020 RMD waiver applied to all IRA owners, not only to qualified individuals affected by COVID-19.

RMDs taken at any point during 2020 could have been rolled back into an eligible plan. IRS notice 2020-51 provided an extension to roll back any RMD taken on or after January 1, 2020 by August 31, 2020 without regard to the 60-day deadline that applies to IRA to IRA rollovers, or the one rollover in a 12-month period restriction.

RMD amounts that were received after August 31st were still eligible for rollover, but were subject to the normal rollover restrictions.

Qualified Charitable Distributions are not affected by the CARES Act. As it relates to the change in RMD age under the SECURE Act mentioned previously, an IRA owner or beneficiary who was age 70½ could still request a QCD even if they did not have a 2020 RMD. Those individuals continue to remain QCD eligible despite the increase in RMD age to

72. See Appendix D in IRS Publication 590-B to determine the correct amount of the QCD.

### SECURE 2.0 Act of 2022 (SECURE 2.0)

Continuing the initiatives of the SECURE Act of 2019, SECURE 2.0 Act of 2022 (SECURE 2.0), Division T of the Consolidated Appropriations Act of 2023, was signed into law on December 29, 2022 (date of enactment). Some changes became effective on the date of enactment - or even retroactively, but the Internal Revenue Service and the Department of Labor must provide technical guidance to practitioners and taxpayers for them to be practicable.

#### Increase in Age for Required Beginning Date for Mandatory Distributions

- The required beginning date for Required Minimum Distributions (RMDs) has been increased from age 72 to age 73 starting on January 1, 2023.
- The Act further increases the RMD age, starting January 1, 2033, from 73 to 75.

#### Indexing IRA Catch-Up Limit

- Indexes the current \$1,000 age 50 catch-up limit.
- Effective for taxable years beginning after December 31, 2023.

### **Withdrawals for Certain Emergency Expenses**

- Provides an exception for certain distributions used for emergency expenses, which are unforeseeable or immediate financial needs relating to personal or family emergency expenses.
- Only one distribution is permissible per year of up to \$1,000, and a taxpayer has the option to repay the distribution within 3 years.
- No further emergency distributions are permissible during the 3 year repayment period unless repayment occurs.
- Effective for distributions made after December 31, 2023.

### **Special Rules for Certain Distributions from Long-Term Qualified Tuition Programs to Roth IRAs**

- SECURE 2.0 amended the Internal Revenue Code to allow for tax and penalty free rollovers, up to \$35,000 over the course of a taxpayer's lifetime, from any 529 account in their name to their Roth IRA.
- These rollovers are subject to Roth IRA annual contribution limits, but not the income threshold for contributions. To qualify, the 529 account must have been open for 15 years or more.

### **Remove Required Minimum Distribution Barriers of Life Annuities**

- An actuarial test related to certain commercial lifetime annuities in qualified plans and IRAs in the required minimum distribution regulations is eliminated. This will reinstitute certain guarantees for the benefit of individuals who are otherwise unwilling to elect a life annuity under a defined contribution plan or IRA.
- This provision is effective for calendar years ending after the date of enactment of the Act.

### **Qualifying Longevity Annuity Contracts**

- To preserve the intended longevity protection, the 25% limit is eliminated, and the dollar limit is increased to \$200,000.
- In addition, QLACs with spousal survival rights are available, and free-look periods are permitted up to 90 days with respect to contracts purchased or received in an exchange on or after July 2, 2014.

### **Eliminating a Penalty on Partial Annuitization**

- A participant that holds an annuity contract in their retirement account may elect to calculate the Required Minimum Distribution (RMD) by aggregating the value of the annuity with the value of the non-annuitized portion of the account. The annuity contract payments for the year can then be deducted from the combined RMD amount.
- This became effective on the date of enactment of the Act, however, the Treasury Secretary is to update the relevant regulations accordingly. Until then, taxpayers may rely on a good faith interpretations of the law.

### **Reduction in Excise Tax on Certain Accumulations in Qualified Retirement Plans**

- The penalty for failure to take Required Minimum Distributions (RMD) is reduced from 50% to 25%.
- In addition, if a failure to take the RMD is corrected within a 2-year correction period, the excise tax on the failure is further reduced from 25% down to 10% percent. This correction window begins on the tax filing due date for the year the excess occurred, and ends on the earlier of the last day of the second taxable year following such deadline or when the taxpayer is audited.
- Effective for taxable years beginning after the date of enactment of the Act.

### **Updating Dollar Limit for Mandatory Distributions**

- Under current law, employers may automatically roll over former employees' retirement accounts from a workplace retirement plan into an IRA if their balances are between \$1,000 and \$5,000.
- The limit is now increased from \$5,000 to \$7,000, effective for distributions made after December 31, 2023.

### **One-Time Election for Qualified Charitable Distribution (QCD) to Split-Interest Entity; Increase in Qualified Charitable Distribution Limitation**

- Expands the Qualified Charitable Distribution provision to allow for a one-time, \$50,000 distribution to charities through charitable gift annuities, charitable remainder unitrusts, and charitable remainder annuity trusts.
- This is effective for distributions made in taxable years beginning after the date of enactment of the Act.
- In addition, the \$50,000 special distribution amount, as well as \$100,000 overall QCD limit, will be indexed for inflation for distributions made in taxable years ending after the date of enactment of the Act.

