

## 403(b) Program Custodial Agreement

To be retained by the employee.

### Introduction

*This document describes the Custodial 403(b)(7) Retirement Account containing Touchstone Funds.*

*An eligible employee may use this document to establish a 403(b)(7) Retirement Account for the deposit of contributions by the employer on the employee's behalf pursuant to a retirement plan established by the employer (the "Plan").*

### Article 1 - Definitions

As used in the Plan, the following terms have the meaning set forth below except where the context clearly requires otherwise.

**1.1 "Account"** means the custodial account established under this Plan in accordance with Code §403(b)(7) for the benefit of the Employee.

**1.2 "Agreement"** means this 403(b) Program Custodial Agreement, including the information and provisions set forth in the Account Application. This Agreement constitutes a restatement in its entirety of the 403(b)(7) Custodial Agreement containing Touchstone Funds.

**1.3 "Beneficiary"** means the person or persons designated by the Employee on a signed form acceptable to the Sponsoring Organization and delivered to the Sponsoring Organization, who survives the Employee. If no person is designated in an acceptable manner, or if no person so designated survives the Employee, the Beneficiary shall be the surviving spouse of the Employee, if any, and otherwise the estate of the Employee.

**1.4 "Code"** means the Internal Revenue Code of 1986, as amended and including any regulations, procedures, notices, or rulings issued thereunder.

**1.5 "Custodian"** means First Bankers Trust Services, Inc., an Illinois state chartered trust company ("FBTS"), or any successor custodian appointed pursuant to the provisions of Article 7.

**1.6 "Employer"** means the organization of which the Employee is a common law employee, which is identified as the sponsoring employer on the Application, and which is an organization described in Code §501(c)(3) which is exempt from tax under Code §501(a) or is an educational institution described in Code §170(b)(1)(A)(ii) of a State, a political subdivision of a State, or an agency or instrumentality of either.

**1.7 "Employee"** means the individual for whose benefit the Account is established. While Employer contributions to this Plan may only be made by a person described in section 1.6, an individual for whose benefit such contributions have been made may continue to maintain this Plan even though no longer employed by a person described in section 1.6.

**1.8 "Fund" or "Funds"** means any one or more of the funds of Touchstone Funds, a regulated investment company.

**1.9 "Principal Distributor"** means Touchstone Securities, Inc.

**1.10 "Rollover Contribution"** means a contribution which meets the requirements of Code §403(b)(8) of amounts from a Code §402(c)(8) eligible retirement plan, including a §408 IRA, a §401(a) or §403(a) qualified plan, another account or annuity described in §403(b), or a §457(b) eligible deferred compensation plan maintained by a governmental entity. A Rollover Contribution may only be made in cash. For this purpose, where the Employee causes the fiduciary of another eligible retirement plan to directly rollover, as described in Code §401(a)(31), amounts from that plan to the Custodian, it shall be considered a Rollover Contribution by the Employee.

**1.11 "Sponsoring Organization"** means the Principal Distributor, which serves as the principal distributor of the Funds. For

avoidance of doubt, the Sponsoring Organization is not the Plan sponsor.

### Article 2 - Eligibility and Participation

**2.1 Eligibility.** Any individual who is a common law employee of an Employer which is willing to make contributions to an arrangement described in Code §403(b)(7) on behalf of the individual, or on whose behalf such contributions have been made in the past, shall be eligible to establish a 403(b) Program Account.

**2.2 Participation.** An Employee shall establish an Account by completing the Account Application which includes this Agreement. The Account shall be established upon the acceptance of the Account Application by the Custodian and the Sponsoring Organization. To participate with regard to current Employer contributions, the Employee must further satisfy any requirements established by the Employer.

### Article 3 - Contributions

#### 3.1 Source of Contributions.

Contributions to the Account other than Rollover Contributions may only be made by the Employer and may only be made in cash. The Employee may not make any contribution to the Account which is not a Rollover Contribution.

