

# April 28 2021 Special Meeting

## April 28 2021 Special Meeting - April 28 2021 Special Meeting

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# ***NOTICE***

## **NORTHERN INYO HEALTHCARE DISTRICT BOARD OF DIRECTORS SPECIAL MEETING**

**April 28, 2021 at 5:30 pm**

***Northern Inyo Healthcare District invites you to join this Zoom meeting:***

**TO CONNECT VIA ZOOM:** *(A link is also available on the NIHD Website)*

<https://zoom.us/j/213497015?pwd=TDIiWXRuWjE4T1Y2YVFWbnF2aGk5UT09>

Meeting ID: 213 497 015

Password: 608092

**PHONE CONNECTION:**

888 475 4499 US Toll-free

877 853 5257 US Toll-free

Meeting ID: 213 497 015

The Governor of the State of California has issued Executive Orders that temporarily suspend certain requirements of the Brown Act. Please be advised that the NIHD Board Room is closed to the public and that some or all of the District Board members may attend this meeting telephonically or via video conference.

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1. Call to Order (at 5:30 pm).
2. Public Comment: At this time, members of the audience may speak only on items listed on the Notice for this meeting, and speakers will be limited to a maximum of three minutes each. The Board is prohibited from generally discussing or taking action on items not included on this Notice.
3. Appointment of NIHD Board members to a Chief Executive Officer Selection Ad Hoc Committee (*action item*).
4. Approval of minutes of the April 10 2021 Special Board meeting (*action item*).
5. Approval of District Board Resolution 21-03 (*action item*).
6. Appointment of new Advisors to the Northern Inyo Healthcare District/NICLHD Pension Plans, 401 (a) and 457 (b) (*action item*).
7. Approval of District Board Resolution 21-04 (*action item*).
8. Adjournment to Closed Session for:

A. Public Employee Performance Evaluation (*pursuant to Government Code Section 54957 (b)*)  
title: Interim Chief Executive Officer.

9. Return to Open Session and report of action taken.

10. Adjournment.

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Kelli Davis, Interim Chief Executive Officer

*In compliance with the Americans with Disabilities Act, if you require special accommodations to participate in a District Board meeting, please contact administration at (760) 873-2838 at least 48 hours prior to the meeting.*

- CALL TO ORDER** The meeting was called to order at 8:14 am by Robert Sharp, District Board Chair.
- PRESENT** Robert Sharp, Chair  
Jody Veenker, Vice Chair  
Mary Mae Kilpatrick, Secretary  
Topah Spoonhunter, Treasurer  
Jean Turner, Member-at-Large  
Kelli Davis MBA, Interim Chief Executive Officer and Chief Operating Officer  
Joy Engblade MD, Chief Medical Officer  
Allison Partridge RN, MSN, Chief Nursing Officer  
Sierra Bourne MD, Interim Chief of Staff  
David Sandberg, Cycle of Business (Facilitator)
- OPPORTUNITY FOR PUBLIC COMMENT** Mr. Sharp announced that at this time members of the audience may speak only on items listed on the Notice for this meeting, and speakers will be limited to a maximum of three minutes each. The Board is prohibited from generally discussing or taking action on items not included on this Notice. No comments were heard.
- URGENT NEED TO ADD TO THE AGENDA FOR THIS MEETING** At this time Director Sharp recused himself from the meeting and left the room. Jody Veenker requested the Board’s consideration to add an item to the agenda for this meeting, due to the fact that an urgent need to take action has arisen, and because that need came to the District Board’s attention following the posting of the agenda for this meeting. She then reported that the Board previously approved establishing a line of credit with Eastern Sierra Community Bank (ESCB), but they must now also take action to establish a cash account that will facilitate the use of that line of credit. Immediate action is necessary in order to begin using the line of credit at the best interest rate possible. It was moved by Jean Turner, seconded by Mary Mae Kilpatrick, and passed by a 4 to 0 vote to add the emergency item to the agenda, with Director Sharp being absent from the vote. It was then moved by Ms. Turner, seconded by Topah Spoonhunter, and passed by a 4 to 0 vote to approve establishing a cash account in the name of Northern Inyo Healthcare District (NIHD) in order to facilitate use of the previously established line of credit with ESCB, with Director Sharp being absent from the vote. Following the conclusion of the vote, Mr. Sharp re-entered the room to participate in the remainder of the meeting.
- APPROVAL OF CASH ACCOUNT TO FACILITATE DISTRICT USE OF ESCB LINE OF CREDIT**
- NEW BUSINESS**
- APPOINTMENT TO NIHD MEDICAL STAFF WELLNESS SURVEY AD HOC COMMITTEE** Mr. Sharp then called attention to the need to appoint two members of the District Board to the *NIHD Medical Staff Wellness Survey Ad Hoc Committee*. He then moved to appoint himself and Director Veenker to serve on that Committee, which was seconded by Mary Mae Kilpatrick, and unanimously passed to approve.

STRATEGIC PLANNING  
SESSION

Interim Chief Executive Officer and Chief Operating Officer Kelli Davis introduced David Sandberg with Cycle of Business to facilitate a training for development of NIHD's next Strategic Plan. Pre-work for the planning session included collection of data and review of the results of an NIHD staff and physician survey conducted on the subject of the District's needs going forward. Discussion during the training session included the following:

- Review of the District's Mission, Vision, and Values, including acknowledgement that Strategic Planning should support those three statements
- Review of previous Strategic Planning efforts, including the 2019 Strategic Plan and the most recent Community Health Needs Assessment
- Review of financial considerations and the District's current financial status
- Review and analysis of stakeholder needs and community needs
- Discussion of potential Strategic Goals and Objectives
- Initial discussion of Action Strategy and upcoming projects necessary to achieve Strategic Planning goals and execute the new Strategic Plan
- Discussion regarding what NIHD needs to look like in the future/five years from now

ADJOURNMENT

The meeting concluded at 3:28 pm. It was noted that District Leadership and staff will work with Mr. Sandberg to further develop the NIHD 2021 Strategic Plan based on discussion that took place during today's meeting.

\_\_\_\_\_  
Robert Sharp, Chair

Attest:

\_\_\_\_\_  
Mary Mae Kilpatrick, Secretary

**NORTHERN INYO HEALTHCARE DISTRICT**  
***DISTRICT BOARD RESOLUTION 21-03***

WHEREAS, As a result of COVID-19, hospitals have canceled or postponed elective procedures to preserve capacity for Covid-19 patients. While necessary, this move has created financial challenges for Northern Inyo Healthcare District (“NIHD”). It is imperative that NIHD initiate additional liquidity facilitation to continue to provide for working capital. NIHD’s cash flow has further been exacerbated by adoption of the Athena system for EHR due to increase in average collection period.

WHEREAS, NIHD negotiated with Eastern Sierra Bank with respect to a facility line of credit, the proceeds of which would be used for general hospital working capital purposes and the principal amount range of which are as follows (the "Eastern Sierra Line of Credit Transaction"):

LOAN AMOUNT:           \$3,500,000-5,000,000

AND WHEREAS, NIHD approved District Board Resolution 20-04 on May 20 2020 authorizing said line of credit.

NOW, THEREFORE, BE IT RESOLVED that the Interim CEO and Controller referred to in District Board Resolution 20-04 are now specified and named to be Ms. Kelli Davis and Mr. Vinay Behl, who are hereby authorized and empowered to complete the Eastern Sierra Line of Credit Transaction.

BE IT FURTHER RESOLVED that Ms. Davis and Mr. Behl (the "Authorized Officers") acting together are hereby authorized and empowered to negotiate interest rate, period of payment, line of credit fees and other reporting covenants.

BE IT FURTHER RESOLVED, that Authorized Officers acting together are hereby authorized and empowered to negotiate, enter into, accept, execute and deliver any and all agreements, documents and instruments necessary to complete the Eastern Sierra Bank Line of Credit Transaction, including, but not limited to a Loan Agreement, one or more Promissory Notes, a Deed of Trust, UCC-1 Financing Statement and related collateral/security documents; and

BE IT FURTHER RESOLVED, that NIHD, acting by and through its Authorized Officers, are hereby authorized and empowered, on behalf and in the name of NIHD to take such other actions and execute such other documents as may be reasonably necessary and in the best interests of NIHD, to complete the foregoing resolutions; all upon such terms as NIHD shall deem proper and in the best interests of NIHD, such execution and/or acceptance to be conclusive evidence of such approval.

Adopted, signed and approved this 28th day of April, 2021.

\_\_\_\_\_  
District Board Chair

\_\_\_\_\_  
District Board Secretary

## LIST OF DOCUMENTS FOR AGENDA ITEM 7 (Pension Plan Advisors)

1. Empower Fee Proposal
2. Great West Trust Agreements for the 457(b) plan and the DC plan. *Sample that was provided by Empower is attached. Final agreement will be prepared if and when the Board approves Great West.*
3. Hooker & Holcombe Engagement Letter
4. Charles Schwab Custodial Agreement
5. Charles Schwab Custodian Fee Schedule
6. Hooker & Holcombe Investment Advisory Agreement for DC and 457 Plans
7. Hooker & Holcombe Investment Advisory Agreement for Pension Plan
8. ADV Part 2A & B. *Referenced in section 3 of Advisory Agreements*
9. Group Annuity 401(a) – for the fixed investment in Great West (according to Kevin this was previously negotiated)
10. Group Annuity 457(b) – for the fixed investment in Great West (according to Kevin this was previously negotiated)
11. Northern Inyo Healthcare District Resolution Appointing New Retirement Plan Advisors
12. NIH Pension Trust Agreement
13. Empower Administrative Services Agreement – *Legal is in the process of negotiating recommended changes to this agreement with Empower consistent with the redlines in the attached document but the final document will not be ready in time for the agenda posting*

**PROPOSAL**

**Northern Inyo County Hospital 401(a) and 457(b)**

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March 30, 2021





Proposal For Northern Inyo County Hospital 401(a) and 457(b)  
 This proposal valid until:

6/30/2021

This Proposal was provided at the request of the plan sponsor or the Plan's advisor on behalf of the plan. The fee information provided in this Proposal is based on the assumptions and/or investment options reflected in the Proposal. This Proposal is invalid if the assumptions and/or investment options are inaccurate or change.

**Plan Assumptions** **March 30, 2021**

Plan Assets:	\$4,000,000
Annual Contribution:	\$1,000,000
Plan Participants with a Balance:	250
Total Eligible Employees:	250
Number of Plans:	2
Investment Platform:	Empower Select
General Account Fund:	Series III
Investment Fiduciary:	None
Mapping Strategy:	TBD
Default Fund:	Target Date
Empower Retirement Plan Document	Required

**Fee Summary** **Fee** **Paid By**

Annual Plan Maintenance	\$0	Employer
Annual Participant Account Maintenance	\$0	Employer
Asset Based Fee	0.35%	Participant
Installation Fee	Waived	Employer
Average Net Investment Expense	TBD	Participant

**Additional Plan Services**

Trustee/Custodial Services: Great-West Trust Full Custodian/Plan is Trustee	BEL Restoration: N/A
Compliance Services: N/A	Manual Payroll: N
Auto Enroll: N	Prospectus Fulfillment: N
Fee Levelization: Y	Additional Education Days: 3
Add'l Participant Notice Delivery: Y	

For Home Office Use Only		Northern Inyo County Hospital 401(a) and 457(b)				Version
Group Account Number:	State Situs:	Product Code:	Quote Date:	RSD Name:	Prepared by:	401(k) Version:
	CA	gvmt-401k	3/30/2021 12:54:05 PM	Kevin McAtamney	chrgld	v15.0 3/18/2021 6:00:00 AM



## Plan and Participant Fees

Plan Service Fees		
Fee Type	Fee	Paid By
Asset Based Fee	0.35% Annually on All Assets	Deducted from Participant Accounts Quarterly
Participant Account Maintenance	\$0 Per Account Annually	Billed to Plan Sponsor Quarterly
Plan Maintenance	\$0 Annually	Billed to Plan Sponsor Quarterly

Annual asset based fees will be calculated based upon an average daily balance.

Participant Transaction Fees		
Fee Type	Fee	Paid By
Participant Distributions	\$50 Per Request	Netted From Distribution
Participant Loan Set Up	\$75 Per Request	Netted From Distribution
Participant Loan Maintenance	\$50 Annually	Deducted From Participant Accounts Quarterly
Hardship Qualification Approval Services	\$75 per request	Netted from Distribution or Participant Account
Beneficiary Distribution Approval Services	\$75 per request	Netted From Distribution
Periodic Payment Setup	\$50 Per Request	Deducted From Participant Accounts
Periodic Payment Maintenance	\$25 Annually	Deducted From Participant Accounts Quarterly
QDRO Approval Services	\$400 Per Request	Netted from Distribution

The above recordkeeping fees will be guaranteed for the initial five (5) year contract term from the Effective Date of the Administrative Services Agreement. Material changes (+/- 10%) from assumptions used in pricing (participants, assets, net flow, asset allocations) could void this guarantee.

The Participant Transaction services above will be provided to the Plan unless the plan sponsor elects otherwise.



Fund Information

			Revenue Sharing Included In Gross/Net Expense Ratio	
Investment Name	Ticker	Gross/Net Expense Ratio	12B-1	Admin

<b>Average Net Expense Ratio</b>	<b>0.00%</b>
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Not all 12b-1 and Admin fees may flow through the Recordkeeper. A third party may be receiving 12b-1 and/or Admin fee(s) directly that are not reflected above.

General Account Investments	Ticker	Fee Estimate	Allocation to Recordkeeper
<b>Great-West General Account</b>			
Great- West Investments Fixed Account Series III	GWAQ25	0.25%	0.00%

For an explanation of the Fee Estimate and the Allocation to Recordkeeper, please see the "General Account Fund and General Provision" disclosure in the Disclosure Section of this document.



Payments to Others

Financial Professional Services (Included in Plan Pricing)		
Service Provider	Service	Fee
None		

Other Services (Included in Plan Pricing)		
Service Provider	Service	Fee
None		

Empower will pay Revenue Credits to the Plan on a monthly basis. Revenue Credits shall be determined by multiplying the average daily balance in each of the Plan's investment options for the month by the annual rate (prorated for the month) of fund service fees paid to Empower by the investment option or its affiliates as reflected in the Plan's Plan Fee Disclosure Report (A copy of the Plan's most recent Fee Disclosure Report is available on the Plan Sponsor Website). Plan Sponsor directs Empower to allocate any Revenue Credits to Plan Participant accounts proportionately based on the average daily balance of such accounts in the investment option during the month and to invest such amounts based on the Participant's investment elections with respect to future contributions or, if none, the applicable Plan default fund. Revenue Credits shall be determined and allocated within 45 days after the end of the month.

Trustee/Custodial Services (Included in Plan Pricing)		
Service Provider	Service	Fee
Great-West Trust Company	Full Custodian/Plan is Trustee	\$500 Annually

Participant Advice		Opt-In	
Service Provider	Service	Annual Fee	Basis
Advised Assets Group, LLC.	Online Investment Guidance	No Charge	N/A
Advised Assets Group, LLC.	Online Investment Advice	\$0	Per Participant
Advised Assets Group	My Total Retirement Services	0.65% <\$100k 0.55% Next \$150k 0.45% Next \$150k 0.35% >\$400k	My Total Retirement Assets

Online Investment Advice and Managed Accounts services are optional services that are offered by Advised Assets Group, LLC. Each individual participant may elect to enroll in either one of these services. These participant advice fees are only deducted from participant account balances of those that have enrolled in the service.

Plan Sponsor agrees the managed account service fee will be paid for by a Plan Participant unless the following box is selected.

Plan Sponsor Pay



## Disclosures

This document contains estimates of plan expenses and is intended to provide a detailed summary of fees being charged to the plan or its participants to the extent such information is in the Recordkeeper's possession. While it is intended to provide information regarding all material fees, this document may not be comprehensive, and it may not include full information on fees associated with some specially negotiated services or with certain investment options, such as Self-Directed Brokerage Accounts, Life Insurance, Employer Stock, etc. For further fee information, please refer to the relevant service agreements and/or prospectuses, including information that may be needed to comply with Participant Disclosure obligations. As your Recordkeeper, we make no representation as to the completeness or accuracy of materials, such as prospectuses, created and/or provided by a third-party investment provider.

### General

#### **Bank Credit Disclosure:**

Empower Retirement™ (Empower), or one of its affiliates, may earn credits and/or interest on Plan assets awaiting investment or pending distribution. Any credits or interest earned by Empower are aggregated with credits and/or interest earned by Empower and will be used to defray the aggregate expenses for the maintenance of bank accounts. Empower will not retain credits and/or interest earned in excess of such maintenance expenses.

Credits and/or interest are earned from the use of (i) uninvested contributions received too late in the day or not received in good order to be invested same-day and (ii) proceeds from investment option redemptions where Plan distribution checks have not been presented for payment by Plan participants. Credits and/or interest (i) begin to accrue on contributions, on the date such amounts are deposited into the bank account and end on the date such amounts are invested pursuant to Plan participant instructions and (ii) begin to accrue on distributions, on the date the check is written or on the wire date, as applicable and end on the date the check is presented for payment or when the wire clears against the account, as applicable. Earnings of credits and/or interest are at the rate the bank provides from time to time.

#### **Recordkeeping Costs Estimate**

Great-West recordkeeping fees are agreed to with the plan sponsor based on the total value of the relationship with the plan. Great-West may provide recordkeeping fee credits in its sole discretion based on criteria as solely determined by Great-West which may include the plan's use of affiliated and non-affiliated funds or products. Such credits may reduce some or all of the recordkeeping fees that would otherwise be charged by Great-West. The average cost of Great-West recordkeeping services without any reduction or offset is \$120.23 per participant for plans less than \$50 million, \$94.42 per participant for plans between \$50m and \$500m and \$70.13 per participant for plans greater than \$500m.

#### **Prospectus Delivery:**

Employer agrees to accept delivery of prospectuses for the selected investment options through the Plan Sponsor section of the Empower Web site - [www.empower-retirement.com](http://www.empower-retirement.com).

### Fiduciary Disclosures

#### **Advised Assets Group (AAG):**

If Advised Assets Group, LLC provides services to the Plan under an agreement with Plan Sponsor, it may be a fiduciary and Registered Investment Advisor to the Plan to the extent provided in such agreement.

#### **Empower:**

Empower is not acting as a fiduciary for this plan



## Investments

### Mutual Fund Expense Ratio:

The Service Provider has entered into agreements with certain funds (or their service providers including advisors, administrators or transfer agents, and underwriters) whereby the Service Provider provides shareholder and/or distribution services and receives compensation from the funds (or their service providers) based on the value of the plan's investment in the funds. This compensation may include fees for administrative and other expenses and/or fees paid under a plan of distribution under SEC Rule 12b-1 ("12b-1 fees"). The fees received by the Service Provider are included in the expense ratio described in the applicable fund's prospectus or similar disclosure document, and reduce the fund's net asset value (NAV). Generally, fees and expenses included in the fund's expense ratio are deducted at regular intervals based on a percentage of the fund's average daily net assets.

### Redemption Fees:

Redemption fees are charged by mutual fund companies to discourage investors from making a short-term "round trip" (i.e., a purchase, typically a transfer, followed by a sale within a short period of time). Many mutual fund companies will impose the fee upon the purchase and subsequent sale occurring within a specified time frame. Please refer to your mutual fund prospectuses for specific redemption fee details.