### **Repayment of Qualified Birth or Adoption Distribution Limited to 3 Years**

- The recontribution period for distributions made in the case of birth or adoption, a qualified birth or adoption distribution (QBAD), is restricted to 3 years.
- Effective to distributions made after the date of the enactment of the Act, and retroactively to the 3-year period beginning on the day after the date on which such distribution was received.

### **Penalty-Free Withdrawal from Retirement Plans for Individual Case of Domestic Abuse**

- Retirement plans may permit participants to self-certify that they experienced domestic abuse within the past year, allowing the participant to withdraw a small amount of money (the lesser of \$10,000, indexed for inflation, or 50% of the participant's account).
- This distribution is not subject to the 10% tax on early distributions. Additionally, a participant has the opportunity to repay the withdrawn money from the retirement plan over 3 years, and will be refunded for income taxes on money that is repaid.
- Effective for distributions made after December 31, 2023.

### **Tax Treatment of IRA Involved in a Prohibited Transaction**

- When an individual engages in a prohibited transaction with respect to their IRA, the IRA is disqualified and treated as distributed to the individual, irrespective of the size of the prohibited transaction.
- This provision clarifies that if an individual has multiple IRAs, only the IRA with respect to which the prohibited transaction occurred will be disqualified.
- Effective for taxable years beginning after the date of enactment of the Act.

### **Clarification of Substantially Equal Periodic Payment Rule**

- Clarification of what does not constitute a modification of the additional tax on early distributions for the Substantially Equal Periodic Payment (SEPP) rule.
- The exception continues to apply in the case of a rollover of the account, an exchange of an annuity providing the payments, or an annuity that satisfies the Required Minimum Distribution rules.
- This provision is effective for transfers, rollovers, and exchanges after December 31, 2023; and effective for annuity distributions on or after the date of enactment of the Act.

### **Exception to Penalty on Early Distributions from Qualified Plans and IRAs to Individuals with a Terminal Illness**

- Provides an exception to the 10% additional tax on early distributions made to individuals with a terminal illness.
- A physician must certify that the illness is reasonably expected to result in death within 84 months.
- These withdrawals currently have no dollar limitation, and can be repaid to the account in a manner that is similar to qualified birth or adoption distributions.
- The exception is effective for distributions made after the date of enactment of the Act.

### **Special Rules for Use of Retirement Funds in Connection with Qualified Federally Declared Disasters**

- Issues permanent rules that aim to standardize access to retirement funds in the event of a federally declared disaster.
- To be eligible, an individual must have their primary residence in the federally declared disaster area, and sustain an economic loss as a result of the disaster event.
- If eligible, up to \$22,000 can be considered a Qualified Disaster Distribution (or Qualified Disaster Recovery Distribution), taken no later than 180 days after the federal disaster was declared.
- The funds are exempt from the 10% excise tax on early distributions.
- There is a 3 year window following the date of distribution to repay all or a portion of the payment back to an eligible retirement plan. Alternatively, taxes can be spread ratably over a 3-year period.
- A list of federally declared disasters can be found on the Federal Emergency Management Agency website, [fema.org](https://www.fema.org).
- Effective retroactively for disasters occurring on or after January 26, 2021.



### Elimination of Additional Tax on Corrective Distributions of Excess Contributions

- Earnings attributable to timely correction of an excess contribution is not subject to the 10% additional tax on early distributions.
- Effective for any determination made on or after the date of enactment of the Act, even if the correction occurred before date of enactment.

### Modification of Required Minimum Distribution Rules for Special Needs Trust

- In the case of a special needs trust established for a beneficiary with a disability, the trust may provide for a charitable organization as the remainder beneficiary.
- Effective for calendar years beginning after the date of enactment of the Act.

## IRA & Roth IRA Contribution Limits - Cost of Living Adjustments (COLAs)

	2022	2023
<b>Traditional IRA</b>		
Traditional IRA regular contribution limit	\$6,000	\$6,500
Age 50 catch-up limit for traditional IRAs	\$1,000	\$1,000
<i>AGI phase-out ranges for determining traditional IRA deductions for active participants:</i>		
Unmarried taxpayers	\$68,000 - \$78,000	\$73,000 - \$83,000
Married taxpayers filing joint returns	\$109,000 - \$129,000	\$116,000 - \$136,000
Married taxpayers filing separate returns	\$0 - \$10,000	\$0 - \$10,000
Non-active participant spouse	\$204,000 - \$214,000	\$218,000 - \$228,000
<b>Roth IRA</b>		
Roth IRA regular contribution limit	\$6,000	\$6,500
Age 50 catch-up limit for traditional and Roth IRAs	\$1,000	\$1,000
<i>AGI phase-out ranges for determining Roth IRA regular contributions:</i>		
Unmarried taxpayers	\$129,000 - \$144,000	\$138,000 - \$153,000
Married taxpayers filing joint returns	\$204,000 - \$214,000	\$218,000 - \$228,000