**3.2 Limitation on Contributions.** The Employer's contribution in any calendar year shall be limited to the applicable limitation under Code §415, which is the lesser of:

(a) 100% of the Employee's compensation, and

(b) \$40,000, as adjusted under the rules of Code §415(d) to reflect changes in the cost of living. In addition, any amount contributed pursuant to a salary reduction agreement with the Employer shall also be subject to the limitations on such contributions contained in Code §402(g) and §414(v). If

this arrangement is aggregated with any other defined contribution arrangement under which the Employee benefits for purposes of the above limitation rules, the applicable limitations shall apply to the aggregate contributions made to those arrangements for the benefit of the Employee.

#### 3.3 Application of the Limitation.

Neither the Custodian, nor the Sponsoring Organization, nor the principal underwriter of the members of the Sponsoring Organization, nor any registered representative of said principal underwriter shall be responsible for determining the amount of any limitation described in section 3.2 or for making any recommendation about the amount the Employer should contribute on behalf of the Employee. If the Sponsoring Organization receives written notice from the Employee that an applicable limitation of section 3.2 has been exceeded in the current or the immediately preceding calendar year and that the excess (and income allocable thereto) may be distributed under the applicable law, the Sponsoring Organization shall direct the Custodian to distribute the amount of the excess (and the income allocable thereto) to the Employee as soon as is administratively feasible after the written notice is received.

#### 3.4 Employee's Nonforfeitable Interest.

The Employee shall at all times have a fully vested nonforfeitable interest in the entire value of the Account.

### Article 4 - Investment of Contributions and Assets

**4.1 In General.** All contributions to the Account and all assets in the Account shall be invested in shares of the Funds as directed by the Employee (or the Employee's designated Beneficiary, executor or administrator) in accordance with instructions received by the Custodian from the Employee (or the

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Employee's designated Beneficiary, executor or administrator) in a manner acceptable to the Custodian. By giving such instructions, the Employee (or the Employee's designated Beneficiary, executor or administrator) shall be deemed to have acknowledged having received and read the then current prospectus for any shares in which he or she directs the Custodian to invest contributions. The Custodian shall not be required to act or be held liable to act upon improper instructions.

### 4.2 Investment of Contributions.

The Employer shall transmit all contributions and the Employee shall transmit any Rollover Contribution to the Custodian in a manner acceptable to the Custodian. If either the Employee's investment instructions or the Employer's transmittal instructions are not received or are received but are not in a manner acceptable to the Custodian, the Custodian may in its discretion either return the contribution or invest the contribution in the Federated Government Obligations Fund without liability for loss of income or appreciation, pending receipt of proper instructions or clarification. The initial Employer contribution shall be invested in the Fund or Funds specified in the Account Application. Subsequent contributions, income dividends and capital gains or other earnings shall continue to be invested in the Fund(s) previously selected unless and until the Custodian receives direction in a manner acceptable to it from the Employee. The Employee (or the Employee's designated Beneficiary, executor or administrator) may instruct the Custodian to exchange all or any part of the Fund shares held in the Account for shares of another Fund in accordance with the existing exchange privileges, procedures and policies at the time such exchange is made.

### 4.3 Transfer of Funds Into the Account.

Upon receipt of the written direction of the Employee (or the Employee's designated Beneficiary, executor or administrator) and the written consent of the Employer or its designee in a form acceptable to the Custodian, the Custodian may also accept a direct transfer into the Account of the entire account balance held in a 403(b)(7) arrangement by another custodian for the benefit of the Employee. The Custodian shall treat the transfer in the same way as a Rollover Contribution.

**4.4 Registration of Fund Shares.** Fund shares shall be registered in the name of the Custodian as Custodian for the benefit of the Employee.