### Additional Fund Compensation:

Great-West Life & Annuity Insurance Company receives payments from some investment fund families through the Empowering Fund Partnership Program ("EFPP"). Under the EFPP, fund families receive several services based on the EFPP tier in which they participate. These services are provided directly to fund families and include: (i) consideration for inclusion in Empower products developed for some segments of the retirement and IRA market, (ii) inclusion on the Empower Select investment platform, which is available in the small plan recordkeeping market, (iii) a waiver of the connectivity fee described below, (iv) enhanced marketing opportunities, (v) additional reporting capabilities, (vi) collaboration in thought leadership opportunities, (vii) access to meetings with Empower leadership, Empower staff, and the third party advisory and brokerage firms through whom Empower distributes its services, and (viii) access to conferences put on by Empower and Great-West Financial. The yearly fees for EFPP participation are \$1,000,000 for tier 1, \$500,000 for tier 2, and \$250,000 for tier 3. These fees do not vary based on an Empower client's use of the funds offered by the fund family.

For additional information about funds that participate in the fund partner program, please visit <https://docs.empower-retirement.com/advisor/Empowering-Fund-Partnership-Disclosure.pdf>.

Great-West Life & Annuity Insurance Company also receives payments from fund families through a connectivity program (the "Connectivity Program"). The Connectivity Program charges fund families for the cost of administering funds on Empower investment platforms, and for building and maintaining data connections between Empower and the fund family. In 2019, the Connectivity Program charges \$1,000 per investment fund used on recordkeeping and IRA investment platforms. Beginning in May 2019, if a retirement plan begins receiving recordkeeping services through Empower's small plan recordkeeping segment, and the plan offers a fund from a fund family that does not participate in the Connectivity Program or the EFPP, then Empower will assess a supplemental, separate investment access fee to the plan. Depending on the level of investment in the non-participating fund family, the investment access fee charge may be more or less than the fees received under the Connectivity Program from the fund family.

For additional information about funds that participate in the Connectivity Program, please visit <https://docs.empower-retirement.com/advisor/Empowering-Fund-Partnership-Disclosure.pdf>.

### General Account Fund and Guarantee Provisions:

General Account crediting rates are net of cost of capital and expenses, fund and guarantee provisions and any contract series charge, to the extent applicable.

Cost of Capital is the return Great-West Life & Annuity Insurance Company of New York (Great-West) earns on Great-West capital. Great-West is required by regulators to hold capital for the purpose of ensuring Great-West can meet all of its obligations associated with the General Account Fund. The amount of Great-West's capital and required return will fluctuate over time based on regulatory requirements, capital market conditions and the competitive environment.



The Fund Provision covers the range of investment expenses that are netted from the crediting rate, such as investment and operating expenses. The Fund Provision is calculated annually in aggregate for all General Account fixed funds offered by Great-West and does not reflect any product or plan specific underwriting adjustments.

The Guarantee Provision covers the range of insurance expenses that are netted from the crediting rate, such as asset defaults, cost of insurance guarantees, and other expenses. The Guarantee Provision is calculated annually in aggregate for all General Account fixed funds offered by Great-West and does not reflect any product or plan specific underwriting adjustments.

A Contract Series Charge may apply to the general account option selected by the plan sponsor. This charge will be explicitly described in the Great-West Investments Fixed Account group annuity contract and is meant to cover expenses related to contract administration, investment management and other services that are provided to the plan pursuant to a separate agreement with the plan. There may be an adjustment to the credited interest rate which is used to reduce the amount for plan recordkeeping/administration services that would otherwise be charged to the plan.

For more information on the General Account Fixed Funds, including termination options, please see your Group Annuity Contract.



**Affiliates and Subcontractors**

We are required to disclose certain fees paid between Empower and its related parties (affiliates and subcontractors). This includes compensation paid in connection with the services Empower or its affiliates have agreed to provide to the plan, if the compensation is set on a transaction/incentive basis (such as commissions, soft dollars, or finder's fees) or if the compensation is charged directly against a plan investment and reflected in the investment's net value.

The fees disclosed are not in addition to previously disclosed fees; rather, this information is intended to increase transparency about how Empower uses the fees it receives.

**Affiliates:**

The following entities are affiliates of the Recordkeeper, in that they directly or indirectly control, are controlled by, or are under common control with the Recordkeeper. These affiliates may receive fees from the plan, or from the Recordkeeper or another affiliate for performing certain services for the plan.

Refer to the Itemized Services and Cost section for details regarding affiliate payments.

GWFS Equities, Inc. is an affiliate that receives payments from the Investment Provider. Payments are first paid to GWFS Equities, Inc. which in turn pays the Recordkeeper.

Great-West Capital Management, LLC is an affiliate that receives payments from the Investment Provider.

Great-West Funds, Inc. is an affiliate that receives payments from the Investment Provider.

**Affiliates:** The following are affiliates of Empower, but not all Empower affiliates may pertain to your Plan.

- Advised Assets Group, LLC
- GWFS Equities, Inc.
- EMJAY Corporation
- FASCore, LLC
- Great-West Capital Management, LLC
- Great-West Funds, Inc.
- Putnam Investment Company
- Great-West Trust Company, LLC
- Great-West Life & Annuity of New York

**Subcontractors:**

A subcontractor is any person or entity that is not an affiliate of the Recordkeeper and that is expected to receive \$1,000 or more in compensation for performing one or more services for your Plan under a contract or arrangement with the Recordkeeper. All such subcontractors that receive the specific types of compensation described above are included. All such subcontractors, if any, are listed in the table below, along with the service they provide.

Please refer to the Itemized Services and Cost section for details regarding subcontractor payments.

Company Subcontractor	Service Provided
None	None



Northern Inyo County Hospital 401(a) and 457(b) (continued)  
Signature Page

By signing this signature page, the Plan Sponsor, Broker and any other signatories certify that they have received, read and understand this proposed Fee Schedule, Disclosure Statement and Client Application. All parties understand the proposal assumptions stated above determine the plan's expenses. A change to the assumptions will cause expenses and fees to also change. Plan Sponsor understands and agrees to all services and fees identified in this Fee Schedule and agrees to pay all fees according to the Service Agreement to which this Fee Schedule applies. The Plan Sponsor further understands that all payroll deduction and matching contributions will be remitted electronically using the Plan Service Center system. Contributions received using any other method will be returned unallocated for resubmission via the Plan Service Center and will not be considered plan assets until such resubmission. Plan Sponsor also understands that no payroll deduction contributions may be withheld until there is a signed Plan Document in place and no contribution or transfer of assets will be accepted earlier than 15 days from the receipt and acceptance of the Client Application in Greenwood Village, CO.

The Plan Sponsor directs Empower to reflect the Advisor and Firm below as the Plan's financial advisor on its recordkeeping system and to provide plan data upon request. The Plan Sponsor understands and agrees that Empower does not provide investment advice to the Plan, the Plan Sponsor or the Advisor regarding Plan investment options.

I agree any changes to products, plan services, fees, or investment options hereafter must be made post-conversion

**Plan Sponsor Signature:** \_\_\_\_\_  
**Print Name:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

**Advisor/Broker Signature:** \_\_\_\_\_  
**Print Name:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

**Additional Plan Information**

\*\*\*\*\*Please complete upon selecting Empower as your provider\*\*\*\*\*

<b>Legal Name of Plan:</b>	
<b>Plan Headquartered State:</b>	
<b>EIN:</b>	
<b>Plan Year End (MM/DD):</b>	
<b>Plan Contact for Conversion:</b>	First Name:
	Last Name:
	Phone Number:
	Email:
<b>Is the Financial Representative properly licensed to sell in Headquartered State?</b>	Y      N      N/A

**Core securities, when offered, are offered through GWFS Equities, Inc. and/or other broker dealers.**

GWFS Equities, Inc., Member FINRA/SIPC, is a wholly owned subsidiary of Great-West Life & Annuity Insurance Company.

Empower Retirement™ refers to the products and services offered in the retirement markets by Great-West Life & Annuity Insurance Company (GWL&A), Corporate Headquarters: Greenwood Village, CO; Great-West Life & Annuity Insurance Company of New York, Home Office: White Plains, NY; and their subsidiaries and affiliates. The trademarks, logos, service marks, and design elements used are owned by GWL&A. The Great-West Family of Companies refers to products and services offered through The Great-West Life Assurance Company, London Life Insurance Company, The Canada Life Assurance Company, Irish Life Assurance Company, Great-West Life & Annuity Insurance Company, Putnam Investments, LLC, and their affiliates and subsidiary companies.



**TRUST AGREEMENT**

For

**NORTHERN INYO HEALTHCARE DISTRICT**

(the "Plan Sponsor")

**GROUP CLIENT NUMBER**

**100158-01**

Plan Name Northern Inyo Healthcare District (the "Plan")

Plan Administrator

(Plan Sponsor will be Plan Administrator if left blank)

Effective Date (later of this date or the date executed by Trustee) April 7, 2021

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This Trust Agreement is by and between Plan Sponsor and Great-West Trust Company, LLC, a trust company chartered under the laws of the State of Colorado having a place of business in Greenwood Village, Colorado (hereinafter referred to as "Trustee").

Plan Sponsor has established or adopted the Plan for its eligible employees and their beneficiaries. A trust is maintained in connection with the Plan (the "Trust") to which Plan contributions are to be made to be held by the Trustee and to be managed, invested and reinvested for the exclusive benefit of participants of the Plan and their beneficiaries (collectively, "Participants"). The Plan and Trust are intended to qualify as a plan and trust which meet the applicable requirements of Section 401(a) and 501(a) or Sections 457(b) and (g), whichever is applicable, of the Internal Revenue Code of 1986, as amended, or any successor thereto (the "Code"). Plan Sponsor is a fiduciary to the Plan and is authorized under the terms of the Plan to appoint a Trustee. The Plan Sponsor desires Trustee to hold Plan funds and Trustee is willing to hold such funds pursuant to the terms of this Trust Agreement. The Plan Sponsor wishes to appoint Great-West Trust Company, LLC, as Trustee under the terms hereof. Plan Sponsor hereby warrants and represents that it is permitted, pursuant to its governing laws, including but not limited to applicable state and local laws, to appoint Great-West Trust Company, LLC, as Trustee. In consideration of the premises and of the mutual covenants herein contained, the parties covenant and agree as follows:

## 1. Definitions

"Affiliate" means any corporation or entity now or hereafter controlled by a party to this Trust Agreement, that controls such party and/or that is under common control with such party, where "control" means either the direct or indirect holding of the shares of a corporation to which are attached more than fifty percent (50%) of the votes that may be cast to elect directors of the corporation, or more than fifty percent (50%) of the ownership interests of an unincorporated entity.

"Trust Agreement" includes this Trust Agreement and any exhibits, schedules, notices and other documents attached, incorporated or referenced herein.

"Plan Sponsor" means the Plan Sponsor identified above, any plan administrator appointed by the Plan Sponsor (the "Plan Administrator"), fiduciaries to the Plan, and other delegates of the Plan Sponsor (other than Trustee) as dictated by the context.

## 2. Creation and Operation of the Trust

**2.1. Services.** Trustee will provide the services set forth in this Trust Agreement or as further described in schedules or appendixes hereto (collectively the "Services").

**2.2. Establishment/Acceptance of Trust.** In order to carry out the purposes of the Plan, the Trust is hereby created and established or, if previously established, is hereby continued. Trustee accepts this Trust and agrees to act as Trustee hereunder, but only on the terms and conditions set forth in this Trust Agreement. Subject to the terms and conditions of this Trust Agreement, all right, title and interest in and to the estate of the Trust fund shall be vested exclusively in Trustee.

**2.3. Acceptance of Property.** The Trust Fund shall include only those assets which Trustee initially accepts, and assets that are subsequently added to the Trust Fund pursuant to the provisions of Trust Agreement, hereinafter referred to as the "Trust Fund". Only assets actually received by Trustee will become part of the Trust Fund. Plan Sponsor acknowledges and agrees that it is responsible for effectuating the transfer of any assets held by a prior trustee or custodian to Trustee. All assets so received, together with the income there from and any other increment thereon, shall be held by Trustee

pursuant to the terms of this Trust Agreement without distinction between principal and income and without liability for the payment of interest thereon. In no event shall Trustee be considered a party to the Plan and, in the event of any conflict between this Trust Agreement and the provisions of the Plan or any other instrument or agreement forming part of such Plan, the provisions of this Trust Agreement shall take precedence. Trustee shall have only such duties with respect to the Plan as are set forth in this Trust Agreement.

#### **2.4. Investment Powers.**

**2.4.1** Trustee shall have no discretion or authority with respect to the investment of Trust assets, but shall act solely as a directed Trustee, and in accordance with this Trust Agreement shall invest and reinvest the principal and income of the Trust and keep the Trust invested in such investments in securities or other property, real or personal, within or without the United States, including, without limitation, interests and part interests in any bond and mortgage or note and mortgage and interests and part interests in certificates of deposit, commercial paper and other short-term or demand obligations, secured or unsecured, whether issued by governmental or quasi-governmental agencies or corporations or by any firm or corporation, capital, common and preferred, voting and nonvoting stock (regardless of dividend or earnings record), and including shares of mutual funds, annuity or investment contracts issued by an insurance company, and financial options and futures or any other form of option, and shall hold such securities or property in one or more funds; or in any fund created and administered by Trustee or any other bank or Investment Manager, as defined in Paragraph 2.4.6 of this Trust Agreement, for the collective investment of the assets of employee benefit trusts that is (i) a collective investment fund or (ii) a group trust that meets all of the conditions of Revenue Ruling 81-100, as modified by Revenue Ruling 2011-1, (and while any portion of the Trust Fund is so invested, such collective investment fund or group trust shall constitute part of the Plan, and the instrument creating such fund shall constitute part of this Trust Agreement). Trustee may keep such portion of the Trust Fund in cash and cash balances or hold all or any portion of the Trust Fund in savings accounts, certificates of deposit, and other types of time or demand deposits with any financial institution or quasi-financial institution, either domestic or foreign (including Trustee and its Affiliates) as directed by the Plan Administrator, Plan Sponsor, Investment Manager, or other designated fiduciary of the Plan.

**2.4.2** To the maximum extent permitted by law, Trustee shall not be liable for the acquisition, retention or disposition of any assets of the Trust Fund or for any loss to or diminution of such assets unless due to Trustee's own willful misconduct or failure to act in good faith.

**2.4.3** Trustee shall not be the Plan Administrator. Trustee shall be a directed Trustee under the direction of the Plan Administrator, Plan Sponsor, Participants (only to the extent the investment of Plan assets are directed by Participants as provided below), Investment Manager, as appointed by Plan Sponsor or Plan Administrator, or other fiduciary of the Plan designated under the Plan, who is not the Trustee. The duties and obligations of Trustee hereunder shall be limited to those expressly imposed upon it by this Trust Agreement, notwithstanding any reference contrary in the Plan, and no further duties or obligations of Trustee shall be implied. For example, Trustee shall have no initial or ongoing duty to determine the prudence of any Plan investment directed to be made by Plan Sponsor or any delegate thereof, to diversify Plan investments, or to make or monitor investment decisions. The Plan Administrator, Plan Sponsor or Investment Manager, as applicable, and not the Trustee are solely responsible for the prudent selection of Plan investments and for the ongoing duty to monitor and remove imprudent Plan investments. Trustee shall not be liable for any loss to, or diminution of the Plan assets, or for any other loss or damage which may result from the discharging of its duties hereunder if it acts in good faith and in accordance with the terms of this Trust Agreement and in accordance with the applicable federal or state laws, rules, and regulations.

**2.4.4** Plan Administrator, Plan Sponsor or other designated fiduciary shall select investment alternatives for the Plan (each an "Investment Alternative") which include some or all of the following types, or some other type reasonably acceptable to Trustee from an administrative standpoint: (i) securities issued by open-end investment companies registered under the Investment Company Act of 1940 ("Mutual Funds"), (ii) notes evidencing loans to Participants in accordance with the terms of the

Plan, (iii) annuity or investment contracts issued by an insurance company, (iv) a portfolio of securities and obligations which is intended to produce a fixed rate of investment return, including but not limited to guaranteed investment contracts (“GICs”), United States government securities, corporate bonds, notes, debentures, convertible securities, preferred stocks, and interests in collective investment funds maintained by banks or other financial institutions which invest in such securities and obligations and other similar investments, in each case as chosen by Plan Sponsor, Plan Administrator or an Investment Manager, (v) portfolios of securities managed by an Investment Manager for which market values can be obtained readily from securities exchanges or pricing services subscribed to by Trustee, (vi) portfolios of securities issued by Mutual Funds, managed by an Investment Manager or Plan Administrator, and (vii) interests in collective investment funds and group trusts under Revenue Ruling 81-100, as modified by Revenue Ruling 2011-1, maintained by Trustee or another bank or financial institution for qualified plans.

**2.4.5** If the investment of Plan assets is to be directed by Participants, the Plan Administrator, Plan Sponsor or other designated fiduciary, who is not the Trustee, shall be solely responsible for the Plan selecting a broad range of investment alternatives among which Participants may designate investments of their accounts, providing Participants with information concerning the designated Investment Alternatives, and restricting the frequency with which Participants may issue investment instructions.

**2.4.6** Plan Administrator, Plan Sponsor or other designated fiduciary of the Plan may appoint an “Investment Manager,” to manage any Investment Alternative, or any part of an Investment Alternative. Any Investment Manager so appointed shall be (i) an investment adviser registered as such under the Investment Advisers Act of 1940 (“Advisers Act”), (ii) a bank, as defined in the Advisers Act, (iii) an insurance company qualified to perform investment management services under the laws of more than one state of the United States, or (iv) another entity who has agreed to be a fiduciary with respect to the Plan. In the event of such appointment, the appointing fiduciary shall notify Trustee of any such appointment by delivering to Trustee written notice of the appointment of each Investment Manager hereunder, in the form provided by Trustee, together with an acknowledgment by the Investment Manager that it is a fiduciary of the Plan. Alternatively, the Plan Administrator or Plan Sponsor, in its capacity as a fiduciary to the Plan, may manage an Investment Alternative. In either case, the appointing fiduciary shall specify to Trustee the Investment Alternative that shall be subject to such investment management. The appointing fiduciary shall be responsible for ascertaining that, while each Investment Manager is acting in that capacity, that such Investment Manager satisfies the requirements of this paragraph 2.4.6. Trustee shall invest and reinvest the portion of the Trust Fund subject to such investment management only to the extent and in the manner directed by the Investment Manager, the Plan Administrator or Plan Sponsor, as the case may be. During the term of such appointment, Trustee shall have no liability for the acts or omissions of such Investment Manager, the Plan Administrator or Plan Sponsor, and except as provided in the preceding sentence, shall be under no obligation to invest, review, or otherwise manage the portion of the Trust Fund subject to such investment management. Trustee may maintain separate accounts within the Trust Fund for the assets of the Trust Fund subject to such investment management. The appointing fiduciary may terminate its appointment of an Investment Manager at any time and shall notify Trustee in writing of such termination. Trustee shall be protected in assuming that the appointment of an Investment Manager remains in effect until it is otherwise notified in writing by the appointing fiduciary.

**2.4.7** In the event an Investment Manager appointed hereunder is a bank or a trust company, or an affiliate of a bank or trust company, Trustee shall, upon the direction of Plan Sponsor, transfer funds to such bank, trust company, or affiliate for investment through the medium of any collective investment fund created and administered by such bank, trust company, or affiliate, acting as trustee therefor, for the collective investment of the assets of employee benefit trusts, provided that such fund is (i) a bank collective investment fund or (ii) a group trust that meets all of the conditions of Revenue Ruling 81-100, as modified by Revenue Ruling 2011-1. In order to implement the provisions of this subsection, Trustee is authorized to enter into any required ancillary trust, agency or other type of agreement with an Investment Manager, or its affiliate, as described in the preceding sentence.

## **2.5. Payments.**

Subject to the provisions of this Trust Agreement, Trustee shall from time to time transfer cash or other property from the Trust Fund to such persons as designated by the Plan Sponsor or Plan Administrator, at such addresses, in such amounts, for such purposes and in such manner as the Plan Sponsor or Plan Administrator may direct, provided that such transfer is administratively feasible, and Trustee shall incur no liability for any such payment made at the direction of Plan Administrator. Plan Sponsor or Plan Administrator shall be solely responsible to insure that any payment made at its direction conforms with the provisions of the Plan, the provisions of this Trust Agreement, and the Code, and Trustee shall have no duty to determine the rights or benefits of any person in the Trust Fund or under the Plan or to inquire into the right or power of Plan Sponsor or Plan Administrator to direct any such payment.