## Article 5 - Distributions

### 5.1 Distributable Events.

The Employee, or in the event of his death, the Employee's designated Beneficiary, shall be entitled to elect to receive a distribution of the assets in the Account attributable to contributions made pursuant to a salary reduction agreement, at any time on or after the earliest of:

- (a) the date the Employee attains age 59 1/2;
  - (b) the date the Employee dies;
  - (c) the date the Employee separates from employment with the Employer who made the contributions to the Account;
  - (d) the date the Employee becomes disabled (within the meaning of Code §72(m)(7)); or
  - (e) with respect to the portion of the Account attributable to salary reduction contributions, (excluding earnings on such contributions credited to the Account after December 31, 1988) the date the Employee encounters financial hardship.
- 5.2 Form of Payments.** An Employee may elect to have distributions made in any one or more of the following forms

by delivering a written election to the Custodian in a manner acceptable to the Custodian:

- (a) a single sum payment in cash, and/or
- (b) a series of monthly, quarterly or annual installment distributions of cash in either a specified dollar amount or in substantially level amounts until the Employee's account is fully depleted.

### 5.3 Required Distributions.

If the election made by the Employee or Beneficiary pursuant to section 5.2 fails to meet the requirements of Code section 403(b)(10), or the Employee or Beneficiary fails to make an election, the distributions from the Account shall not be less than the amounts described in this section as determined by the Sponsoring Organization. These amounts shall be paid by the Custodian as directed by the Sponsoring Organization to the Employee if he is still alive, and otherwise to the Beneficiary. The minimum required distribution for any calendar year shall never be less than the amount described in Code §403(b)(10).

- (a) While the Employee is still alive, beginning with the Employee's Required Beginning Date, the minimum distribution will be an amount equal to the account balance on the preceding December 31 divided by the Employee's Applicable Life Expectancy Factor, or, if the Employee has designated the Employee's spouse as sole Beneficiary and it would produce a larger divisor, the joint Life Expectancy of the Employee and the spouse, recalculated annually.
- (b) If the Employee dies after the Employee's Required Beginning Date and after having begun to receive payments pursuant to an election under section 5.2(b) or (c) above, the balance of the Account shall be distributed as described in (a) except based on the Beneficiary's Applicable Life Expectancy Factor.

(c) If the Employee dies prior to the Employee's Required Beginning Date, the entire balance of the Account will be distributed by the end of the fifth calendar year following the calendar year of death, unless:

(1) the designated Beneficiary elects to have payments begin by the end of the calendar year following the year of death in the form described in section 5.2(b) except substituting the Applicable Life Expectancy Factor of the Beneficiary for that of the Employee, or

(2) the Beneficiary is the Employee's spouse, in which case payments must begin by December 31 of the later of the calendar year in which the Employee would have attained age 70 1/2 or the calendar year following the year of death and must be for an amount at least equal to the value of the Account on the preceding December 31 divided by the spouse's Life Expectancy in the calendar year of distribution.

(d) For the purpose of this subsection, "Required Beginning Date" means: April 1 of the calendar year following the later of the year in which the Employee attains age 70 1/2 or retires from employment with the Employer.

(e) Notwithstanding any provision of this Agreement to the contrary, to the extent permitted under any regulation, ruling, procedure, or notice of the Internal Revenue Service, the minimum distribution calculated in accordance with Code section 403(b)(10) may be taken from any 403(b) annuity or account of the Employee or designated Beneficiary.

**5.4 Life Expectancy.** Life expectancy and joint Life Expectancy shall be determined under Tables V and VI, respectively, contained in IRS regulation section 1.72-9. The Applicable Life Expectancy Factor for distributions to an Employee

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on and after the Required Beginning Date is based on the table contained in IRS regulation section 1.401(a)(9)-5, and any official revision thereof. The Applicable Life Expectancy Factor for distributions to an Employee prior to the Required Beginning Date shall be determined using the same methodology and factors used in developing the table described in the preceding sentence. The Applicable Life Expectancy Factor for payments to a designated Beneficiary shall be determined under rules applicable to Code §401(a)(9), and shall generally be the Life Expectancy factor for the designated Beneficiary (or for the applicable Beneficiary if there is more than one designated Beneficiary and separate accounts are not maintained) in the year following the year of death, reduced by one for each subsequent year.

**5.5 Financial Hardship.** This section provides rules under which the Custodian may make a distribution on account of financial hardship. The Custodian may make a distribution on account of financial hardship only upon proper direction from the Sponsoring Organization, if the Employer certifies in writing, in a form satisfactory to the fund transfer agent and Sponsoring Organization, that the distribution requested by the Employee is from amounts eligible for hardship distribution under section 5.1(e) of this Agreement and is for:

- (a) medical expenses described in Code §213(d) incurred by, or necessary to obtain medical care for, the Employee, the Employee's spouse or any dependents of the Employee;
- (b) the purchase of a principal residence for the Employee;
- (c) the payment of tuition and related educational fees and room and board expenses for the next twelve months of post-secondary education for the Employee, the Employee's

spouse or children, or for any dependent of the Employee;

- (d) payments necessary to prevent the eviction of the Employee from the Employee's principal residence or foreclosure on the mortgage of the Employee's principal residence;
- (e) funeral expenses of a family member of the Employee; or
- (f) any other event which the Commissioner of Internal Revenue shall declare constitutes a deemed immediate and heavy financial need for purposes of financial hardship.

The amount of the distribution may not exceed the lesser of the amount the Employee certifies to the Employer and the Employer approves as necessary to meet the financial need and the aggregate amount of salary reduction contributions (and related earnings credited prior to January 1, 1989) made to the Account on behalf of the Employee less any such amounts previously withdrawn on account of financial hardship. The amount of an immediate and heavy financial need may include any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution.

In order to obtain a distribution on account of financial hardship, the Employee must provide a written representation to the Employer and the Employer, or its designee must provide, in a form acceptable to the fund transfer agent and Sponsoring Organization, that the need cannot reasonably be relieved:

- (a) through reimbursement or compensation by insurance or otherwise;
- (b) by liquidation of the Employee's assets;
- (c) by cessation of salary reduction contributions; or

(d) by other distributions or nontaxable (at the time of the loan) loans from plans maintained by the Employer or by another employer, or by borrowing from commercial sources on reasonable commercial terms in an amount sufficient to satisfy the need.

**5.6 Distributions Pursuant to Qualified Domestic Relations Order.** In the case of an Account that is part of an "employee pension benefit plan" (as defined in the Employee Retirement Income Security Act of 1974, as amended ("ERISA")), nothing in this Agreement shall prohibit distribution to any person in accordance with the terms of a "qualified domestic relations order" as defined in Section 206(d) of ERISA.

**5.7 Direct Rollovers.** Notwithstanding any provision of this Agreement to the contrary that would otherwise limit a distributee's election under this section, subject to the approval of the Employer or its designee, a distributee may elect, at the time and in the manner prescribed by the Custodian and fund transfer agent, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For the purpose of this section, the following definitions apply:

**(a) Eligible rollover distribution:** An eligible rollover is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the

Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). An eligible rollover distribution also does not include any other amounts excluded under regulations, procedures, notices, or rulings interpreting the term eligible rollover distribution under sections 401(a)(31), 402, or 403(b) of the Code.

**(b) Eligible retirement plan:** An eligible retirement plan is an arrangement described in Code §402(c).

**(c) Distributee:** A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

**(d) Direct rollover:** A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

### Article 6 - Loans

Loans may be made to Employees on the following basis:

**6.1** Upon written application to the Sponsoring Organization by an Employee, subject to the approval of the Employer or its designee and proper direction to the Custodian, the Custodian may make a loan to such Employee from his or her Account. All loans shall be secured by 50% of the Employee's vested Account balance. The minimum amount of a loan shall be \$1,000.