## **3. Powers of the Trustee**

**3.1.** Trustee is authorized to exercise from time to time in accordance with directions from the Plan Administrator, Plan Sponsor, an Investment Manager, or a Participant, as the case may be, the following powers in respect of any property, real or personal, of the Trust Fund, it being intended that these powers be construed in the broadest possible manner:

**3.1.1** to sell at public or private sale for cash or upon credit or partly for cash and partly upon credit;

**3.1.2** to exchange securities or property held by it for other securities or property, or partly for such securities or property and partly for cash, and to exercise conversion, subscription, option and similar rights with respect to securities held by it, and to make payments in connection therewith;

**3.1.3** to compromise and adjust all debts or claims due to or made against it, to participate in any plan of reorganization, consolidation, merger, combination, liquidation or other similar plan or any action thereunder, or any contract, lease, mortgage, purchase, sale or other action by any corporation or other entity;

**3.1.4** to exercise any conversion privilege or subscription right available in connection with any such property; to oppose or to consent to the reorganization, consolidation, merger or readjustment of the finances of any corporation, company or association or to the sale, mortgage, pledge or lease of the property of any corporation, company or association any of the securities of which may at any time be held in the Trust Fund and to do any act with reference thereto, including the exercise of options, the making of agreements or subscriptions and the payments of expenses, assessments or subscriptions, which may be deemed necessary or advisable in connection therewith and to hold and retain any securities or other property which it may so acquire;

**3.1.5** to make distributions in cash or in specific property, real or personal, or an undivided interest therein, or partly in cash and partly in such property;

**3.1.6** to commence or defend suits or legal proceedings and to represent the Trust in all suits or legal proceedings; to settle, compromise or submit to arbitration any claims, debts or damages due or owing to or from the Trust, provided that Trustee shall notify Plan Sponsor or Plan Administrator of all such suits, legal proceedings and claims and, except in the case of a suit, legal proceeding or claim involving solely Trustee's action or omissions to act, shall obtain the written direction of Plan Sponsor or Plan Administrator before settling, compromising or submitting to binding arbitration any claim, suit or legal proceeding of any nature whatsoever. The Trustee shall have no obligation to undertake, defend or continue to maintain any action or proceeding arising in connection with the Trust, unless and until the Plan Sponsor requests the Trustee to do so and agrees in writing to indemnify the Trustee against the Trustee's costs, expenses and liabilities (including, without limitation, attorneys' fees and expenses) relating thereto, to be primarily liable for such payment and to make periodic payments in respect of such fees and expenses during the course of such proceedings. If the Plan Sponsor thereafter does not pay

such costs, expenses and liabilities in a reasonably timely manner, the Trustee shall discontinue participation in such action or proceeding, and charge the assets of the Trust Fund to the extent sufficient for any unpaid fees and expenses;

**3.1.7** upon the written direction of Plan Sponsor or Plan Administrator, to enter into any contract or policy with an insurance company or companies, for the purpose of insurance coverage or otherwise, provided that, except as provided in Section 3.3, Trustee shall be the sole owner of all such contracts or policies and all such contracts or policies shall be held as assets of the Trust Fund; and

**3.1.8** to transfer assets of the Trust Fund to a successor trustee as provided in Section 3.8.

**3.2.** Notwithstanding that Trustee acts solely as a directed trustee, Trustee shall have the following ministerial powers and authority, to be exercised in its sole discretion, with respect to the Trust Fund:

**3.2.1** to employ suitable agents and custodians;

**3.2.2** to delegate to its Affiliate, or others, any or all of its duties arising out of this Trust Agreement, including but not limited to, recordkeeping and reporting;

**3.2.3** to register any securities or other property held by it hereunder in its own name or in the name of a nominee with or without the addition of words indicating that such securities or other property are held in a fiduciary capacity and to hold any securities or other property in bearer form and to deposit any securities or other property in a depository or clearing corporation;

**3.2.4** to reverse any erroneous or provisional credit entries to the Trust Fund retroactively to the date upon which the correct entry or no entry should have been made;

**3.2.5** to make, execute and deliver, as Trustee, any and all deeds, leases, mortgages, conveyances, waivers, releases, subscription documents, or other instruments in writing necessary or desirable for the accomplishment of any of the foregoing powers, provided that in connection with the acquisition, holding or disposition of securities or other property other than publicly-traded securities, that the Investment Manager, Plan Sponsor, or Plan Administrator, as the case may, has provided written direction in a form satisfactory to Trustee; and

**3.2.6** generally to do all ministerial acts, whether or not expressly authorized, which Trustee may deem necessary or desirable in carrying out its duties under this Trust Agreement.

**3.3. Insurance Contracts.** Trustee may, at the direction of Plan Sponsor or Plan Administrator, (i) enter into one or more contracts issued by an insurance company, including such contracts providing for investment in a separate account maintained by an insurance company, (ii) transfer to any such insurance companies a portion of the Trust Fund in accordance with any such contracts, and (iii) hold any such contracts as a part of the Trust Fund until directed otherwise by Plan Sponsor or Plan Administrator. Trustee shall have no responsibility to review any contract or the creditworthiness of the insurance company issuing such contract at any time or from time to time. Plan Sponsor or Plan Administrator may direct Trustee to (i) demand or accept withdrawals or other distributions under any such contracts; (ii) exercise or not to exercise any rights, powers, privileges and options under any such contracts; and (iii) assign, amend, modify, or terminate any such contracts. Trustee shall take no action with respect to any such contracts except at the direction of Plan Sponsor or Plan Administrator. Trustee shall incur no liability for complying with, or failing to act in the absence of, any such direction of Plan Sponsor or Plan Administrator. Any insurance companies issuing any contracts as hereinabove described may deal with Trustee as the absolute owner of any such contracts and need not inquire as to the authority of Trustee to act with regard to such contracts. In no event shall the underlying assets of such insurance company in which such contracts are invested be considered assets of the Plan or part of the Trust Fund.

### **3.4. Fiduciary Standards.**

**3.4.1** Trustee shall perform those duties under this Trust Agreement that constitute it as a fiduciary with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent trustee acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. Trustee shall exercise reasonable care with respect to its remaining duties and obligations under this Trust Agreement.

**3.4.2** Trustee shall not be responsible for the administration of the Plan, for determining the funding policy of the Plan or the adequacy of the Trust Fund to meet and discharge liabilities under the Plan, or for the investments of the Plan. Trustee shall not be responsible for any failure of Plan Administrator or Plan Sponsor to discharge any of their respective responsibilities with respect to the Plan nor be required to enforce payment of any contributions to the Trust Fund, which duty is assigned to the Plan Administrator, as a fiduciary to the Plan, and Trustee shall be a directed trustee with respect to contributions and shall have no obligation to take any action to collect any contributions except upon the direction of the Plan Administrator.

**3.4.3** Except as otherwise required by the Code, under no circumstances shall Trustee or its Affiliates or agents incur liability for any indirect, incidental, consequential or special damages (including, without limitation, lost profits) of any form incurred by any person, whether or not foreseeable and regardless of the form of the action in which such a claim may be brought, with respect to the Trust Fund or its role as Trustee.

### **3.5. Prohibition of Diversion.**

**3.5.1** At no time prior to the satisfaction of all liabilities with respect to Participants in the Plan shall any part of the corpus or income of the Trust Fund be used for, or diverted to, purposes other than for the exclusive benefit of such Participants. Except as provided below and Section 4, the assets of the Trust Fund shall never inure to the benefit of Plan Sponsor and shall be held for the exclusive purpose of providing benefits to Participants in the Plan and defraying the reasonable expenses of administering the Plan.

**3.5.2** In the case of a contribution that is made by Plan Sponsor by a mistake of fact, subsection 3.5.1 above shall not prohibit the return to Plan Sponsor of such contribution, without any earnings, but reduced by any losses, at the direction of Plan Sponsor or Plan Administrator within one year after the payment of the contribution.

**3.5.3** If a contribution by Plan Sponsor is expressly conditioned on initial qualification of the Plan under Section 401 of the Code, and if the Plan does not so qualify, then subsection 3.5.1 above shall not prohibit the return to Plan Sponsor of such contribution, without any earnings, but reduced by any losses, at the direction of Plan Sponsor or Plan Administrator within one year after the date of denial of qualification of the Plan, to the extent permitted by the Code.

**3.5.4** If a contribution by Plan Sponsor is expressly conditioned upon the deductibility of the contribution under Section 404 of the Code, then to the extent such deduction is disallowed, subsection 3.5.1 above shall not prohibit the return to Plan Sponsor of such contribution, without any earnings, but reduced by any losses, at the direction of Plan Sponsor or Plan Administrator, to the extent disallowed, within one year after the date of such disallowance.

### **3.6. Valuation of the Trust Fund and Periodic Accounts.**

**3.6.1** Trustee shall report the value of securities or other property held in the Trust Fund as follows:

a. Publicly-traded securities for which a price is readily available shall be reported based upon information and financial publications of general circulation, generally available

statistical and valuation services, and records of security exchanges, or from quotes from brokers customarily used by Trustee for security pricing purposes;

b. Units or shares in Mutual Funds shall be reported at the most recently announced net asset value pursuant to regulations under the Investment Company Act of 1940;

c. Units or shares in limited liability companies, or other funds other than Mutual Funds (each, together with units or shares of Mutual Funds, a “Fund”) or group trusts shall be reported at their most recent asset value or other unit or share value stated by the Fund or its operator received by Trustee prior to the date of the production of any particular statement of account;

d. Units in group trusts shall be reported at the value stated by the trustee of the group trust;

e. Contracts of a type that Trustee, acting reasonably, determines to be an over-the-counter derivative (“OTC Derivative Contracts”) shall be reported at the price provided by the applicable Investment Manager, a vendor selected by that Investment Manager, Plan Sponsor or Plan Administrator; and

f. Other securities or other property shall be reported at prices certified by the applicable Investment Manager or at the price provided by a vendor or appraiser selected by the Investment Manager, Plan Sponsor or Plan Administrator.

**3.6.2** Trustee shall follow general market practice with regard to reviewing the reasonableness of prices received by it 3.6.1(a), but shall not otherwise be responsible for any error or inaccuracy in any such price as received by Trustee. Plan Sponsor, Plan Administrator, or the applicable Investment Manager, as the case may be, shall be deemed to have directed Trustee as to any price reported under clauses 3.6.1(b) through 3.6.1(f), and Trustee shall conduct no review or verification of any such price.

**3.6.3** Plan Sponsor, Plan Administrator or the applicable Investment Manager shall be responsible for assessing whether the prices reported by Trustee reflect the fair market value or fair value of the applicable asset at the time as of which Trustee reports the value of the Trust Fund. Trustee shall have no obligation to make a fair value adjustment of any price received by it, although it will incorporate into its reports any fair value adjustment that Plan Sponsor, Plan Administrator, or an Investment Manager may provide instructions for, to the extent that it is practicable for Trustee to do so from an operational perspective. Trustee shall be fully protected in relying upon the prices reported in accordance with this Section 3.6 for all purposes under this Trust Agreement, as well as any requirements of the Financial Accounting Standards Board or Governmental Accounting Standards Board.

**3.6.4** Plan Sponsor acknowledges that reported prices of securities and other property (particularly values of OTC Derivative Contracts and other assets lacking a readily available price) are indicative values only and do not indicate the actual terms at which the relevant asset or liability could be sold or unwound.

**3.6.5** Trustee shall have no responsibility to determine the price of OTC Derivative Contracts except as separately agreed to in writing between Plan Sponsor and Trustee.

**3.6.6** Trustee or its agent shall keep records of all transactions relating to the Trust Fund, which shall be made available at reasonable times during normal working hours to persons designated by Plan Sponsor or as may be required by law. Trustee or its agent shall render an accounting and statement of the Trust Fund assets and their values to Plan Sponsor as or on behalf of Plan Administrator at least annually. Plan Administrator may approve or file objections to such accounting on behalf of itself and Plan Sponsor by an instrument in writing delivered to Trustee. If Plan Administrator does not file with Trustee objections to any such accounting within ninety (90) days after its receipt, Plan Administrator shall be deemed to have approved such accounting on behalf of itself and

Plan Sponsor. In such case, or upon the written approval of Plan Administrator of any such accounting, Trustee and its agent shall, to the extent permitted by law, be discharged from all liability for its act or failures to act described in such accounting. Except to the extent otherwise provided in the Code, no person, other than Plan Sponsor or Plan Administrator, may require an accounting or bring any action against Trustee with respect to the Trust Fund.

**3.6.7** Nothing contained in this Trust Agreement or in the Plan shall deprive Trustee or its agent of the right to have a judicial settlement of its accounts. In any proceeding for a judicial settlement of the accounts of Trustee or its agent or for instructions with regard to the Trust, the only necessary parties thereto in addition to Trustee and its agent as appropriate shall be the Plan Administrator. If Trustee or its agent so elects, it may join as a party or parties defendant any other person or persons.

**3.7. Plan Administrator.** Plan Sponsor shall certify to Trustee and its agent the names of the entity or persons from time to time constituting the Plan Administrator and of any other persons with authority to provide direction on behalf of the Plan under this Trust Agreement. All directions to Trustee or its agent by Plan Administrator or any other authorized representatives shall be in writing which includes directions received via electronic methods acceptable to the Trustee. Trustee and its agent shall be entitled to rely without further inquiry upon all such written directions received from the Plan Administrator or any other authorized persons.

### **3.8. Resignation or Removal of Trustee.**

**3.8.1** Trustee may resign at any time by giving ninety (90) days' written notice to Plan Sponsor. The Plan Sponsor may remove Trustee at any time by giving ninety (90) days' written notice to Trustee. In the case of the resignation or removal of Trustee, the Plan Sponsor shall appoint a successor trustee who shall have the same powers and duties as those conferred upon Trustee. If the Plan Sponsor fails to appoint a successor Trustee as of the effective date of the Trustee resignation or removal or as of the effective date of the termination of this Trust Agreement and no other Trustee remains, the Trustee will treat the Plan Sponsor as having appointed itself as Trustee and as having filed the Plan Sponsor's acceptance of appointment as successor Trustee with the Trustee.

**3.8.2** Trustee shall execute, acknowledge and deliver all documents and written instruments necessary to transfer and deliver all of the assets of the Trust Fund and all rights and privileges therein to the successor trustee or, in its discretion, to a court of competent jurisdiction as the Trustee deems necessary, within a reasonable time, after reserving such reasonable amount as it shall deem necessary to provide for any expenses and payments then chargeable against the Trust Fund for which the Trust Fund may be liable, or for payment of the retiring Trustee's fees and expenses in connection with the settlement of its account or otherwise. If the assets so withheld shall be insufficient or excessive for such purposes, the retiring Trustee shall be entitled to reimbursement for any deficiency out of the Trust Fund from the successor trustee, or shall deliver the excess to the successor trustee, as the case may be. Following the effective date of the removal or resignation of Trustee, upon request, the Trustee shall provide the Plan Sponsor a written account of all Trust Fund transactions since the most recent report provided to the Plan Sponsor. The provisions of Section 3.6 shall be applicable to such account. The term "Trustee" as used in this Trust Agreement shall be deemed to apply to any successor trustee, permitted under Section 3.8.1, acting hereunder.

**3.8.3** Upon the appointment of a successor trustee, the resigning and removed Trustee shall be discharged from further accountability for the Trust Fund, and shall be under no further duty, obligation or responsibility for the disposition by such successor trustee of the Trust Fund or any part thereof.

### **3.9. Plan-to-Plan Transfers; Rollovers.**

**3.9.1** Trustee or its agent may transfer part or all of the property representing a Participant's interest in the Plan to the trustees of any trust qualified under Section 401(a) of the Code or Section 457(g) of the Code, whichever is applicable, in a plan-to-plan transfer, or with respect to an

eligible rollover distribution, to any eligible retirement plan as provided under Section 402(c) of the Code or Section 457(e) of the Code, whichever is applicable. Trustee or its agent may make such a transfer only at the direction of the Plan Administrator.

**3.9.2** Trustee or its agent may accept as part of the Trust Fund such property as is acceptable to Trustee which represents a Participant's retirement benefits transferred from a trust qualified under Section 401(a) of the Code or Section 457(g) of the Code, whichever is applicable, or transferred as a permissible rollover under Section 402(c) or 408(d)(3) of the Code or Section 457(e) of the Code, whichever is applicable. The amount of such benefits shall at all times be separately accounted for by Plan Sponsor. A Participant shall at all times be fully vested in any property so transferred as a rollover to the Trust Fund. Such property shall be distributed to the Participant at the direction of the Plan Administrator within the time required for distribution of his retirement benefits under the applicable provisions of the Plan.

### **3.10. Participating Employers.**

**3.10.1** Any entity that is required to be treated as a single employer or otherwise required to be aggregated with Plan Sponsor and which has adopted the Plan in accordance with its terms (a "Participating Employer") shall become a party to this Trust Agreement upon Plan Sponsor delivering to Trustee or its Affiliates documentation that it agrees to adopt the Plan, to become a party to this Trust Agreement, and to be bound by all the terms and conditions of the Plan and this Trust Agreement. Plan Sponsor shall have the sole authority to enforce this Trust Agreement on behalf of all Participating Employers and Trustee or its agent shall in no event be required to deal with any such Participating Employer except by dealing with Plan Sponsor as such Participating Employer's agent. Irrespective of the number of Participating Employers which may become parties to this Trust Agreement, Trustee or its agent shall in all respects invest and administer the Trust Fund as a single fund for investment and accounting purposes without allocation of any part of the Trust Fund as between Plan Sponsor and any Participating Employer.

**3.10.2** A Participating Employer which has adopted the Plan shall cease to be a party to this Trust Agreement upon Plan Sponsor delivering to Trustee documentation that it is terminating its participation in the Plan. In such event, or in the event of the termination of Plan Sponsor or of any such Participating Employer, or in the event of the establishment, modification or continuance of any other retirement plan which separately or in conjunction with this Plan is qualified under Section 401(a) of the Code, Trustee or its agent shall continue to hold the portion of the Trust Fund which is attributable to the participation in the Plan of the employees and their beneficiaries affected by such termination, and this Trust Agreement shall continue in force with respect to such portion, until otherwise directed by the Plan Administrator, in accordance with the provisions of the Plan and the Code.

**3.11. Alienation.** No interest in the Trust Fund shall be assignable or subject to anticipation, sale, transfer, mortgage, pledge, charge, garnishment, attachment, bankruptcy or encumbrance or levy of any kind, and the Trustee or its agent shall not recognize any attempt to assign, sell, transfer, mortgage, pledge, charge, garnish, attach or otherwise encumber the same except to the extent that such attempt is made pursuant to (i) a court order determined by the Plan Administrator to be a qualified domestic relations order, as defined in Section 414 of the Code or (ii) as required by a federal tax levy made in accordance with Section 6331 of the Code, (iii) pursuant to an offset under Section 401(a)(13)(C) of the Code or (iv) as otherwise allowed under the Code.

**3.12. Bond.** Trustee shall not be required to give any bond or any other security for the faithful performance of its duties under this Trust Agreement except as required by law.

### **3.13. Proxies and Other Incidents of Ownership**

**3.13.1** The Trustee shall have no discretion with respect to voting proxies, tendering shares in a tender or exchange offer, or exercising any other rights of ownership.

**3.13.2** The Trustee shall deliver or cause to be delivered, as directed by the Plan Sponsor or Plan Administrator, to the Plan Sponsor, Plan Administrator, the designated Investment Manager, or a designated transfer agent, all proxies and proxy related materials relating to investments held under the Trust Agreement received by Trustee.

**3.13.3** The Plan Sponsor shall assign a fiduciary (which may be a person, committee or entity designated by the Plan Sponsor, or the Plan Sponsor, but which shall not be the Trustee) who shall be responsible for voting proxies, tendering shares and exercising shareholder rights.

**3.13.4** With respect to investments held in Participant-directed brokerage accounts, each Participant shall be responsible for directly voting proxies, tendering shares and exercising shareholder rights.

#### **4. Compensation and Expenses**

**4.1.** Trustee shall be compensated in accordance with the fee schedule provided to Plan Sponsor which may be incorporated as part of the fee schedule or other fee documentation provided to the Plan Sponsor under an agreement between the Plan Sponsor and an Affiliate of the Trustee to provide recordkeeping or other administrative services to the Plan where such fees may be paid by the Affiliate to the Trustee on behalf of the Plan. If Trustee proposes an amended written fee schedule and Plan Sponsor fails to object thereto within ninety (90) days of its receipt, the amended fee schedule shall be deemed accepted by Plan Sponsor. Trustee reserves the right to liquidate Trust assets in satisfaction of its fees hereunder in the event of non-payment by Plan Sponsor.

**4.2.** Plan Sponsor acknowledges and agrees if the Plan's assets pass through a bank account held by Trustee, it may earn credits and/or interest on Plan assets awaiting investment or pending distribution. Any credits or interest earned by Trustee are aggregated with credits and/or interest earned by its Affiliates and will be used to defray the aggregate expenses for the maintenance of bank accounts. Trustee will not retain credits and/or interest earned in excess of such maintenance expenses.

**4.3.** Credits and/or interest are earned from the use of (i) uninvested contributions received too late in the day or not received in good order to be invested same-day and (ii) proceeds from investment option redemptions where distribution checks have not been presented for payment by participants. Credits and/or interest (i) begin to accrue on contributions, on the date such amounts are deposited into the bank account and end on the date such amounts are invested pursuant to Plan participant or Plan representative instructions, and (ii) begin to accrue on distributions, on the date the check is written or on the wire date, as applicable and end on the date the check is presented for payment or when the wire clears again the account, as applicable. Earnings of credits and/or interest are at the rate the bank provides from time to time.

**4.4.** Trustee shall pay out of the Trust Fund, income taxes levied or assessed under existing or future laws against the Trust Fund, (including all Plan participant accounts) upon direction by a regulatory authority or agency or Plan Sponsor or Plan Administrator, as applicable.

**4.5.** Plan Sponsor shall pay, or if not paid by Plan Sponsor and the Plan so permits, Plan Sponsor directs Trustee to pay from the Trust Fund, the reasonable expenses relating to the Plan and Trust Fund that are permitted by law to be paid from the Trust Fund.

#### **5. Confidential Information**

**5.1.** In order to perform the Services, both parties may have access to certain information of the other party, including, without limitation, trade secrets, commercial and competitively sensitive information of the party related to business methods or practices, and proprietary software or websites of the party ("Confidential Information"). For the purpose of clarity, any software or website made available by Trustee or its Affiliates ("Trustee Software") is Confidential Information of Trustee. The parties mutually agree to hold all Confidential Information of the other party in confidence and not to disclose any

Confidential Information of the other party to anyone except the parties' Affiliates, suppliers, and respective personnel in connection with the performance or receipt of Services hereunder or as directed or approved by the other party or its agents. Confidential Information does not include: information that is otherwise in the public domain through no action of the non-disclosing party; information that is acquired by a party from a person other than the other party or its agents without any obligation of confidentiality; or information that is independently developed by a party without reference to the Confidential Information of the other party.

**5.2.** In the event a party makes an unauthorized disclosure or use of Confidential Information of the other party, or receives notice that it will be required to make a legally required disclosure of the other party's Confidential Information, such party shall notify the other party of the disclosure as soon as reasonably practicable. In the event a party is legally compelled to disclose Confidential Information, the party shall notify the other and cooperate with any efforts by such party to obtain protective treatment of such Confidential Information to the extent permitted by law; provided that the foregoing shall not apply to broad-based regulatory examinations associated with a party's general business or operations. Both parties acknowledge that failure to comply with this section may cause irreparable harm to the party whose Confidential Information is disclosed and agrees that any court having jurisdiction may enter an order for equitable relief, including an injunction or an order for specific performance in the event of actual or threatened breach of these provisions.

**5.3.** Plan Sponsor authorizes Trustee to disclose Confidential Information to: (i) any subcustodian, subcontractor, agent, securities depository, securities exchange, broker, third party agent, proxy solicitor, issuer, or any other person that Trustee believes is reasonably required to receive such information in connection with Trustee's provision of relevant services under this Trust Agreement; (ii) its professional advisors, auditors or public accountants; (iii) its Affiliates, and (iv) any revenue authority or any governmental entity in relation to the processing of any tax relief claim.

## **6. Privacy & Data Security**

**6.1.** Trustee and Plan Sponsor agree to maintain and hold in confidence all Nonpublic Personal Information ("NPI") received in connection with the performance of Services under this Trust Agreement. Trustee and Plan Sponsor agree that their collection, use and disclosure of any and all NPI is and will be at all times conducted in compliance with all applicable data protection and/or privacy laws, rules and/or regulations. NPI includes personally identifiable financial information as defined by Title V of the Gramm-Leach-Bliley Act. Trustee shall not use or disclose NPI to any third party, other than to its Affiliates and third party service providers, and to other Plan service providers, without Plan Sponsor's written consent, except as permitted or required by law. Any third party service provider retained by Trustee who has access to NPI shall agree in writing to be bound by obligations of confidentiality and non-disclosure.

**6.2.** The parties will use best efforts to secure NPI through the use of appropriate physical and logical security measures, and will take all commercially reasonable organizational and technical steps to protect against unlawful and unauthorized processing of NPI. For purposes of this section, NPI includes user credentials, passwords, and other authentication data that enables Plan Sponsor, its authorized agents, or Participants to access Trustee Software. The parties will promptly notify the other in the event of (i) any breach of its security that results in unauthorized access to NPI; (ii) the consequences of the breach; and (iii) the corrective action taken to remedy the breach.

## **7. Business Continuity & Disaster Recovery**

Trustee will, in conjunction with its Affiliates, maintain business continuity and disaster recovery procedures to address the security, integrity and availability of the technology, operational, financial, human and other resources required to provide the Services. Such procedures shall be designed to enable Trustee to continue to perform mission-critical Services in the event of a natural disaster or other interruption of normal business operations. Further, Trustee, in conjunction with its Affiliates, agrees to review and test such disaster recovery procedures at least once annually. Upon request by Plan

Sponsor, Trustee will provide a written summary of its then-current policies, procedures or programs, including an overview of recent business continuity exercise results.

## **8. Records**

Trustee shall retain all records in its custody and control that are pertinent to performance under this Trust Agreement in accordance with its record retention policy, as amended from time to time. Subject to the foregoing, each party agrees to return or destroy the other party's Confidential Information and NPI once it is no longer required for the purpose of performing or receiving the Services, provided that the parties are not obligated to destroy copies of Confidential Information or NPI that must be retained for audit, legal or regulatory purposes, or is stored in non-readily accessible electronic format, such as on archival systems.

## **9. Intellectual Property Rights**

**9.1. Plan Sponsor Materials.** As between the parties hereto, except for Trustee Materials (as defined below), Plan Sponsor shall own all materials, trademarks, tradenames, logos, trade dress, and other information provided by Plan Sponsor or otherwise made accessible by Plan Sponsor to Trustee for use in providing the Services (collectively, the "Plan Sponsor Materials"). Plan Sponsor Materials do not include data and information in the form maintained by Trustee or supplied by Trustee to Plan Sponsor.

**9.2. Trustee Materials.** As between the parties hereto, Trustee and its Affiliates shall own all materials, documentation, user guides, forms, templates, business methods, trademarks, tradenames, logos, websites, software, technology, computer codes, domain names, text, graphics, photographs, artwork, interfaces and other information or material provided by Trustee or its Affiliates hereunder (collectively, the "Trustee Materials"). The term "Trustee Materials" shall not include Plan Sponsor Materials (as defined in paragraph 9.1). Trustee grants to Plan Sponsor a non-exclusive, non-transferable and non-sublicensable license to use the Trustee Materials during the term of the Trust Agreement solely for purposes of using Trustee's Services hereunder and subject to the terms and conditions set forth in this Trust Agreement. All rights with respect to the Trustee Materials not specifically granted hereunder are reserved by Trustee.

## **10. Liability & Indemnification**

**10.1. Indemnification.** Trustee agrees to indemnify the Plan Sponsor from and against any and all expenses, costs, reasonable attorneys' fees, settlements, fines, judgments, damages, liabilities, penalties or court awards asserted by a third party (collectively, "Damages") to the extent resulting from the Trustee's breach of this Trust Agreement, negligence, or willful misconduct. Notwithstanding anything to the contrary herein, Trustee shall not be liable to Plan Sponsor for any Damages resulting from: (i) any acts or omissions undertaken at the direction of the Plan Sponsor, Plan Administrator, Investment Manager or Participants and any authorized agent thereof; (ii) any direction of any third party retained by Plan Sponsor to provide services relating to the Plan, including but not limited to prior service providers, investment advisors, or any authorized agent thereof; or (iii) any performance of the Services as to which Trustee has complied with directions or instructions as contemplated by this Trust Agreement, or has refrained from acting in the absence of directions or instructions as contemplated by this Trust Agreement or that is in strict compliance with the terms of this Trust Agreement.

Plan Sponsor acknowledges that Trustee and its directors, officers, employees and authorized representatives are not responsible for the investment performance of any investments under the Trust.

**10.2. Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUE OR PROFIT) EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## 11. Dispute Resolution

The parties shall engage in reasonable and good faith discussions to resolve any dispute arising out of or relating to this Trust Agreement. If the parties are unable to agree between themselves, the parties will submit the dispute to non-binding mediation conducted by a private mediator agreed to by both parties. If the parties cannot agree on a mediator, the mediator may be selected by a nationally recognized, independent arbitration or mediation organization to which the parties mutually agree. The costs of mediation shall be borne equally by the parties, and each party shall pay its own expenses. If the parties are unable to resolve the dispute through non-binding mediation, either party may initiate litigation; provided, however, that if one party requests mediation and the other party rejects the proposal or refuses to participate, the requesting party may initiate litigation.

## 12. Term & Termination

**12.1. Term.** This Trust Agreement may be terminated as specified below.

**12.2. Termination.** This Trust Agreement may be terminated as follows:

**12.2.1** in the event the contract providing a funding medium or providing for recordkeeping services is discontinued or terminated with an Affiliate of the Trustee, this Trust Agreement shall be terminated as well as of the date of discontinuance or termination of such contract with no further notice required from either party to the other; or

**12.2.2** this Trust Agreement and the Trust created may be terminated at any time by the Plan Sponsor upon ninety (90) days written notice, delivered to the Trustee. Upon receipt of such notice of termination, the Trustee shall, after payment of all expenses incurred in the administration of the Trust Fund and such compensation as to which Trustee may be entitled, distribute the Trust Fund in cash or in kind to such persons or entities, including Plan Sponsor, at such time and in such amounts as Plan Administrator shall direct, which direction shall be in conformity with the provisions of the Plan and applicable provisions of the Code. Notwithstanding the foregoing, Trustee shall not be required to pay out any assets of the Trust Fund until it shall have received such rulings or determinations of the Internal Revenue Service or any other administrative agency as it may deem necessary or appropriate in order to assure itself that any such payment is made in accordance with the provisions of law or that it will not subject the Trust Fund or the Trustee, individually or as such Trustee, to liability. The Plan Sponsor or Plan Administrator shall be responsible for obtaining such rulings.

**12.2.3** Notwithstanding the foregoing, either party may terminate this Trust Agreement immediately upon written notice to the other party in the event a material breach of this Trust Agreement by the other party has not been cured within thirty (30) days of that party being given written notice of the material breach.

## 13. Miscellaneous

**13.1. Affiliates.** Plan Sponsor acknowledges and agrees that Trustee may utilize the services of Affiliates, agents, subcustodians, vendors and suppliers selected by Trustee. Trustee's use of any such party will not relieve Trustee of its obligations hereunder, and Trustee shall at all times remain liable for the performance of the Services hereunder.

**13.2. Relationship of the Parties.** The relationship between the parties is that of independent contractors. Neither Trustee nor its personnel shall be considered employees of Plan Sponsor or Plan Administrator for any purpose. None of the provisions of this Trust Agreement shall be construed to

create an agency, partnership or joint venture relationship between the parties or the partners, officers, members or employees of the other party by virtue of either this Trust Agreement or actions taken pursuant of this Trust Agreement.

**13.3. Assignment.** This Trust Agreement shall be binding upon and inure to the benefit of each of the parties, their Affiliates, successors and permitted assigns; provided, however, that neither party may assign its rights or obligations hereunder without the other party's prior written consent. Notwithstanding the foregoing, a party may assign this Agreement in connection with: (i) the sale of substantially all of its assets to an entity that assumes the assignor's obligations under this Agreement; (ii) a merger, acquisition or divestiture; and/or (iii) a transfer to a parent or Affiliate, in each case without the other party's consent. Any corporation which shall, by merger, consolidation, purchase or otherwise, succeed to substantially all the trust business of Trustee shall, upon such succession, and without any appointment or other action by any person, be and become successor Trustee hereunder. An assignor shall nevertheless give prompt written notice of any such permitted assignment reasonably identifying the assignee (including all pertinent addresses and contact information) and the effective date of the assignment to the other party.

**13.4. Entire Agreement; Amendment; Waiver.**

**13.4.1** This Trust Agreement, including all appendixes, exhibits, schedules, notices and attachments, constitutes the entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior drafts, agreements, negotiations and proposals, written or verbal, relating to the Services, and supersedes any prior trust agreement, statement, or representation relating to the obligations of the Trustee, whether oral or written. Except as otherwise provided herein, this Trust Agreement may be modified only by an amendment signed by authorized representatives of each party. Any Trustee policies that are attached to or referenced in this Trust Agreement may be modified by Trustee at any time. No waiver of any breach of any provision of this Trust Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of such provision or any other provision hereof and no waiver shall be effective unless made in writing.

**13.4.2** Notwithstanding anything contained in this Section to the contrary, no amendment shall divert any part of the Trust Fund to, and no part of the Trust Fund shall be used for, any purpose other than for the exclusive purpose of providing benefits to Participants; provided, however, that nothing in this Section shall be deemed to limit or otherwise prevent the payment from the Trust Fund of expenses and other charges as provided in Section 4.

**13.5. Governing Law; Waiver of Jury Trial.** To the extent not preempted by federal law, this Trust Agreement and the Trust shall be construed, regulated, and administered under the laws of the United States or the State of Colorado, as applicable, without regard to conflict of law principles, and any claim arising under or related to this Trust Agreement shall be subject to the exclusive jurisdiction of the federal and state courts located in Colorado. Both parties agree to waive any right to have a jury participate in the resolution of any dispute or claim arising out of, connected with, related to or incidental to this Trust Agreement to the fullest extent permitted by law.

**13.6. Force Majeure.** Neither Trustee nor Plan Sponsor shall be liable to the other for any and all losses, damages, costs, charges, counsel fees, payments, expenses or liability due to delay or interruption in performing its obligations hereunder, and without the fault or negligence of such party, due to causes or conditions beyond its control, including, without limitation, labor disputes, riots, war and war-like operations including acts of terrorism, epidemics, explosions, sabotage, acts of God, civil disturbance, governmental restriction, transportation problems, failure of power or other utilities including phones, internet disruptions, fire or other casualty, natural disasters, or disruptions in orderly trading on any relevant exchange or market, failure of or the effect of rules or operations of any external funds transfer system, inability to obtain or interruption of external communications facilities, or any other cause that is beyond the reasonable control of either party.

**13.7. Severability.** The provisions of this Trust Agreement are severable, and if for any reason a clause, sentence, paragraph or provision of this Trust Agreement is determined to be invalid by a court or federal or state agency, board or commission having jurisdiction over the subject matter thereof, such invalidity will not affect other provisions of this Trust Agreement that can be given effect without the invalid provision.

**13.8. Notices.** All formal notices required by this Trust Agreement will be in writing and shall be sent to Trustee as set forth below or to Plan Sponsor, as the case may be. The Plan Sponsor will be deemed to have received any applicable notices on behalf of the Plan Administrator. All notices sent shall be effective upon receipt. Provided, however, that upon either party's written request, such communications shall be sent to such other address as a party may specify. No communication shall be binding on Trustee until it is received by Trustee.

**Trustee:**

Notice To Trustee: Great-West Trust Company, LLC  
8525 East Orchard Road  
Greenwood Village, CO 80111  
Attn: Trust Officer

With a copy to: Great-West Trust Company, LLC  
8525 East Orchard Road  
Greenwood Village, CO 80111  
Attn: General Counsel

**Plan Sponsor:**

Notice To Plan Sponsor Plan Sponsor's address of record as provided to the Trustee or its Affiliates from time to time.

**13.9. Headings; Defined Terms; Counterparts.** Section headings used in this Trust Agreement are intended for reference purposes only and shall not affect the interpretation of this Trust Agreement. Unless the context requires otherwise, capitalized terms defined in this Trust Agreement have the meanings set forth herein for all purposes of this Trust Agreement including any Schedules or Exhibits. This Trust Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. The parties' execution and delivery of this Trust Agreement by facsimile, email, or electronic copies shall have the same force and effect as execution and delivery of an original. Neither the gender nor the number (singular or plural) of any word shall be construed to exclude another gender or number when a different gender or number would be appropriate.

**13.10. Survival.** The provisions of the following sections shall survive the termination of this Trust Agreement: Compensation and Expenses; Confidential Information; Privacy & Data Security; Records; Intellectual Property Rights; Liability & Indemnification; Dispute Resolution; Governing Law; Waiver of Jury Trial; Survival; Severability; and any other section that would by its context be reasonably expected to survive termination.

**13.11. Reports.** The Trustee has accepted this Trust with the understanding that Plan Sponsor or Plan Administrator has entered or is entering into a service agreement with an Affiliate of the Trustee whereby such Affiliate will provide recordkeeping services for all Plan assets held pursuant to this Trust Agreement. The recordkeeping reports and related financial information provided by Affiliate shall constitute the reports of the Trustee.



**13.12. Signatures.** By signing this Trust Agreement the parties certify that they have read and understood it, that they agree to be bound by its terms, and that they have the authority to sign it. This Trust Agreement is not binding on either party until signed by both parties.

IN WITNESS WHEREOF the Plan Sponsor, Plan Administrator, if applicable, and the Trustee have executed this instrument on such dates as specified below.

**Great-West Trust Company, LLC**

**Plan Sponsor: Northern Inyo Healthcare District**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed

**Plan Administrator: [If other than Plan Sponsor]**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date Signed

April 20, 2021

Mr. Vinay Behl  
CFO  
Northern Inyo Hospital  
150 Pioneer Lane  
Bishop, CA 93514

Re: Actuarial and Consulting Services - Terms of Engagement

Dear Vinay:

Thank you for selecting Hooker & Holcombe, Inc. to provide certain actuarial and consulting services to Northern Inyo Hospital. This letter agreement sets forth the terms of our engagement and the nature and limitations of the services we will provide to you unless we otherwise mutually agree in writing.

**Services to be Performed:** See the attached "Schedule of Services."

**Scope Limitations:** This engagement cannot be relied upon to disclose errors, irregularities, or illegal acts, including fraud or defalcations, which may exist with respect to your pension and other retirement plans covered by this letter agreement and the services we provide pursuant to the Schedule of Services. We may inform you of any such matters that come to our attention.