**6.2** In no event shall the total of any outstanding loan or loans to any Employee exceed the lesser of \$50,000, or 50% of the nonforfeitable Account balance, or such other amount as determined



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by the Sponsoring Organization pursuant to section 6.7 of this Article 6 provided, however, that if this Agreement is part of a plan subject to Title I of ERISA, in no event shall any loan exceed the 50% limitation or cause the total of all outstanding loans to exceed such limitation. The \$50,000 limitation shall be reduced by the excess, if any, of the highest outstanding balance of loans from the Account during the one-year period ending on the day before the date on which such loan was made over the outstanding balance of loans from the Account on the date that such loan was made. An Employee may not make more than one loan from an account in any calendar year. The Sponsoring Organization shall be entitled to rely on representations of the Employer or its designee regarding satisfaction of the requirements of this section 6.2.

**6.3** All such loans shall bear a reasonable rate of interest as provided in the promissory note incorporated herein by reference. Every loan applicant shall receive a clear statement of the charges involved in each loan transaction. The statement shall include the dollar amount and the annual interest rate of the finance charge. Interest payments on the loan shall be credited to the Employee's account.

**6.4** Loans shall be made available to all Employees on a reasonably equivalent basis.

**6.5** Any such loan shall be repaid by the Employee over a specified period of time, in the form and manner selected by the Employee in the Loan Application to the Sponsoring Organization. The loan repayment period shall not extend beyond the first to occur of (i) the above specified period or (ii) the Employee's Required Beginning Date for taking distributions from the Account as defined in section 5.3(d) of this Agreement. Such loan must be amortized in level

payments, made not less frequently than quarterly over the term of the loan. Any such loan shall be for a term of no more than five years. Full or partial payment of a loan shall be permitted at any time without penalty. Principal and interest payments made by the Participant shall be reinvested at net asset value.

**6.6** If a scheduled payment of both principal and interest is not received by the Custodian within ninety days of the due date, the Sponsoring Organization shall declare the loan in default. Late payment notices will be issued by the Sponsoring Organization within thirty and sixty days of the loan repayment due date. Neither the mailing by the Sponsoring Organization nor the receipt by the Employee of a late payment notice shall be deemed to be a condition precedent to the loan being declared in default. Such default may result in the reclassification of the outstanding loan balance as a taxable distribution which must be reported as such by the Sponsoring Organization to the Internal Revenue Service. In the event the Employee does not repay all or any portion of the principal amount on such loan within the time prescribed, he or she shall continue to be liable for any balance on the loan not paid, in addition to interest which will continue to accrue on the unpaid balance. Subject to the restrictions of section 5.1, the outstanding balance of any loan in default shall be repaid from the Account as soon as possible on or after the date of the default.

**6.7** The outstanding principal amount of any loan shall be offset upon distribution from the Account.

**6.8** The Sponsoring Organization shall prescribe such rules, as from time to time it deems necessary, in order to administer the provisions of this Article 6. The Sponsoring Organization may also impose additional terms and conditions in connection with the making of

any loan which shall be as provided in the participant's promissory note, incorporated herein by reference, including but not limited to the requirement that a Participant maintain a substantial minimum Account balance before becoming eligible for a loan and that a Participant agree to a loan service fee to be charged directly against his or her Account.

### Article 7 – Administration

**7.1 In General.** The Custodian and the Sponsoring Organization shall perform the duties delegated to each as described in this Agreement. The Custodian shall have no discretionary authority over the administration of the 403(b) Program, or the management of Account assets.

#### 7.2 Limitations on Responsibilities and Duties.

The Custodian and the Sponsoring Organization shall not be liable in any way for the determination or collection of contributions provided for under this Agreement, the selection of the investments for the Custodial Account, the purpose or propriety of any distribution made pursuant to Article 5 hereof, or any other action taken at the direction of the Employer, Employee (or the Employee's designated Beneficiary, executor or administrator, where applicable) or any person believed by the Sponsoring Organization or the Custodian to be the personal representative of the Employee, Employer, the Employee's designated Beneficiary, executor or administrator. The Custodian or the Sponsoring Organization shall not be obliged to take any action whatsoever with respect to the Custodial Account except upon receipt of written directions from the Employee (or the Employee's designated Beneficiary executor or administrator, where applicable) and where such directions shall have been specifically agreed to by the Custodian or Sponsoring Organization in writing. The Custodian or Sponsoring Organization shall be under no obligation to determine the accuracy or propriety of any such directions and shall be fully protected in acting in accordance therewith. The Custodian shall mail to the Employee (or designated Beneficiary, where applicable) all notices, prospectuses, financial statements, proxies, proxy soliciting materials and periodic reports or other communications which may come into the Custodian's possession by reason of its custody of Fund shares. The Custodian shall not vote any of the Fund shares held hereunder except in accordance with the written instructions of the Employee (or designated Beneficiary, where applicable). The Custodian shall be under no duty to question any direction of the Employee (or designated Beneficiary) with respect to the investment of contributions, or to make suggestions to the Employee (or designated Beneficiary, where applicable) with respect to the investment, retention or disposition of any contribution or assets held in the Account. The Custodian and Sponsoring Organization are agents appointed by the Employee (or designated Beneficiary, if applicable) to perform solely the duties assigned to it under the Agreement, or pursuant to one or more other contractual arrangements or relationships. Neither the Custodian nor Sponsoring Organization shall not be deemed to be a fiduciary in carrying out any of its duties under the Agreement or any other contractual arrangements or relationships. The Employer shall be solely responsible for assuring compliance at all times with the nondiscrimination requirements of Code section 403(b)(12) and any applicable limitations related to loans, distributions and other requirements for compliance with Code Section 403(b) and the final regulations issued thereunder, and neither the Sponsoring Organization nor the Custodian shall be

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responsible in any way for such compliance.

### 7.3 Reports and Information.

As soon as practicable according to the Custodian, after the last day of each calendar year, the Custodian shall send the Employee (or designated Beneficiary, where applicable) a written report of the contributions to, the investment transactions in, the distributions from, and any other transactions with regard to the Account for that calendar year. Unless the Employee (or designated Beneficiary, where applicable) delivers to the Custodian a written objection to this report within 60 days after its receipt, the Employee (or designated Beneficiary, where applicable) shall be deemed to have approved the report, and, in such case, the Custodian shall be forever released and discharged with respect to all matters and things included therein. The Sponsoring Organization shall in addition make such other reports and/or returns as may be required for 403(b)(7) custodial accounts by the Internal Revenue Service or other regulatory authorities. The Employee, Employer, designated Beneficiary and Sponsor shall furnish such information that the Custodian or Sponsoring Organization may require in order to complete such reports or returns. Neither the Sponsoring Organization nor the Custodian shall have any duty or responsibility for the completion or filing of reports or returns which any statute or regulatory authority requires of an Employee or Employer in connection with a 403(b)(7) arrangement. Any obligation for the Custodian or Sponsoring Organization to provide written notices or communications to the Employee, or if applicable, the Beneficiary and/or to the Employer shall be satisfied if and when the written notice or communication is sent by first class mail to the last known address of that person as it appears in either the Sponsoring Organization or

the Custodian's business records, respectively.

The Custodian or the Sponsoring Organization, or their respective designees, shall also share, at the request of the Employer or its designee, such information about the Account as may be necessary for the employer's plan to comply with Code Section 403(b) and the final regulations issued thereunder.