**Fees and Expense:** The fees and expenses for our services are as follows:

**A. Professional Fees.** The Schedule of Services sets forth the fees for our services. Except where the Schedule of Services provides otherwise, our fees for professional services will be based on the time expended at our current hourly rates, which are subject to change periodically, usually on an annual basis. Our 2021 hourly rates are:

- |                         |               |
|-------------------------|---------------|
| ▪ Consultants/Actuaries | \$300 - \$490 |
| ▪ Analysts/Technicians  | \$165 - \$300 |
| ▪ Support               | \$100 - \$165 |

**B. Direct Expenses.** In addition to our professional fees, we will bill you for any expenses we pay to others on your behalf and for other costs we incur that are customarily paid by each client on an "as-used" basis, such as copier charges for non-incident copying, courier and expedited delivery services, and travel expenses. If a disbursement is expected to exceed \$1,000, we may ask you to fund it in advance.

**C. Taxes.** We understand that our services would be exempt from Connecticut state sales tax. If any state sales tax (or similar tax) is or becomes applicable, it will be charged in addition to the above fees.

**Payment:** We will generally submit a bill to you monthly unless a different arrangement is mutually agreed upon in writing in advance of services. All unpaid fees, expenses and costs are due thirty (30) days from the invoice date.

**Permission to Use Information in Our Marketing:** By signing this letter agreement, you agree that we may use your name, logo, and a general description of our services to you in our business development efforts and materials. If you do not agree that we may use this information as described, please strike this paragraph by drawing a line through it and initialing it.

**Use of Portal:** To enhance our services to you, we may utilize a portal - a collaborative, virtual workspace in a protected, online environment. The portal permits real-time collaboration across geographic boundaries and time zones and allows us and you to share data, engagement information, knowledge, and deliverables in a protected environment. The portal allows for the delivery of all types and sizes of documents. It is internet-based and allows for the transmission of documents that we or you place in a secure location for your or our access and downloading. The portal is designed with security involving virus scanning, the use of secure transmission technology, and utilization of passwords for the protection of your documents. It is your responsibility to protect the use of your passwords and ensure that only authorized users have access to the portal. We will use reasonable efforts to keep communications and data secure through the portal; however, you recognize and accept that we have no control over unauthorized interception of or access to the portal. You agree that we have no responsibility for the activities of the portal, and you agree to indemnify and hold us harmless with respect to any and all third party claims against us (including from your employees) arising from or related to the use or operation of the portal that do not result from our negligence or willful misconduct.

**Document Management & Retention:** We prefer to receive documents in electronic format. If we receive any documents from you in paper format, we may scan them or otherwise convert them to an electronic format and destroy the paper documents unless you have previously requested in writing that we return any paper documents to you. With respect to all participant-related documentation, we will scan it to the individual's participant record on the PensionEdge® web portal once we have reviewed the documentation and determined it to be complete, after which we will destroy any paper documents we have received; provided that we will return to you all original participant-completed documents, including documents with a raised seal, annually (or more frequently if you request), and we will return to participants at their home address any original back-up documentation such as birth certificates, driver's licenses, passports, or similar documentation within a reasonable period of time. It is your responsibility to properly maintain any records as required by law, including those records related to plan participants. We typically retain client documents and plan participant documents in our files for only a reasonable period of time, and no longer than necessary, after which we may destroy them, regardless of format, without further notice to you, subject to any applicable legal requirements specifying a document retention period.

**Right to Terminate:** Either party may terminate this letter agreement at any time on 30 days' prior written notice (including email) to the other party.

**Limit of Liability:** You agree that our liability hereunder for damages, regardless of the form of action, shall not exceed the total amount paid for the services described herein. This shall be your exclusive remedy, except as otherwise required by applicable law.

You agree that we will not be liable for any incidental, punitive, special or consequential damages, including without limitation, loss of time, inconvenience, loss of profit, loss of business or any other similar damages or for any claim or demand against you by any other party, even if we have been advised of the possibility of such damages.

No action, regardless of form, arising out of the services under this letter agreement may be brought by either party more than one year after the date of the last service provided under this letter agreement, except as otherwise required by applicable law.

**Applicable Law:** This letter agreement, engagement and any cause of action arising hereunder or related hereto shall be governed by and construed and enforced in accordance with the laws of the State of California without regard to its conflicts of laws principles. We and you agree that the courts of the State of California shall have exclusive jurisdiction with respect to any disputes, claims or causes of action arising under or in connection with this letter agreement.

**Complete Agreement:** This letter agreement, including the attached Schedule of Services, is the complete and exclusive statement of the agreement between the parties with respect to the services set forth on the Schedule of Services, superseding all proposals, oral or written, and all other communications between the parties. If any provision of this letter agreement is determined to be invalid or unenforceable, all other provisions shall remain in force.

**Assignment:** Each party's benefits and obligations under this letter agreement shall not be assigned without the prior written consent of the other party, which consent will not be unreasonably conditioned, withheld or delayed; provided that we may assign our benefits and obligations to an affiliated party of ours without your prior consent. The terms and conditions of this letter agreement shall apply to, inure to the benefit of, and be binding upon the parties hereto and upon their permitted successors and assigns.

**Force Majeure:** Notwithstanding any other provision of this letter agreement, we will not be liable for, nor shall we be considered in breach of this letter agreement due to, any failure to perform our obligations under this letter agreement as a result of a cause beyond our control, including any act of God or a public enemy, act of any military, civil or regulatory authority, act of terrorism, change in any law or regulation, fire, flood, earthquake, storm or other like event, disruption or outage of communications, power or other utility, labor problem, unavailability of supplies, or any other cause, whether similar or dissimilar to any of the foregoing, which could not have been prevented by our reasonable care.

**Understanding:** If this letter agreement accurately reflects your understanding of our duties and relationship, please sign below and return the original to us. The copy is for your files. If we have misunderstood any aspect of our duties or our relationship, please call us immediately, and we will revise this letter agreement prior to your execution of it.

Very truly yours,

Ellen A. Kucenski, FSA, MAAA, Enrolled Actuary  
Practice Leader, Consulting Actuary

Marc R. Condon, FSA, MAAA  
Pension Administration Consultant

Accepted and agreed:  
Northern Inyo Hospital

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_ / \_\_\_ / \_\_\_

Attachment: Schedule of Services

**FEE SUMMARY**

Service	Fee
Actuarial Consulting Services	\$14,000/year
PensionEdge® Plus Portal for Plan Sponsors and Participant	\$14,900/year
Benefit Calculation Services	\$400/calculation
Participant Services	\$175/hour*

*\*Not to exceed \$12,000 per year for in-scope services*

**Total Annual Fee: \$28,900 plus Benefit Calculations and Participant Services**

Type of Services	Services Provided	Fee
<b>Actuarial Services</b>	<ul style="list-style-type: none"> <li>▪ Data gathering and update file as necessary</li> <li>▪ Accumulate, reconcile and maintain a comprehensive participant database (actives/terminated vested/retirees)</li> <li>▪ Vesting tracking</li> <li>▪ Actuarial valuation report</li> <li>▪ Identification of possible changes in plan provisions, actuarial methods, accounting methods based on current “best practice”</li> <li>▪ Preparation of required financial reporting disclosure for GASB 67/68</li> <li>▪ Consultation on legislative changes that are not unique to your Plan</li> <li>▪ Keeping you abreast of new/changing retirement plan developments</li> <li>▪ Response to routine auditor’s request for Plan information</li> <li>▪ Review and interpret Plan and advise on questions concerning the administration of the Plan</li> <li>▪ Review data annually for any Minimum Required Distributions, if applicable</li> </ul>	<b>\$14,000 annually</b>

Type of Services	Services Provided	Fee
<b>PensionEdge® Plan Sponsor Portal</b>	<ul style="list-style-type: none"> <li>■ Interactive and informational website for plan administrators</li> <li>■ Accumulate, reconcile and maintain a comprehensive database for all participants includes maintaining data updates</li> <li>■ Includes annual data feed and annual reconciliation</li> <li>■ Provide plan sponsor ability to estimate and project retirement benefits for plan participants</li> <li>■ Includes assistance with Benefit Estimate Calculator</li> <li>■ Provide electronic personalized annual statements of all active plan participants based on salary and employment data provided by plan sponsor</li> <li>■ Provide access to plan sponsor documents (document summaries, labor agreements, etc.)</li> <li>■ Initial programming of all plan provisions and testing representative sample participants</li> <li>■ Maintain forms and administrative documents used by plan sponsor contacts</li> <li>■ Provide necessary training and education tools to plan sponsor</li> <li>■ Annual terminated vested death audit</li> </ul>	<b>Annual fee: \$14,900</b>
<b>Participant Services – Portal Access</b>	<ul style="list-style-type: none"> <li>■ Portal access for Plan Sponsors (above) plus ability for Plan Participants to:</li> <li>■ View personal pension information</li> <li>■ View and print annual benefit statements</li> <li>■ Estimate future retirement income</li> <li>■ Request final benefit calculations and benefit election forms (for vested terminated participants only)</li> <li>■ View related plan information and documents</li> <li>■ Receive Service Center assistance with login and web navigation</li> <li>■ Receive Service Center assistance with benefit Estimate Calculator</li> </ul>	Included above
<b>Participant Services – H&amp;H Service Center</b>	<ul style="list-style-type: none"> <li>■ H&amp;H Service Center assistance for all participants</li> <li>■ Interaction with participants to process benefit calculations and set up payment including:               <ol style="list-style-type: none"> <li>1. Answer participant questions</li> <li>2. Audit submitted forms and supporting documentation</li> <li>3. Correspond with participant until forms are complete and in good order</li> <li>4. Submit completed forms to sponsor for authorization</li> <li>5. Initiate new retiree benefit payments with custodian</li> </ol> </li> <li>■ Assist in the set-up of surviving spouse upon death of retiree</li> <li>■ Administer benefit payment maintenance</li> <li>■ Pension income verifications</li> <li>■ Locate missing participants</li> <li>■ Monthly benefit payment register audit and reconciliation</li> </ul>	<b>Annual Fee: Billed on an hourly basis at \$175/hour</b>

	<ul style="list-style-type: none"> <li>▪ Retiree death audit review</li> <li>▪ Mailing of the following: <ul style="list-style-type: none"> <li>6. Benefit election packages to participant</li> <li>7. Letters to terminated vested participants with Accrued Benefits (includes preparation)</li> <li>8. Letters to non-vested terminations (includes preparation)</li> <li>9. Bi-annual mailing to terminated vested participants six months prior to normal retirement date (includes preparation)</li> <li>10. Benefit statements (if requested)</li> <li>11. Suspension of benefits notices (if applicable)</li> </ul> </li> </ul>	
<p><b>Benefit Calculation Services</b></p>	<ul style="list-style-type: none"> <li>▪ H&amp;H prepares final benefit calculations including optional forms of benefit and forms package</li> <li>▪ Communication with participants is included with selection of Benefit Administration Services (optional).</li> <li>▪ Includes creation of merged PDF for mailing and attaching to participant’s online record</li> <li>▪ Includes confirmation of participant and spousal information</li> <li>▪ Worktrack—an online assistant providing you and your staff with maximum efficiency: <ul style="list-style-type: none"> <li>○ Track benefit payment from request to payout</li> <li>○ Customizable steps to determine status of payment processing</li> <li>○ Each step may have a “Complete” and “Authorize” check for completion by those authorized for those actions</li> </ul> </li> <li>▪ Email notification for each step of the process to notify those responsible for the next step</li> <li>▪ Does not include QDRO consulting or calculations</li> </ul>	<p><b>\$400</b> per calculation, includes benefit election forms.</p>

**Notes:**

1. Set-up will take approximately 6-9 months after execution of agreement.
2. We are waiving our transition fee based upon the agreement of a 3-year contract. Otherwise, a one-time transition fee for coding our systems would be \$16,000. Early termination of the contract by Northern Inyo Hospital will result in a pro-rated charge of the transition fee.
3. The above amounts are subject to annual inflationary increases, not to exceed 2.0% per year for the term of the 3-year contract.

In addition to this scope of work, we are always available to assist our clients with special requests or ad hoc projects. Such projects are normally based on hourly rates and our 2021 hourly rates are provided below:

Consultants/Actuaries	\$300-\$490
Analysts/Technicians	\$165-\$300
Support/Administrative	\$100-\$165

Before beginning special or ad hoc projects, we can provide you with an estimate of anticipated project costs based on the project scope if requested.



## 401(a) Governmental Plan Directed Benefit Custody Agreement

This **CUSTODY AGREEMENT** (the "Agreement") is entered into by and between the governmental entity identified on the Execution Page (the "Plan Sponsor") and Charles Schwab Trust Bank (the "Custodian"). The Agreement relates to the retirement plan (the "Plan") identified on the Execution Page and to the account which has been established by the Custodian under this Agreement to hold the account assets transferred by the Plan Sponsor to the Custodian (the "Account"), if any. This Agreement is effective on the date it is accepted by the Custodian.

### **PURPOSE OF CUSTODIAN ACCOUNT**

The Plan Sponsor adopted the Plan for the exclusive purpose of providing benefits to certain of its employees and their beneficiaries and defraying reasonable expenses of administering the Plan. The Plan provides that, from time to time, cash and other assets may be paid to the trustee or its designated custodian by the Plan Sponsor to be held and administered as a trust for the uses and purposes of the Plan. The Plan Sponsor represents that the Plan is qualified under Section 401 of the Internal Revenue Code of 1986, as amended (the "Code"), the Account constitutes a part of the Plan, and the Account is exempt from tax under Internal Revenue Code Section 501(a). The Account is hereby established as a custodial account described in Section 401(f) of the Code.

The Plan Sponsor and the Custodian enter into this Agreement whereby the Plan Sponsor appoints Custodian as its agent to act as custodian of the cash, marketable securities, and other property acceptable to the Custodian (as described in Article 2.5) which may be contributed by Plan Sponsor from time to time to the Account (collectively "Account Assets"). The Custodian will have no duties or responsibilities with respect to any property other than cash, marketable securities, and other property accepted by the Custodian. The Custodian agrees to act as "Custodian" according to the terms and conditions of this Agreement.

The parties agree that the Custodian will (i) establish an account to hold the account assets transferred by the Plan Sponsor to the Custodian hereunder, (ii) provide safekeeping and custody of Account Assets held in such Account, and (iii) perform the functions and duties assigned to it under this Agreement subject to the Plan Sponsor's directions. The Custodian will act only at the direction of the Plan Sponsor or a party authorized to act on the Plan Sponsor's behalf. The Custodian has no authority to take any discretionary action and does not exercise discretionary authority or control with respect to Plan assets, is not a fiduciary to the Plan and does not have any fiduciary responsibility with regard to the administration of the Plan or the management of Plan assets. The Plan Sponsor warrants and represents that all directions provided to the Custodian will be in conformity with the terms of the applicable Plan and related documents, including, if applicable, the trust agreement governing the establishment and operation of any trust required for and established with respect to the Plan ("collectively, the "Plan Documents"), and acknowledges and agrees that the Custodian shall have no liability or responsibility in this regard.

The Plan Sponsor warrants and represents that the transfer of custody of Accounts Assets to the Custodian hereunder and the maintenance of custody by Custodian is authorized by the appropriate fiduciary. The Plan Sponsor warrants and represents that the Plan Documents are

in full force and effect and have not been revoked, modified or amended in any way that would cause the representations made in this Agreement to be inaccurate or incorrect. The Plan Sponsor confirms that it is authorized to enter into this Agreement and to carry out all of its duties as described in this Agreement.

The Custodian is subject to the Plan Sponsor's directions given in accordance with this Agreement. The Plan Sponsor's directions may be given by (i) resolution of the Plan Sponsor, (ii) one or more individuals designated by the Plan Sponsor to act on the Plan Sponsor's behalf, or (iii) any other person authorized in writing by the Plan Sponsor or such designated individual(s). The Plan Sponsor will notify the Custodian of the identity of any person(s) authorized to act on its behalf from time to time and will timely notify the Custodian of any person who ceases to be authorized to act and any person who becomes authorized to act. The Custodian will be entitled to rely in good faith on directions received from such authorized person(s) until notified by the Plan Sponsor to the contrary, and acknowledges and agrees that the Custodian shall have no liability or responsibility in this regard.

## **ARTICLE 1 CONTRIBUTIONS AND DISTRIBUTIONS**

**1.1 Plan Sponsor Directions.** The Plan Sponsor may delegate to any other person or persons any of the Plan Sponsor's rights, powers or responsibilities with respect to the operation and administration of the Account. The Plan Sponsor will identify in a written notice to the Custodian the identity of the person(s) authorized to give directions to the Custodian on behalf of the Plan Sponsor. Such notice will contain specimens of the authorized signatures and will indicate the number of authorized persons required to effect Custodian action. The Custodian will be entitled to rely upon such written notice as evidence of the identity and authority of the persons appointed.

At the Custodian's request, the Plan Sponsor will provide the Custodian with copies of all documents required by the Custodian at or before the time this Agreement is executed by the Plan Sponsor and will provide the Custodian with all other documents amending or supplementing such documents promptly upon their adoption. At the Custodian's request, the Plan Sponsor will provide the Custodian with copies of all agreements with all agents, including any investment managers, appointed by the Plan Sponsor (each an "Investment Manager") or the Plan's administrator and all other documents amending or supplementing such agreements.

Directions from the Plan Sponsor to the Custodian will be in writing and signed by the Plan Sponsor or persons authorized by the Plan Sponsor or may be made by any other method acceptable to the Custodian.

**1.2 Contributions.** The Plan Sponsor will deliver contributions or transfers required by the Plan Documents to the Custodian for inclusion in the Account. All contributions or transfers will be received by the Custodian in cash or in other property acceptable to the Custodian (as described in Article 2.5). The Account will consist of the contributions and transfers received by the Custodian, together with the income on and increment in such assets. The Custodian will manage and administer the Account without distinction between principal and income.

The Custodian has no responsibility to (i) monitor or enforce contributions required or permitted by the Plan Documents, (ii) compute the required amount of such contributions, (iii) determine whether the Account is sufficient to provide benefits described in the Plan Documents, or (iv) determine whether contributions actually made comply with the Plan Documents, the Code or the regulations promulgated thereunder. Contributions normally will be made by wire transfer of cash or by check, or in the form of property acceptable to the Custodian.

**1.3 Rollover Contributions.** At the written direction of the Plan Sponsor, the Custodian will accept a rollover contribution to the Account on behalf of an employee eligible to make such a contribution. Such contributions will consist of cash or other property otherwise accepted by the Custodian. The Custodian will accept such contributions from the Plan Sponsor or, at the direction of the Plan Sponsor, in an account-to-account transfer directly from the trustee of the employee benefit Plan from which the distribution is made.

**1.4 Collection of Income and Principal.** The Custodian will collect the income when paid on Account Assets and principal of Account Assets when paid on maturity, redemption, sale or otherwise and invest it as directed in accordance with Articles 2 and 3. The Custodian will make reasonable efforts to diligently collect income and principal of which the Custodian has received actual notice in accordance with normal industry practices. The Custodian will be under no duty to take any action to effect collection of any amounts with respect to which payment is in default, or if payment is refused after due demand. The Custodian will notify the Plan Sponsor or the investment manager appointed in accordance with Article 2.4 (an "Investment Manager") of any default or refusal to pay.

**1.5 Payments and Distributions.** At the written direction of the Plan Sponsor or its delegate the Custodian will from time to time make distributions or transfers from the Account as specified in such directions, including distributions for the payment of reasonable Plan expenses. The Custodian will comply with the Plan Sponsor's instruction and will have no responsibility or liability for making any distribution or transfer directed by the Plan Sponsor or its delegate and will be under no duty to inquire whether directions from the Plan Sponsor or its delegate conform to Plan provisions, the Code, or regulations promulgated thereunder.