### 7.4 Rights of the Custodian.

The Employer agrees and Employee, in signing the Application agrees on behalf of himself or herself and any Beneficiary to at all times indemnify and hold the Custodian harmless from and against any liability and expenses (including but not limited to reasonable administrative and legal expenses and compensation of the Custodian for services with respect to any controversy or settlement regarding the Agreement or the Account) that the Custodian may incur in the administration of the Account, including but not limited to making investments or distributions in accordance with the Employee's written instructions or the most recent beneficiary designation on file with the Custodian, or failure to make investments or distributions absent instructions in a form acceptable to the Custodian, except for any liability arising from the Custodian's own gross negligence or willful misconduct. The Custodian shall be entitled to rely conclusively upon, and shall be fully protected in any action taken by it in reliance upon any and all written notices or other communications which it receives and which the Custodian believes to have been sent by the Employee, the Employer, or any other appropriate party. The Custodian shall be absolved of all responsibility for any action or nonaction taken pursuant to the Employee's or designated Beneficiary's direction or failure to provide direction in a form acceptable to the Custodian, including but

not limited to the purpose, propriety, treatment, or tax consequences of any contribution or distribution. The Custodian may submit any question arising hereunder or in respect to the Custodial Account to counsel, including its own general counsel, any expenses for which will be compensable and assessed against the Account. The Custodian shall not be liable for any acts or omissions made pursuant to the advice of such counsel.

### 7.5 Tenure of the Custodian.

The Custodian may resign as custodian of the Account upon 60 days prior notice to the Sponsoring Organization and 30 days prior notice to the Employee. The Sponsoring Organization may terminate the Custodian upon 60 days prior notice to the Custodian and 30 days prior notice to the Employee. In either event, the Sponsoring Organization shall appoint a successor custodian to whom the Custodian shall transfer all of the assets and records of the Account. The Custodian is authorized, however, to reserve such sum of money or property as it may deem advisable for payment of all its properly chargeable fees, compensation, costs and expenses, or for payment of any other liabilities constituting a charge on or against the assets of the Custodial Account or on or against the Custodian as disclosed to the Employer and/or the Employee, with any balance of such reserve remaining after the payment of all such items to be paid over to the successor custodian. The successor custodian shall hold the assets paid over to it under terms similar to those of this Agreement. If the Sponsoring Organization shall fail to appoint a successor, the Custodian may itself appoint a successor custodian. The Custodian shall not be liable for the acts or omissions of a successor custodian, whether or not it made such appointment itself. If no person will agree to be a successor custodian, the Custodian shall terminate the

Account and distribute the assets in a cash lump sum to the Employee or Beneficiary, as applicable. At its discretion, the Custodian may seek judicial settlement of its accounts.

### 7.6 Compensation of the Custodian.

The Custodian shall be reimbursed, from the assets in the Account, its expenses of administration, including the fees of counsel used by the Custodian, taxes, and its fees for maintaining the Account as disclosed to the Employer and/or the Employee. The Custodian shall deliver to the Employee a schedule of such fees prior to the date they become effective. The Custodian may sell Fund shares and use the proceeds to pay the foregoing expenses so long as such expenses have been properly disclosed to the Employer and/or Employee in advance.

## Article 8 - The Sponsoring Organization

**8.1 In General.** In adopting this retirement account, the Employee has delegated to the Sponsoring Organization the right to remove the Custodian and select a successor Custodian and the right to amend or terminate this retirement account.

**8.2 Amendment and Termination of the Plan.** The Sponsoring Organization may amend the provisions of the 403(b) Program, including this Agreement, and/or may terminate it. Any such amendment or termination shall apply equally to all 403(b) Program Accounts. No amendment may increase the duties or responsibilities of the Custodian without the Custodian's prior consent. Except as otherwise required by law, no amendment or termination will be effective prior to 30 days after the mailing of written notice thereof to the Employee or Beneficiary. Upon termination of the Retirement Account, the Custodian shall distribute any assets in it to the Employee or

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Beneficiary as applicable, in a cash lump sum.