The Plan Sponsor will furnish to the Custodian all information necessary to enable Custodian to withhold from each distribution the amount necessary to pay Federal and state income taxes due. If the Plan Sponsor fails to provide adequate tax withholding information, the Custodian will have no obligation to withhold any amount to cover the payment of such taxes. However, the Custodian may, in its sole discretion, and to the extent required under applicable law, withhold from any distribution to any payee such sum as the Custodian may reasonably estimate is necessary to cover required Federal and state taxes which are, or may be, assessed with regard to the amount distributable to such payee. Upon the discharge or settlement of such tax liability the Custodian will pay the balance of such sum, if any, to such payee.

If the Plan Sponsor directs that any payment or payments be made or discontinued contingent upon future events, it will be the responsibility of the Plan Sponsor to notify the Custodian in writing that such event has occurred, that such payments should be made or discontinued, and that any payments made by the Custodian prior to the date of such notification will, as to the Custodian, be proper payments.

Payments by the Custodian will be delivered or mailed to addresses supplied by the Plan Sponsor, or if the Plan Sponsor does not provide an address, to the recipient in care of the Plan Sponsor. The Custodian's obligation to make such payments will be satisfied upon such delivery or mailing. The Custodian will have no obligation to determine the identity of persons entitled to benefits or their mailing addresses.

If the payment made to a participant or beneficiary is returned to the Custodian, or if the payment is not perfected within such time limits as the Custodian in its sole discretion may determine from time to time, the Custodian will inform the Plan Sponsor or its authorized agent acting on its behalf. It will be the responsibility of the Plan Sponsor or such authorized agent acting on its behalf to instruct the Custodian on the proper disposition of the payment under the terms of the Plan, and the Custodian will have no obligation to take any further action with respect to such payment absent such instructions.

**1.6 Participant Loans and Qualified Domestic Relations Orders.** If the Plan authorizes loans to Plan participants, the Custodian will issue such loans from the Account at the direction of the Plan Sponsor. Likewise, Custodian will make payments pursuant to domestic relations orders ("DRO") only at the direction of the Plan Sponsor. The Custodian will have no administrative obligations or liability with regard to Loans or DROs other than as specifically provided herein.

**1.7 Custodian's Reliance on Plan Sponsor's Directions.** The Custodian shall rely upon directions from the Plan Sponsor in making payments from the Account, including payments pursuant to a domestic relations order determined by the Plan Sponsor to be qualified within the meaning of Code Section 414(p), or payments made to satisfy taxes due. The Custodian will have no liability for payments made, or for failure to make payments, or for discontinuing payments, on the direction of the Plan Sponsor. The Custodian will have no liability for failure to make payments from the Account in the absence of written directions from the Plan Sponsor, or its delegate.

The Custodian may request instructions from the Plan Sponsor and will have no duty to act or liability for failure to act if such instructions are not forthcoming from the Plan Sponsor.

**1.8 Disputed Payments.** If any controversy or disagreement arises regarding any payment from the Account or the person(s) to whom payment or delivery of any asset should be made by the Custodian, the Custodian may retain the assets involved without liability pending settlement of the controversy or disagreement and/or require that such controversy or disagreement be adjudicated pursuant to arbitration as provided in Article 9.3. The Custodian will not be liable for the payment of any interest or income on such assets that it retains pursuant to the instruction of an arbitrator. The Custodian may consult its legal counsel or legal counsel of the Plan Sponsor and will be protected to the extent permitted by law in acting upon advice of counsel.

## **ARTICLE 2 RESPONSIBILITY AND INDEMNIFICATION**

**2.1 Plan Sponsor Direction of Investments.** Except to the extent the Plan Sponsor informs the Custodian that investment responsibility has been delegated to one or more Investment Managers, or a Plan participant or beneficiary in accordance with section 2.2 or 2.3, the Plan

Sponsor warrants and represents that it has full authority and responsibility to direct the Custodian regarding the investment and reinvestment of the Account.

The Plan Sponsor and not the Custodian will be responsible for establishing and notifying any Investment Manager of the terms of the diversification policy and of the funding policy and method established for the Account.

The Custodian will comply with written directions of the Plan Sponsor or Investment Manager(s) concerning the assets of the Account. The Plan Sponsor will not issue any direction to the Custodian that would violate the terms of the Plan, or be prohibited by the provisions of the Code, or any other applicable law, rules and regulations. Except as otherwise provided in this Agreement the Custodian will have no duty or responsibility to review, initiate action, or make recommendations regarding Account assets and will retain assets until directed in writing by the Plan Sponsor or its delegate to dispose of them.

**2.2 Status of Plan Sponsor, Investment Manager and Custodian.** The Plan Sponsor acting as a Plan fiduciary has the sole authority to control and manage the operation and administration of the account and to delegate certain responsibilities to 3rd parties as needed.. An investment manager appointed by the Plan sponsor and acting in accordance with ERISA Section 3(38) shall have the fiduciary responsibility to select and invest the Plan's investments and to perform other functions as outlined within the advisory agreement. The responsibilities of the Custodian will at all times be limited to those expressly set forth in this Agreement. Each of the Custodian, the Plan Sponsor and any person who is delegated with authority to act on behalf of either with respect to this Agreement will be responsible solely for its own acts and will have no responsibility for the acts or omissions of any other person.

**2.3 Participant Direction of Investments.** For Plans that permit a participant to direct the investment of his or her account assets, the Custodian will, upon written instructions from the Plan Sponsor, establish on behalf of a participant or beneficiary a Schwab Personal Choice Retirement Account™ ("PCRA Account") at Charles Schwab & Co., Inc. (the "Broker/Dealer"). Such Account will be used to segregate the assets representing the value of an individual participant's or beneficiary's account(s) under the Plan. The participant or beneficiary will be allowed to manage the investment of the assets in his or her PCRA Account and will be solely responsible for any loss resulting from his or her exercise of control over the assets segregated into his or her PCRA Account.

**2.4 Investment Manager Direction of Investments.** The Plan Sponsor may appoint one or more investment managers meeting the requirements of a registered investment advisor (each, an "Investment Manager") to direct, control or manage the investment of all or a portion of the Account assets, such assets to be held either in an account directly held by the Custodian or in a managed account portfolio established by the Custodian, at the direction of the Plan Sponsor, and held by a sub-custodian or broker-dealer (each, a "Sub-Custodian") appointed by the Custodian in its sole discretion including, where applicable, the Broker/Dealer. Any such account established at the Broker/Dealer shall hereafter be referred to as a "Schwab Advisor Portfolio" The Plan Sponsor may remove an Investment Manager and may appoint a replacement Investment Manager. The Plan Sponsor will promptly notify the Custodian in writing of the appointment or removal of each Investment Manager and/or of the establishment of a managed account portfolio. The Custodian acknowledges that it will have responsibility for notifying any applicable Sub-Custodian of the revocation of the investment responsibility held by an Investment Manager, the appointment of a successor Investment Manager, and/or the termination of a managed account portfolio. Any notification from the Plan Sponsor confirming

the appointment of an Investment Manager or the establishment of a managed account portfolio to be held by a Sub-Custodian will include a designation of those assets and/or managed account portfolios over which the Investment Manager will exercise control.

The Plan Sponsor will cause the Investment Manager to acknowledge to the Custodian in writing that the Investment Manager is registered as an investment advisor under the Investment Advisors Act of 1940 with respect to the performance of its duties in connection with the Plan and, as such, is a fiduciary with respect to the Plan. If the foregoing conditions are met, the Investment Manager will have the power to manage, acquire, or dispose of any Account assets, or any account portfolio holding any Account assets, designated as subject to such Investment Manager's control. The Custodian will not be liable for acts or omissions of the Investment Manager, or be under any obligation to invest or otherwise manage any asset of the Account, or any account portfolio holding any asset of the Account, that is subject to the management of such Investment Manager.

The Custodian and/or any Sub-Custodian will act only upon receipt of written directions from the duly appointed Investment Manager or by any other method acceptable to the Custodian. The Custodian will have no liability to review or question any such directions.

The Plan Sponsor acknowledges and agrees that the establishment of a managed account portfolio to be held by a Sub-Custodian appointed by the Custodian as described herein is subject to additional fees as set forth in Article 6.2 and the applicable fee schedules defined therein.

**2.5 Acceptable Investments.** Depending on the Custodian's ability to support and administer the asset, the Custodian's powers and duties over the asset, the type of account, the business risk, and other factors, the Custodian will accept assets for acquisition or holding in the Account, including in a Schwab Advisor Portfolio or a participant's PCRA Account as described under Article 2.3. The Plan Sponsor or its delegate directing such investments (the "Directing Party") shall be solely responsible for determining whether the investment is appropriate, prudent and permissible under applicable law, whether the investment is permissible under the terms of the Plan Documents; the economic viability of the underwriter, and diversification of Account assets. The Custodian does not (i) exercise investment management powers over the Account, or (ii) determine whether a particular investment decision made by the Plan Sponsor or its delegate fits the investment objectives of the Account or is otherwise appropriate for the Account.

Subject to the foregoing subjective criteria, and to other policies and procedures that may be issued by the Custodian from time to time, the following types of assets are ordinarily acceptable in the Account:

- (a) Cash
- (b) Publicly traded stock listed on a U.S. stock exchange or regularly quoted over-the-counter
- (c) Publicly traded bonds listed on a U.S. bond exchange or regularly quoted over-the-counter

(d) Mutual funds, including those available through the Broker/Dealer's Mutual Fund Marketplace

(e) Registered limited partnership interests, REITs and similar investments listed on a U.S. stock exchange or regularly quoted over-the-counter

(f) Commercial paper, bankers acceptances eligible for rediscounting at the Federal Reserve, repurchase and reverse repurchase agreements and other "money market" instruments for which trading and custodial facilities are readily available

(g) U.S. Government and U.S. Government Agency issues

(h) Municipal securities whose bid and asked values are readily available

(i) Federally insured savings accounts, certificates of deposit and bank investment contracts. The Directing Party is responsible for determining Federal insurance coverage and limits and for diversifying Account assets in accordance with those limits.

(j) American depository receipts, eurobonds and similar instruments listed on a U.S. exchange or regularly quoted domestically over-the-counter for which trading and custodial facilities are readily available.

(k) Life insurance, fixed annuities, and guaranteed investment contracts issued by insurance companies licensed to do business in one or more states in the U.S., including, with respect to investment by non-qualified deferred compensation plans, corporate-owned life insurance policies (COLIs)

Notwithstanding the above, the Plan Sponsor understands that in certain circumstances a particular investment may be determined by the Custodian to be unacceptable, even though it would be acceptable in other instances.

Unless otherwise restricted in Article 2.6 and subject to (i) the Custodian's administrative capabilities and its sole determination of the business risk involved in holding the particular asset in question (ii) receipt of all documentation required by the Custodian or its affiliates with respect to the asset and the issuer of the asset and (iii) review and acceptance of the asset by the Custodian or its affiliate; a direction to invest the Account (including a participant's PCRA Account) in the following types of assets may be acceptable:

(a) Unregistered limited partnerships or other pooled funds

(b) Other unregistered securities, closely held stock and other securities for which there is no readily available market including private or closely held employer stock issued by the Plan Sponsor, its parent company, or an affiliated company

(c) Loans secured by first deeds of trust

(d) Other secured loans

(e) The securities of The Charles Schwab Corporation, its affiliates and subsidiaries. These securities may be subject to legal and regulatory prohibitions or restrictions.

(f) Foreign securities for which trading and custodial facilities are readily available.

(g) Covered put and call options (if held in self-directed brokerage accounts and authorized by the Plan Sponsor or its delegate)

(h) Variable annuities issued by insurance companies licensed to do business in one or more states in the U.S.

Certain of the above types of assets are not publicly traded, and original and/or current cost basis and periodic valuations may not be readily available. For such assets (each an "Alternative Investment") accepted by the Custodian for acquisition or holding in the Account, including in a participant's PCRA Account, the Plan Sponsor acknowledges and agrees:

(a) To consult with competent tax, accounting, and/or legal counsel with respect to the requirements applicable to periodic valuations of such assets and to comply with such requirements, in particular as these impact the Plan Sponsor's provision of directions to the Custodian with respect to such valuations.

(b) To provide the Custodian with directions with respect to the use of original and/or current cost basis with respect to each Alternative Investment, whenever such direction is requested by the Custodian or its affiliate, including but not limited to the time of transfer of such assets to the Account.

(c) To provide the Custodian with appropriate directions regarding the valuation of each Alternative Investment asset in accordance with Article 4.3 herein.

(d) In the event that unrelated business taxable income ("UBTI") is generated with respect to any Alternative Investment the Custodian shall not have any responsibility or liability for and shall not make any federal tax reports or filings that require, the reporting or inclusion of this information.

(e) To the extent that any legal documents required to effectuate the acquisition or holding of any Alternative Investment requires execution by a third party, including but not limited to a participant or beneficiary the Plan Sponsor agrees to provide such properly executed documents to the Custodian upon request within a reasonable timeframe prior to the transaction.

The Plan Sponsor understands that the Custodian reserves the right to refuse to purchase or hold any particular issue or asset described herein, including Alternative Investment. The Plan Sponsor acknowledges and agrees that the purchase and holding of any such assets may be subject to additional fees as set forth in the Custodian's Fee Schedule. In addition, notwithstanding any general indemnity given elsewhere, the Custodian reserves the right to seek specific indemnity from the Plan Sponsor or other appropriate parties where the

Custodian determines in its sole discretion that the acquisition or holding of a particular asset or class of asset involves unusual business risk.

**2.6 Unacceptable Investments.** The following assets are unacceptable in the Account:

- (a) Unregistered foreign limited partnerships or other pooled funds not traded through the Depository Trust Plan Sponsor's Alternative Investment Program
- (b) General partnerships or undivided interests in real property
- (c) Tangible personal property (e.g., precious metals, gems, works of art, stamps, coins, furniture and other household items, motor vehicles, etc.)
- (d) Real estate
- (e) Foreign currency and bank accounts
- (f) Short sales
- (g) Commodity futures and forward contracts
- (h) Private or closely held debt instruments
- (i) Oil, gas and mineral interests.
- (j) Intangible personal property (e.g., patents and rights).
- (k) Unsecured loans.

**2.7 Limitation on Liability.** The Custodian will not be liable in any way for any loss resulting from a cause over which it does not have direct control and with respect to which it cannot make reasonable arrangements to mitigate, including, but not limited to, any failure of electronic or mechanical equipment or communication lines, telephone or other interconnect problems or unauthorized access, strikes or other labor disputes, acts of God, fire, war or civil strife.

**2.8 Indemnification.** If the Custodian incurs any liability, loss, claim, suit or expense (including attorney's fees) in connection with or arising out of its provision of services under this Agreement, or its status as Custodian hereunder, and the Custodian cannot obtain, or would be precluded by law from obtaining, payment or reimbursement of such liability, loss, claim, suit or expense (including attorney's fees) from the Account, then the Plan Sponsor (which has the authority under the laws of the state of its formation) will indemnify and hold harmless the Custodian, and its officers, employees, affiliates and agents from and against all such loss, claim, suit or expense (including attorney's fees), except to the extent such liability, loss, claim, suit or expense arises directly from the Custodian's breach in executing its responsibilities specifically allocated to it by the terms of this Agreement. The Plan Sponsor's indemnity obligation under this Section includes, but is not limited to, any liability, cost, claim, suit or expense in connection with or arising out of any of the following:

(a) Any action or inaction by the Custodian in accordance with the written directions (or the absence of such directions) from any party not related to or retained by the Custodian (a "Directing Party");

(b) Any action or inaction by the Custodian that results from the Custodian's reliance on the action or inaction of a Directing Party, including any such action related to directions to invest Account Assets or otherwise deal with Account Assets;

(c) With respect to a direction to invest in Alternative Investments:

(i) The Plan Sponsor's inability to invest, re-invest, liquidate or collect income received with respect to such Alternative Investments;

(ii) The Custodian's use of any cost basis, unit or share, UBTI, and/or valuation information provided to it in accordance with its acceptance of such Alternative Investments or the Plan Sponsor's directions to the Custodian regarding such information, including, but not limited to: (1) use of a prior annual valuation amount where a subsequent valuation amount has not yet been obtained or for which directions from the Plan Sponsor have not yet been provided to the Custodian; (2) the Plan Sponsor provision of an improper or incorrect valuation amount to the Custodian, (3) the failure of the Plan Sponsor to provide a valuation direction to the Custodians;

(iii) The investment, reinvestment, reporting, disclosure, liquidation and distribution under the Plan of and with respect to participant and beneficiary contributions and benefits based on such cost basis, unit or share, UBTI, and/or valuation information.

(d) The Custodian's execution of its duties under this Agreement in good faith, except in the event of the Custodian's breach of its duties under this Agreement due to its own negligence or willful misconduct;

(e) The acts or omissions to act with respect to the Account by a Directing Party; or

(f) Any violation by a Directing Party of the provisions of the Code or the regulations thereunder.

(g) Any violation by a Directing Party of the terms of the Plan and related documents.

For purposes of this Article, "affiliate" shall mean any member of a controlled group of corporations or a group of trades or businesses under common control, within the meaning of Sections 414(b) and (c) of the Code, of which the Custodian is a member.

Expenses incurred by the Custodian that it believes are subject to indemnification under this Agreement will be paid by the Plan Sponsor upon the Custodian's request, provided that the Plan Sponsor may delay payment of any amount in dispute until such dispute is resolved according to the provisions of Article 9.3 of the Agreement. Such resolution may include the award of interest on unpaid amounts determined to be payable to the Custodian under this Article.

If the Plan ceases to be tax-exempt under the Code, the Plan Sponsor will indemnify the Custodian for any Federal or state taxes which the Custodian is required to pay as a result of any distribution made at the direction of the Plan Sponsor. Each party must notify the other promptly in the event that a claim has been made and/or suit has been brought which could give rise to rights under this Article.

All indemnities provided herein will survive termination of this Agreement.

### **ARTICLE 3 CUSTODY INVESTMENTS AND CUSTODIAN POWERS**

**3.1 Powers of the Custodian.** The Custodian will not have any discretion or authority with regard to the investment of the Account, but must act solely as a custodian of the funds contributed to it. As a custodian, the Custodian is authorized and empowered, by way of limitation, with the following powers, rights and duties, each of which the Custodian exercises solely in accordance with the written direction of the Plan Sponsor, its delegate, properly authorized participants (as described in Article 2.3), or a properly appointed Investment Manager (as described in Article 2.4):

- (a) To hold Account Assets in the name of its nominee.
- (b) To invest and reinvest Account Assets at the direction of the Plan Sponsor and the Investment Manager.
- (c) To deposit in a securities depository any securities in accordance with applicable law.
- (d) To settle securities transactions through an institutional delivery system, either traded and settled directly in the Account or placed by the Investment Manager for execution at the Broker/Dealer or another broker dealer and settled in the Account.
- (e) To execute any declarations, endorsements, assignments, stock or bond powers, affidavits, certificates of ownership or other documents required (i) to effect the sale, transfer, or other disposition of Account Assets, (ii) to obtain payment with respect to Account Assets, or (iii) to take any other action required with respect to Account Assets, and in the Custodian's own name to guarantee as the Plan Sponsor's or the Investment Manager's signature any signature so affixed.
- (f) Where direction from the Plan Sponsor is not possible, to exercise such authority as is permitted to custodians under applicable law in order to carry out its responsibilities under this Agreement.
- (g) To employ suitable agents as will be necessary and appropriate as determined by the Custodian in Custodian's sole discretion to enable Custodian to fulfill its responsibilities under this Agreement.

**3.2 Collective Investment Trust Funds.** The Account may be invested and reinvested, in whole or in part, in any common or collective investment fund (the "Collective Fund" or "Fund") maintained by the Custodian or an investment manager exclusively for the commingling and collective investment of assets of qualified retirement plans and tax-exempt trusts in which the Account is eligible to participate. The customer acknowledges and agrees that such documents establishing or amending these trusts have been incorporated by reference into the trust agreement governing the establishment and operation of the trust. Notwithstanding any other provision of this Agreement, to the extent Account assets are invested in a Collective Fund, the terms of the Fund's governing instrument will govern the investment responsibilities and powers of the entity responsible for management of the Collective Fund (the "Fund Manager"). The market value of the Account's interest in any Collective Fund will be the fair market value of the interest as determined by the Fund Manager in accordance with the Fund's governing instrument. For purposes of valuation of Account assets, the Custodian will be entitled to rely conclusively on the value reported by the Fund Manager.

**3.3 Insurance Contracts/Pooled Investment Vehicles.** The Plan Sponsor may direct the Custodian to transfer Account Assets to a pooled investment vehicle funded by contracts issued by an insurance company qualified to do business in a state including, without limitation, group annuity and guaranteed investment contracts. Any such contract may provide for the allocation of amounts received by the insurance company to its general account, one or more of its separate accounts (including pooled separate accounts), or both. To the extent Account assets are allocated to a separate account of an insurance company, the Plan Sponsor will appoint the insurance company as an Investment Manager as provided in Article 2.4 above. Notwithstanding any other provision of the Agreement, the terms of the contract(s) governing the separate account(s) in which the Account is invested will govern the investment responsibilities and powers of the insurance company. Unless otherwise directed otherwise by the Plan Sponsor, the Custodian shall value every insurance contract held in the Account at \$1.00.

**3.4 Proxies, Corporate Literature, Shareholder Information.** The Custodian will forward all proxies and accompanying material, notices and forms related to class action lawsuits, and other information provided to and received by the Custodian that have been issued by any company, the securities of which are held in the Account, to the Plan Sponsor, to an alternative party directed by the Plan Sponsor to receive such information, or directly to the participant or beneficiary with respect to assets held in a PCRA Account as provided under Section 2.3. The Custodian will be under no duty to determine how, or if, proxies are received or voted, how or if the Account will participate in or respond to class action notices, or how or if to respond to any other such notices or materials received by the Plan Sponsor or any other party. Furthermore, the Custodian will be under no obligation to forward, retain or act upon any other corporate material received by the Account except to the extent required by law.

**3.5 Products of an Affiliate.** At the direction of the Plan Sponsor or its delegate, the Custodian may purchase shares of regulated investment companies (or other investment vehicles) advised by the Charles Schwab Corporation (the "Public Company"), the Broker/Dealer, the Custodian or any affiliate or subsidiary of any of them ("Affiliated Funds"), except as prohibited by law or regulation.

Notwithstanding any other provision in the Agreement to the contrary, uninvested cash pending investment or disbursement held in an account established under this Agreement may be invested in Affiliated Funds or in a liquid savings deposit account to earn interest designated by the person or entity authorized hereunder for that purpose. To the extent the Custodian is instructed to deposit uninvested cash in a deposit account, such deposits shall be made to a deposit account maintained in the banking division of Charles Schwab Trust Bank which is insured by the Federal Deposit Insurance Corporation ("FDIC"). Upon direction to deposit such uninvested cash in a deposit account, the Custodian will automatically deposit uninvested cash deposited to, or withdrawn from, a deposit account maintained in the banking division of Charles Schwab Trust Bank pursuant to the applicable terms of the Disclosure Statement in effect from time to time. The Custodian's obligations to invest cash in an Affiliated Fund or in a deposit account shall be limited to the terms of the Disclosure Statement in effect from time to time as directed by the person or entity authorized to provide such directions under this Agreement. Trust Bank shall provide the Plan Sponsor a current copy of the Disclosure Statement upon request.

Affiliated Funds may not be purchased or held by the Account unless the Plan Sponsor has received disclosure concerning the Public Company's, the Broker/Dealer's, the Custodian's and/or their affiliate's and subsidiary's relationship to the Funds. Such disclosure must include an explanation of any fees paid to the Public Company, the Broker/Dealer, the Custodian and/or their affiliates and subsidiaries.

**3.6 Overdrafts.** Notwithstanding any other provision in this Agreement to the contrary, the Custodian will have the right, but not the responsibility to clear, or cover overdrafts incurred by the Account. In order to fulfill its obligation to clear Account overdrafts, the Custodian will request the Plan Sponsor, or its delegate, to direct the Custodian to sell specific Account assets in an amount sufficient to cover the overdraft. If the Custodian does not receive the requested direction before the close of business on the day of its request, Custodian will have the right but not the responsibility to sell Account assets in an amount necessary to cover the overdraft.

**3.7 Pooling with Assets of Other Plans.** If the Plan Sponsor creates or maintains for its employees or the employees of an affiliated company one or more employee benefit plans qualified under Code Section 401(a) in addition to the Plan, the Plan Sponsor may request the Custodian to hold the assets of the additional plan or plans in the Account. With the consent of the Custodian, the assets of the one or more additional plan(s) maintained by the Plan Sponsor may be maintained as one Account, and their assets may be commingled.

The Plan Sponsor will keep records showing the interest of the Plan and each additional Plan in the Account unless the Plan Sponsor enters into an agreement with the Custodian to keep separate accounts for each such Plan. The Plan Sponsor will not permit or cause the assets of one Plan within the Account to be used to pay benefits or administrative expenses of any other Plan within the Account.

**3.8 No Duty to Inquire.** All persons dealing with the Custodian are released from inquiring into the decision or authority of the Custodian and from seeing to the proper application of any monies paid or securities or other property delivered to the Custodian.

**3.9 No Duty to Investigate.** The Custodian will bear no liability for acting upon any instruction or document believed by it to be genuine and to be presented or signed by a party duly authorized to do so, and the Custodian will be under no duty to make any investigation or inquiry about the correctness of such instruction or document.

**3.10 Advice of Counsel.** The Custodian may consult with legal counsel of its choice, including counsel for the Plan Sponsor, upon any question or matter arising hereunder, and the opinion of such counsel, when relied upon by the Custodian will be evidence the Custodian was acting in good faith.

**3.11 Capital Preservation Vehicle.** The banking department of the Custodian offers access to a money market deposit product described in 12 C.F.R. Section 204.2(d)(2) (referred to as “Schwab Bank Savings”). To the extent the Plan Sponsor or another authorized fiduciary, including an Investment Manager, desires to add Schwab Bank Savings as an option under the Plan, the Plan Sponsor or such other authorized fiduciary will instruct the Custodian to establish a deposit account with the banking department of Charles Schwab Trust Bank to provide access to Schwab Bank Savings. In such event, the Plan Sponsor or other authorized fiduciary, shall instruct the Custodian to establish a Schwab Bank Savings account for the Plan with Charles Schwab Trust Bank as the depository institution. If Schwab Bank Savings is added as an investment option under the Plan, the Plan Sponsor or other authorized fiduciary shall through its written instruction to the Custodian acknowledge receipt of and agreement to the current terms and conditions governing Schwab Bank Savings, the disclosures containing information on Schwab Bank Savings, the manner in which interest rates on Schwab Bank Savings accounts will be determined, and terms governing the frequency of interest rate changes. The Plan Sponsor or other authorized fiduciary will independently determine that the interest rates offered under Schwab Bank Savings and Charles Schwab Trust Bank’s interest rate determination and modification process is, in all respects, reasonable. The Plan Sponsor or other authorized fiduciary has the sole responsibility to determine that such interest rates are reasonable and also has the responsibility to determine that the use of Schwab Bank Savings is both prudent and proper in the context of its overall responsibility to establish investment options under the Plan. The Plan Sponsor or other authorized fiduciary has the sole responsibility to monitor the reasonableness of interest rates payable on Schwab Bank Savings, including all prospective interest rate changes. The Plan Sponsor or other authorized fiduciary shall notify the Custodian if it determines that such rates are no longer reasonable.

## **ARTICLE 4 SETTLEMENT OF ACCOUNTS**

**4.1 Accounting Records.** The Custodian will maintain accurate and detailed records of all investments, receipts, disbursements, and other transactions related to the Account. The records will be available for inspection and audit at all reasonable times by the Plan Sponsor or its authorized representatives.

### **4.2 Custodian Reports.**

(a) Within sixty (60) days following the close of the Plan’s fiscal year or the close of any other period as may be agreed upon by the Custodian and the Plan Sponsor, the Custodian will file with the Plan Sponsor a written accounting of the Account (the “Custody Account

Statement”) setting forth a description of all securities and other property purchased and sold, all receipts, disbursements, and other transactions affected by it during that fiscal year or other designated period, and listing the securities and other property held by the Custodian at the end of such fiscal year or other designated period, together with their then fair market values.

(b) The Plan Sponsor may approve the Custody Account Statement by written notice of approval delivered to the Custodian or by failure to deliver to the Custodian express objections to the Custody Account Statement in writing within sixty (60) days from the date upon which the Custody Account Statement was mailed or otherwise delivered to the Plan Sponsor.

(c) The Custody Account Statement will be deemed approved upon receipt by the Custodian of the Plan Sponsor’s written approval of the Custody Account Statement or upon the passage of the sixty day period of time, except for any matters covered by written objections that have been delivered to the Custodian by the Plan Sponsor and for which the Custodian has not given an explanation or made an adjustment satisfactory to the Plan Sponsor.

(d) If the Custody Account Statement is not settled as provided above, the Custodian or the Plan Sponsor will have the right to submit such controversy or disagreement to arbitration pursuant to Article 9.3, at the expense of the Account for a settlement of the accounting. Any determination by the arbitrator entered in such proceeding will be conclusive on all persons interested in the Account.

**4.3 Valuation.** Notwithstanding any other provision of this Article 4, unless the Custodian is able to obtain the value of the Account Assets, including any Alternative Investments held by the Account, from readily available public sources, as of each annual valuation date assigned by the Plan Sponsor, the Plan Sponsor will direct the Custodian with respect to the current fair market value of the Account Assets within the time frame requested by the Custodian, and the Custodian will, in accordance with such valuation, account for such assets and include such information in reports pursuant to Article 4.2 of this Agreement. In the event the Plan Sponsor fails to provide such direction, the Plan Sponsor directs the Custodian to engage an independent appraiser that meets the requirements of Code Section 401(a)(28)(C) to determine the current fair market value of the Account Assets. Any expenses and costs with respect to such appraisal will be paid out of the Account or, at the option of the Plan Sponsor, by the Plan Sponsor.

The Plan Sponsor acknowledges and agrees that in the event that any Account Assets, including Alternative Investments, are transferred from an account held by a prior trustee or custodian to the Account, (whether from the Broker/Dealer or an unrelated financial provider):

(1) if such assets are valued at zero, the Custodian shall use such zero valuation for such assets for all plan purposes until such time as the Plan Sponsor provides the Custodian with a replacement valuation or, at the Plan Sponsor’s direction, the Custodian obtains such a replacement valuation.

(2) if the Plan Sponsor does not provide the Custodian with a subsequent valuation direction or such subsequent valuation direction is not timely provided by the Plan Sponsor, the

Custodian shall use the last valuation direction previously provided by the Plan Sponsor to the Custodian for all Plan purposes.

The Plan Sponsor further acknowledges and agrees that in no event will the Custodian be responsible for use of an updated valuation amount prior to actual receipt by the Custodian of such updated valuation information. In the event that an updated valuation amount is provided by the Plan Sponsor as a result of an error or inaccuracy in a prior valuation direction, the Plan Sponsor shall compensate the Custodian based on its standard hourly rates for Extraordinary Services attributed to work that must be corrected, as defined in the Fee Schedules referenced in Article 6.2 herein.

The Plan Sponsor, and not the Custodian, will be responsible and liable for the determination of whether the valuation and the valuation method are acceptable and have been conducted in accordance with applicable legal and regulatory requirements. The Custodian will not be liable for an inaccurate valuation and shall have no duty of investigation or inquiry with respect thereto, and the Plan Sponsor shall indemnify, release and hold the Custodian harmless for any losses, liabilities, claims and expenses (including attorney's fees and costs of defense) resulting from the valuation of Account Assets.

## **ARTICLE 5 SERVICES BY AND BROKERAGE TRANSACTED THROUGH AFFILIATES**

**5.1 Services by the Affiliates.** The Custodian may contract or make other arrangements for the provision of services to the Account with any organizations affiliated with or subsidiaries of the Custodian, including the Public Company and the Broker/Dealer, their respective affiliates and subsidiaries, successors and assigns, except where such arrangements are prohibited by law or regulation.

**5.2 Brokerage.** The Custodian is authorized to place securities orders, settle securities trades, hold securities in custody, and perform related activities on behalf of the Custody Account through or by the Broker/Dealer whenever possible unless the Plan Sponsor specifically directs Custodian to settle a trade directly with another broker/dealer or to settle a trade placed by the Investment Manager for execution at another broker/dealer. Trades and related activities transacted through the Broker/ Dealer or another broker/dealer, initiated by either Custodian or the Investment Manager, are subject to fees and commissions established by the Broker/Dealer or other broker/dealer, which may be paid from the Custody Account or netted from the proceeds of trades. Transactions executed by the Broker/Dealer or other broker/dealer are subject to the applicable account agreement, trading rules and policies as modified or amended from time to time, together with the applicable rules, regulations, customs and usage of any exchange, market, clearing house or self-regulatory organization and applicable federal and state laws, rules and regulations. Trades may not be executed through the Broker/Dealer or other broker/dealer unless the Plan Sponsor has received disclosure concerning the relationship of the Broker/Dealer or other broker/dealer to Custodian, and fees and commissions which may be paid to the Public Company, the Broker/ Dealer, the Custodian and/or their affiliates or subsidiaries as a result of using the execution or other services of the Broker/Dealer or other broker/dealer.

**5.3 Mutual Funds and Uninvested Cash.** The Plan Sponsor or its authorized delegate may direct purchases of shares of regulated investment companies (or other investment vehicles) advised by affiliates of the Public Company, Broker/Dealer, or Custodian unless such investment is forbidden by law or regulation. Uninvested cash of the Custody Account will be invested as defined in this Agreement unless the Plan Sponsor or the Investment Manager specifically instructs the use of another fund or account, except where forbidden by law or regulation.

**5.4 Disclosure of Information.** The Custodian is authorized to disclose such information as is necessary to the operation and administration of the Account to the Public Company or any of its affiliates, and to such other persons or organizations that the Custodian determines have a legitimate business purpose for obtaining such information.

The Custodian is authorized to disclose upon request to companies whose securities are held in the Account: (1) the Plan Sponsor's and/or the Investment Manager's name and address (2) the holdings in the Account of securities issued by the requesting company, and (3) with respect to Rule 22c-2 of the Investment Company Act of 1940, the taxpayer identification number ("TIN"), if known, of any or all Plan participant(s) that purchased, redeemed, transferred or exchanged holdings in a fund subject to Rule 22c-2 through an account maintained by the Custodian, and the amounts and dates of each purchase, redemption, transfer or exchange, and other information that may be required by such rule.

## **ARTICLE 6**

### **TAXES, EXPENSES AND COMPENSATION OF CUSTODIAN**

**6.1 Taxes.** The Custodian will notify the Plan Sponsor of any tax levied upon or assessed against the Account of which the Custodian has knowledge. If the Custodian receives no instructions from the Plan Sponsor, the Custodian may pay the tax from the Account. If the Plan Sponsor wishes to contest the tax assessment, it will give appropriate written instructions to the Custodian. The Custodian will not be required to bring any legal actions or proceedings to contest the validity of any tax assessments unless the Custodian has been indemnified to its satisfaction against loss or expense related to such actions or proceedings, including reasonable attorney's fees.

**6.2 Custodian Compensation and Expenses.** The Plan Sponsor or any recordkeeper retained by the Plan Sponsor to provide administrative services with respect to the Plan ("Recordkeeper") will quarterly remit to the Custodian the expenses of the Custodian in administering the Account and reasonable compensation for its services as Custodian.

Such expenses and compensation are paid to the Custodian and its affiliates as set forth in the Custodian's Fee Schedule (where such expenses and compensation are paid by the Plan Sponsor) and in the applicable agreement between a Recordkeeper and the Custodian (where such expenses and compensation are forwarded by the Recordkeeper to the Custodian), which are incorporated herein by reference, either of which may be amended from time to time. The Plan Sponsor acknowledges receipt from the Custodian or the Recordkeeper of the Fee Schedule and, where applicable, the Schwab Retirement Account/Personal Choice Retirement Account® Plan Application ("Application"), the Custodian's Fee Schedule for Unitized Portfolios or any other specific fee schedules applicable to the Account ("Other Fee Schedules") prior to

execution of this Agreement. In the event such expenses and compensation are forwarded by the Recordkeeper to the Custodian, the Plan Sponsor acknowledges and agrees that it has obtained and will continue to obtain disclosure of such expenses and compensation from the Recordkeeper. The Plan Sponsor acknowledges and agrees that the amounts described in such Fee Schedule, Application and/or Other Fee Schedules, whichever it has received, are approved by it and are payable to the Custodian and to the Recordkeeper, as applicable, and that such amounts have been taken into consideration in determining the reasonableness of the amounts payable to the Custodian and the Recordkeeper.

Reasonable compensation will include the float earned on uninvested cash, the reimbursement of expenses incurred by the Custodian in providing extraordinary services, and other compensation and remuneration as defined in the Fee Schedule, Application, and/or Other Fee Schedules. The Custodian reserves the right to alter this rate of compensation at any time by providing the Plan Sponsor or the Recordkeeper, as applicable, with written notice of such change at least sixty (60) days prior to its effective date.

Reasonable expenses, including counsel, appraisal, or accounting fees, may be withdrawn from the Account unless paid by the Plan Sponsor within thirty (30) days after mailing of the written billing by the Custodian, unless earlier withdrawal of expenses from the Account is otherwise directed in writing by the Plan Sponsor. The Custodian reserves the right to charge overdraft fees and where applicable, will provide notice of such overdraft charges to the Plan Sponsor. In addition, the Custodian will pay the fees charged by any properly appointed Investment manager from the Account to the extent such payment is authorized by the Plan Sponsor until such time as the Plan Sponsor furnishes the Custodian a written notice to revoke such authorization at any time.

**6.3 Additional Custodian Compensation.** In addition to fees set forth elsewhere, the Plan Sponsor acknowledges that the Custodian may receive, as compensation for its services, any credit, interest or other earnings (collectively "Float") on aggregate cash balances that the Custodian has on deposit with Charles Schwab Trust Bank or any third-party bank or other financial institution pursuant to the Custodian's Float Disclosure Statement in effect from time to time.

## **ARTICLE 7 RESIGNATION OR REMOVAL OF CUSTODIAN**

**7.1 Resignation/Removal and Replacement.** The Custodian may resign as custodian hereunder or may be removed by the Plan Sponsor. This resignation or removal may be accomplished at any time upon the giving of sixty (60) days written notice to the Plan Sponsor (or less if the receiving party agrees to waive notice). Upon resignation or removal, the Plan Sponsor will appoint a successor custodian who will then succeed to all the powers and duties given to the Custodian by this Agreement. The terminating Custodian will transfer all property of the Account then held by it to such successor custodian, in accordance with the written directions of the Plan Sponsor.

If either party has given notice of termination as provided under this Agreement, and upon the **expiration** of the advance notice period no other successor trustee or custodian has been appointed and has accepted such appointment, the Custodian will deliver the Accounts Assets to the Plan Sponsor. The Custodian is authorized to reserve such sum of money as it may deem

advisable for payment of its fees and expenses in connection with the settlement of its accounts or other proper Account expenses, and any balance of such reserve remaining after the payment of such fees and expenses will be paid to the successor custodian.

**7.2 Settlement of Accounts.** Within sixty (60) days of the transfer to the successor, the terminating Custodian will provide the Plan Sponsor with a Custody Account Statement in the form and manner prescribed for the annual Custody Account Statement in Article 4.2. Unless the Plan Sponsor files written objections with the Custodian within sixty (60) days after such Custody Account Statement has been mailed or otherwise delivered, the Plan Sponsor will be deemed to have approved the Custody Account Statement.