**8.3 Indemnification.** The Employee and Employer shall release, indemnify and hold harmless, jointly and severally, the Sponsoring Organization, each regulated investment company whose shares are held in the Account, such registered investment company's distributor and transfer agent, and the subsidiaries, affiliates, agents, employees, directors, officers, successors, and assigns of the forgoing, from any and all liability which may arise in connection with (a) this Custodial Agreement; (b) any agreement between the Employer; or (c) any actions by the Sponsoring Organization taken with respect to the Custodial Account upon instructions believed to be genuine.

### Article 9 - Miscellaneous

**9.1 Applicable Law.** To the extent not governed by the provisions of federal law, this Plan shall be construed in accordance with the laws of the State of Illinois.

**9.2 Antialienation.** The benefits and rights of the Participant and Beneficiary under the Account shall not be transferable nor subject to commutation, anticipation or encumbrance by such Participant or Beneficiary, nor subject to alienation, assignment, garnishment, attachment, execution or levy of any kind except by the Custodian for its fees and expenses, and no attempt to cause such assets to be so subjected shall be recognized by the Custodian except to the extent as may be required by law.

**9.3 ERISA Requirements.** If this Agreement is determined to constitute part of an "employee benefit plan" established or maintained by the Employer subject to Title I of ERISA, then the Employer shall be responsible for assuring such employee

benefit plan complies at all times with the applicable requirements of ERISA.

**9.4 Enforcement of Agreement.** The Employee, the designated Beneficiary, or the executor or administrator of either of these shall have the sole authority to enforce this Agreement on behalf of any and all persons having or claiming any interest in the Custodial Account by virtue of this Agreement. To protect the Custodial Account from expenses which might otherwise be incurred, it has been imposed as a condition to the acquisition of any interest in the Custodial Account, and it is hereby agreed, that no person other than the Employee, the designated Beneficiary, or their personal representatives may institute or maintain any action or proceeding against the Custodian.

**9.5 Necessity of Qualification.** This Agreement is established with the intent that it qualifies under Code §403(b)(7) of the Code as it exists at the time the Agreement is made. Notwithstanding any other provision under this Agreement, if the Internal Revenue Service determines, because of some provision(s) of this Agreement, that it fails to meet the requirements of Code §403(b)(7), all of the assets of the Account shall be distributed to the Employees and the Agreement shall be considered void and of no force and effect unless such Agreement is retroactively amended to meet the requirements of Code §403(b)(7). The Sponsoring Organization shall notify the Custodian immediately, in writing, of any determination that the Agreement does not comply with Code §403(b)(7). The Custodian and Sponsoring Organization have no responsibility with respect to the tax treatment of any contributions to or any distributions from the Account.

**9.6 Notices.** All notices required or permitted to be given by the Custodian or the Sponsoring Organization shall

be deemed to have been given when sent by mail to the Employee, Employer, or designated Beneficiary at the last address of record provided to the Custodian or Sponsoring Organization. All notices required or permitted to be given to the Custodian or Sponsoring Organization shall be deemed to have been given when received by the respective entity if mailed to the Custodian at First Bankers Trust Services, Inc., c/o USI Consulting Group, Attn: Touchstone Investments Service Team, 95 Glastonbury Boulevard, Suite 102, Glastonbury, CT 06033-6503, or such other address as the Custodian shall provide to the Employee from time to time or the Sponsoring Organization at Touchstone Securities, Inc., c/o USI Consulting Group, Attn: Touchstone Investments Service Team, 95 Glastonbury Boulevard, Suite 102, Glastonbury, CT 06033-6503, or such other address as the Sponsoring Organization shall provide to the Employee from time to time.

**9.7 Governing Law.** This Agreement and the Account shall be construed, administered and enforced according to the laws of the State of Illinois, to the extent not preempted by Federal law.

**9.8 Entire Agreement.** This Custodial Agreement represents the entire agreement with respect to the subject hereof; however, to the extent there is any conflict between this Custodial Agreement and the Employer's Plan document, the provisions of Plan document shall supersede this Custodial Agreement.