**7.3 Termination of Liability.** Upon settlement of its account and transfer of the Account to the successor trustee or custodian, as applicable, all rights and privileges under the Plan and this Agreement will vest in such successor trustee or custodian and thereafter liability of the Custodian for future action or inaction will terminate subject only to the requirement that the Custodian execute all necessary documents to transfer the Account to the successor trustee or custodian, as applicable. The Custodian will not be obligated to transfer all of the assets of the Account until the Custodian is indemnified in a manner satisfactory to it for all fees and expenses reasonably anticipated to be incurred through the date of transfer.

## **ARTICLE 8 TERMINATION OF CUSTODIAN AND AMENDMENT**

**8.1 Termination.** The Plan Sponsor may terminate this Agreement upon at least sixty (60) days written notice to the Custodian. Upon such termination, the Account will be distributed by the Custodian as and when directed by the Plan Sponsor. Such termination will be effective at the end of the notice period, except that the parties may agree to an earlier termination. The Custodian's fees and costs related to termination, including costs for registering securities and other Property, generating reports and a final accounting will be charged to the Account.

From the date of termination of the Account and until the final distribution of Account assets, the Custodian will continue to have all the powers provided under this Agreement that are necessary or desirable for the orderly liquidation and distribution of the Account.

**8.2 Amendment.** Except as provided for in this Agreement and the Fee Schedule, including in Article 8.1, this Agreement may be amended at any time by written amendment adopted by the Plan Sponsor and the Custodian, provided, that such amendment will not operate:

(a) To cause any part of the Account to revert to or be recoverable by the Plan Sponsor or to be used for or diverted to purposes other than the exclusive benefit of participants and their beneficiaries, except to the extent permitted by law and the Plan; or

(b) To reduce the then accrued benefits or the amounts then held for the benefit of any participant or beneficiary of the Plan.

## **ARTICLE 9 MISCELLANEOUS PROVISIONS**

**9.1 Construction and Severability.** This Agreement will be construed (where applicable) under the Code and other pertinent Federal statutes, and, to the extent not otherwise preempted, under the laws of the State of California, and will be administered under the Code and other pertinent Federal Statutes. If any provision of the Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions will continue to be fully effective.

**9.2 Headings.** The headings in this instrument have been inserted for convenience of reference only, and are to be ignored in any construction of the provisions of this Agreement.

**9.3 Arbitration of Disputes.** Any dispute under this Agreement will be resolved by submission of the issue to a member of the American Arbitration Association who is chosen by the Plan Sponsor and the Custodian. If the Plan Sponsor and the Custodian cannot agree on such a choice, each will nominate a member of the American Arbitration Association, and the two nominees will then select an arbitrator. Expenses of the arbitration will be paid as decided by the arbitrator.

**9.4 Entire Agreement.** The Agreement constitutes the entire agreement upon the Parties. All previous agreements and instructions (written or oral) between the Plan Sponsor and the custodian with respect to the Account and Account Assets are hereby superseded.

**9.5 Governing Law.** This Custody Agreement and Account shall be governed by and construed in accordance with the laws of California, and all questions as to its validity will be determined in accordance with the laws of the State of California.

**9.6 Recorded Conversations.** The Custodian is authorized to tape record conversations between the Custodian and persons acting on behalf of the Plan Sponsor to verify data on transactions.

**9.7 Execution and Counterparts.** This Agreement may be executed in several counterparts, each of which will be deemed original and such counterparts will constitute but one instrument that may be sufficiently evidenced by any one counterpart.

**9.8 Successors and Assigns.** This Agreement is not assignable by any party without the other party's prior written consent, and any attempted assignment in contravention shall be null and void. Notwithstanding the foregoing, any corporation or association (i) into which the Custodian may be merged or with which it may be consolidated, (ii) resulting from any merger, consolidation, or reorganization to which the Custodian may be a party, or (iii) to which all or any part of the Custodian's fiduciary business, which includes the collective investment funds, for which the Custodian is the trustee, may be transferred, shall have all of the rights, powers and obligations of the Custodian under this Agreement, without the necessity of executing any instrument or performing any further act.

**9.9 Gender.** As used in this Agreement, the masculine gender will include the feminine and neuter genders and the singular will include the plural and the plural the singular, as the context requires.

**9.10 Bond.** The Custodian will not be required to qualify before, be appointed by, or account to any court or obtain the order or approval of any court in the exercise of any power or discretion. The Custodian will not be required to furnish bond or other security in any jurisdiction except to the extent required by law.

**9.11 Taxation of Account.** The Plan Sponsor is responsible for filing any and all tax returns and for paying any taxes due on income earned in the Account. If directed by the Plan Sponsor, the Custodian may provide information to assist the Plan Sponsor in preparation of tax returns; however, the responsibility for correctness and accuracy of all returns is solely that of the Plan Sponsor, and the Custodian will not be liable for the correctness and accuracy of any information provided as it relates to the application of tax law.

**9.12 Extraordinary Events.** The Custodian is not responsible for losses caused directly or indirectly by conditions beyond its control, including, but not limited to, war, natural disasters, government restrictions, exchange or market rulings, strikes, interruptions of communications or data processing services, or disruptions in orderly trading on any exchange or market.

**9.13 Trade Notifications.** The Plan Sponsor agrees not to receive separate notifications of securities transactions and agrees that all securities transactions will be reported on Custody Account Statement. Provided, however, the Plan Sponsor has the right under applicable law to receive, at no additional cost, separate notifications of securities transactions executed by the Custodian for the Account.

**9.14 Notices, Change of Address.** Any notice required or permitted to be given under this Agreement will be sufficient if in writing and sent by registered mail, postage prepaid, addressed as follows:

If to the Plan Sponsor to the address provided on the Execution page.

If to the Custodian:

Charles Schwab Trust  
Bank 2309 Gracy Farms  
Ln.  
Austin, TX 78758

or to such other address as the Plan Sponsor or the Custodian may hereafter specify in writing by providing ten days prior notice of such change to the other party. All notices, requests, demands and other communications will be in writing and will be deemed to have been duly given on the date of service, if served personally on the party to whom notice is to be given, or on the fifth day after mailing, if mailed and properly addressed as indicated on the Application.



TRUST BANK

# Execution Page

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first written below.

### COMPANY

Plan Sponsor Name (please print)			
Plan Name (please print)			
Address	City	State	Zip Code

### Signature and Date Required

**X**

Authorized Person Signature

Date

The person whose signature appears below hereby certifies that he/she is the duly elected, qualified and acting Secretary/General Partner/Managing Member/Other (as set forth below) of the Plan Sponsor identified above (the "Plan Sponsor") and further certifies that the person whose signature appears above is duly authorized with full power to execute, on behalf of the Plan Sponsor, this Agreement as well as all additional required account opening documents including, but not limited to, Charles Schwab Trust Bank's New Account Setup Form.

### Signature and Date Required

**X**

Certifying Person Signature

Date

### Charles Schwab Trust Bank, CUSTODIAN

### Signature and Date Required

**X**

Authorizing Person Signature

Date



TRUST BANK

## CHARLES SCHWAB TRUST BANK FLOAT DISCLOSURE STATEMENT

January 1, 2020

Charles Schwab Trust Bank in its capacity as directed trustee or custodian of employee benefit plan assets may receive, as compensation for its directed trustee or custodial services, any credit, interest or other earnings (collectively "Float") on aggregate cash balances held as a deposit obligation of Charles Schwab Trust Bank, any third-party bank or other financial institution.

Under its applicable trust or custody agreement, Charles Schwab Trust Bank has the authority to initiate investments on behalf of employee benefit plan trusts or accounts for which it serves as directed trustee or custodian only upon receipt of instructions from the applicable plan's named fiduciary or its delegate. Charles Schwab Trust Bank calculates its cash Float investment amount each business day by netting all cash activity and adjusting for cash reserved for investment or reinvestment and for cash reserved for distributions. The result is further adjusted by an additional reserve amount determined by Charles Schwab Trust Bank to be necessary to satisfy the applicable employee benefit plan account's cash needs during the following day for settlement of trades and payments.

A trust or custody account at Charles Schwab Trust Bank may have uninvested cash balances from time to time due to one or more of the following circumstances:

(a) **Incoming Cash Pending Investment ("Incoming Cash"):** Cash balances may result from the receipt of (i) plan contributions (or other deposits) from plan sponsors or participants; (ii) amounts transferred to Charles Schwab Trust Bank from another trustee or custodian related to a plan conversion or merger; (or (iii) cash resulting from the settlement of securities transactions. The Float period begins on the date such cash is received by Charles Schwab Trust Bank and ends either on the date of settlement with the issuers of subsequent investment trades initiated by Charles Schwab Trust Bank at the direction of an authorized party or on the date Outgoing Cash (as described below) is generated at the direction of an authorized party. No Float is earned when the net proceeds of all sales trades in a trust or custody account are utilized to settle corresponding simultaneous purchase transactions in such trust or custody account on settlement date.

(b) **Outgoing Cash Pending Clearance ("Outgoing Cash"):** Cash balances may result from the generation of checks or Automated Clearing House ("ACH") payments attributable to distribution and other payments issued from a plan's trust or custody account ("Outgoing Cash"). The Float period begins on the date such check or ACH payment is generated and ends on the date (i) the check is presented for payment and the check is cleared at Charles Schwab Trust Bank's omnibus commercial checking account bank, or (ii) the ACH payment is cleared (generally the next business day). In most circumstances, no Float is earned when a distribution is made by wire transfer.

The Incoming Cash and Outgoing Cash are held subject to the earning of Float as non-interest bearing deposits by and are commingled with the general assets of Charles Schwab Trust Bank. Charles Schwab Trust Bank estimates the value of Float on uninvested cash deposit balances to equal the Charles Schwab Trust Bank's average investment portfolio yield for a given period less the cost of FDIC insurance premiums Charles Schwab Trust Bank is required to pay on such deposits. Applicable rates and calculations of Float earned for representative periods are available upon request.

### **Associated Service Standards**

(a) Incoming Cash: Charles Schwab Trust Bank credits Incoming Cash, consisting of wires or ACH receipts, to an account on the business date of receipt. Charles Schwab Trust Bank credits checks deposited to a trust or custody account on the business date of receipt if Charles Schwab Trust Bank receives such deposit by its published cash deposit cutoff deadline and on the next business day after receipt if Charles Schwab Trust Bank receives them after such deadline, subject in all cases to verification and collection. Charles Schwab Trust Bank's policy is to make funds deposited by check available for use immediately upon posting to the applicable trust or custody account. Incoming checks generally require two or three days to clear. Charles Schwab Trust Bank processes investment directions received from an authorized party on the business date of receipt if Charles Schwab Trust Bank receives such directions by its published trade cut-off deadlines and on the next business day after receipt if Charles Schwab Trust Bank receives a direction after such deadline. Trade settlement generally occurs on the next business day after trade execution for mutual funds and collective trusts and on the second business day after trade execution for equities and other exchange-traded securities.

(b) Outgoing Cash: Charles Schwab Trust Bank processes Outgoing Cash within two business days after receipt of the distribution instructions from an authorized party. Outgoing checks are delivered to the U.S. postal service or other designated delivery services within twenty-four hours of when the check is issued. At the time a check is issued, cash is transferred from the applicable trust or custody account to a Charles Schwab Trust Bank omnibus disbursement account.

# Charles Schwab Bank Fee Schedule

## Annual Service Fees (select one):

### Traditional Schedule

**Annual Base Fee** \$ 500 per account

**Annual Market Value Fees\***

Fees for Assets valued at:

(Excludes PCRA market values)

\$0 to \$1 million	0.08% of market value
\$1 million to \$10 million	0.05% of market value
\$10 million to \$100 million	0.04% of market value
Over \$100 million	0.03% of market value

### Schwab Bank Savings<sup>†</sup> (“SBS”) Schedule *(Available for participant-directed accounts only)*

**Annual Base Fee** None

**Annual Market Value Fees\***

Fees for Assets valued at:

(Excludes PCRA market values)

\$0 to \$30 million	0.025% of market value
\$30 million to \$50 million	0.020% of market value
Over \$50 million	0.010% of market value

**A minimum Annual Market Value Fee of \$400 applies to Accounts electing this Fee Schedule.**

The Annual Market Value Fees set forth in this Fee Schedule are contingent upon the following terms:

1. The Company shall establish SBS as the sole capital preservation vehicle for the plan’s assets held in the Account and, if applicable, remove and liquidate any other capital preservation investment option(s) under the plan held in the Account. The undersigned acknowledges that this fee schedule requires the establishment of SBS as an investment option. This fee schedule assumes that SBS will be a utilized investment option under the plan. It is understood that investments in the Account will be participant directed. In the event that this assumption is not met Charles Schwab Bank reserves the right to adjust the fee schedule accordingly.
2. In the event the plan removes SBS or adds an alternative capital preservation investment, the undersigned agrees and accepts that the annual base fee and market value fees shall be adjusted and calculated in accordance to the pricing listed in the Traditional Schedule option above.
3. Accounts converting to the SBS Schedule from the Traditional Schedule will be invoiced for services in accordance with the SBS Schedule the calendar quarter following the calendar quarter in which the Account transitions investments to meet the investment requirements for the SBS Schedule. For the avoidance of doubt and if the SBS Schedule is selected, Charles Schwab Bank is hereby directed to remove any other capital preservation investment option(s) under the plan held in the Account after such option(s) has been liquidated.
4. The SBS Schedule is not applicable to the following plan types: 403(b), Defined Benefit, other non-participant directed plan types including but not limited to Non-Governmental 457(b) or (f), Non-Qualified Deferred Compensation or Welfare benefit plans. This list is not meant to be all-inclusive; Charles Schwab Bank reserves the right to review plan eligibility on an on-going basis.

The undersigned hereby agrees and accepts that Charles Schwab Bank may retain up to two basis points of the Shareholder Servicing Payments received from Fund Companies. See exceptions below in the additional terms section of this schedule.

A Shareholder Servicing Payment is indirect compensation which Charles Schwab Bank and/or its affiliates, including Charles Schwab & Co., Inc., the registered broker-dealer (collectively, "Schwab") may receive from Fund Companies or their affiliates and/or from bank sponsors of collective trust funds for the billing, collection, asset reconciliation and other administrative services (the "Shareholder Services") Schwab provides to Bank clients who are fund shareholders.

**Separate Account and Self-Directed Brokerage Account Fees\*\***

Brokerage commissions and transaction fees for Schwab Personal Choice Retirement Accounts® and non-unitized separate accounts are provided in the *Schwab Retirement Account/ Personal Choice Retirement Account Plan Application* and the *Schwab Corporate & Retirement Services (“SCRS”) Pricing Guide*. Brokerage commissions and transaction fees for unitization services are provided in the Charles Schwab Trust and Custody (CSTC) *Fee Schedule for Unitized Portfolios*.

<sup>†</sup> “Schwab Bank Savings” is a money market deposit account (“MMDA”) established at Charles Schwab Bank. A MMDA is a type of savings deposit. Federal Deposit Insurance Corporation (“FDIC”) Coverage: Funds deposited in the MMDA at Charles Schwab Bank are insured by the FDIC up to \$250,000 when aggregated with all other deposits held by a Plan Participant in the same capacity at Charles Schwab Bank. Participants are responsible for monitoring the total amount of deposits that they hold with Charles Schwab Bank, in order to determine the extent of deposit insurance coverage available to them on their deposits, including the MMDA.

# Charles Schwab Bank Fee Schedule

## Distribution and Disbursement Fees (includes production and mailing of IRS Tax Forms)

Participant recurring payments	\$1 per ACH transaction / \$3 per check
Participant non periodic payments	\$5 per ACH transaction / \$10 per check
Security transfers away from Schwab	\$50 per asset transfer, electronic \$550 per asset transfer, physical certificate
Rollovers to Schwab IRA	No charge
Participant dividend pass-through payments	\$10 per check
Outgoing bank wire transfers	\$20 per wire
Stop payments	\$20 per check / \$10 per ACH or wire

## Additional Fees\*\*\*

Annual Fees for Directed Trustee Services	\$1,000 per account
Additional accounts per plan	\$500 annually per account
Brokerage commissions	\$0.04 per share for trades above 500 shares or \$10 minimum for trades under \$500 principal \$20 minimum for trades less than 500 shares
Set-up fee for non-standard assets	\$200 per asset
Annual non-standard asset valuation fee	\$500 per asset
Transaction fee for non-standard assets	\$30 per transaction, including wire fees
Manual transactions	\$20 each for publicly traded assets \$30 each for all other assets \$20 each for outgoing and incoming cash processing
Stale-dated check void fee	The lesser of \$20 each or the value of the check
Reprint of IRS tax form	\$5 each
Correction of IRS tax form	\$50 each
Termination fees (Based on period of time held at Schwab)	<3 years \$1,000 per account >3 years \$ 300 per account
Security transfer fee at termination (PCRA)	\$50 per PCRA participant account
Extraordinary services	\$100 per hour (\$100 minimum)

## Definitions

1. Recordkeeper	The third party administrator or plan recordkeeper who has executed this document and who is referred to in the Directed Employee Benefit Trust Agreement ("Trust Agreement") or the Directed Employee Benefit Custody Agreement ("Custody Agreement"),
2. CSTC	Charles Schwab Trust and Custody services
3. Schwab	Charles Schwab Bank, Charles Schwab & Co. Inc., and their affiliates and subsidiaries.
4. Account	Any qualified retirement plan account or non-qualified deferred compensation plan account accepted by and held at Charles Schwab Bank.
5. Other Fee Schedules	The fee schedules collectively described in the Separate Account and Self-Directed Brokerage Account Fees section above.
6. Non-Standard Assets	Also known as "Alternative Investments." Any non-publicly traded, non-exchange traded, privately held, or other similar assets accepted in writing by Charles Schwab Bank as an investment in the Account.
7. Company	The plan sponsor or other authorized fiduciary as described in the Trust Agreement or the Custody Agreement.

# Charles Schwab Bank Fee Schedule

8. Fund Company	Any mutual fund company, bank, or other issuers of mutual funds, collective trust funds, and pooled funds, including those made available through Schwab.
9. Affiliated Funds	Mutual funds and collective trust funds sponsored by Schwab, including The Charles Schwab Family of Funds ("SchwabFunds®"), the Laudus Funds®, and Charles Schwab Bank's collective trust funds.

## Fee Schedule Provisions

1. This fee schedule is intended for use for certain Accounts with assets held or accepted by Charles Schwab Bank (Schwab Bank).
2. The fees for Schwab Bank's services described herein, with the exception of fees included in the Other Fee Schedules, are guaranteed by Schwab Bank for a period of one year commencing with the execution date of this fee schedule. Following the one-year period, Schwab Bank reserves the right to change fees for future services at any time by notifying the Company in writing 60 days prior to the effective date of the modification.
3. The fees described herein, with the exception of fees included in the Other Fee Schedules, are billed quarterly in arrears unless otherwise indicated. Past-due fees will be subject to a late fee of 2% of the past-due amount. In the event that any Schwab Bank fees and expenses defined in this fee schedule are outstanding for more than sixty (60) days from the billing date, Schwab Bank is authorized and directed to deduct such fees and expenses from the "Shareholder Servicing Payments" collected from Fund Companies, their underwriters, issuers, managers, distributors or trustees, prior to forwarding the remaining portion of fees collected to the Recordkeeper or Plan, as applicable, as described herein. Notwithstanding the foregoing, Schwab Bank reserves the right to deduct directly from the Account any fees outstanding for more than thirty (30) days from the billing date.
4. Acceptance of this fee schedule or Other Fee Schedules by the Company will not be deemed in effect until the assets to be held in the Account have been reviewed and accepted by Schwab Bank.
5. Schwab Bank reserves the right (i) to decline acceptance of any plan assets not disclosed during the account acceptance process, and (ii) to refuse, in its sole discretion, to purchase or hold any particular asset deemed unacceptable.
6. \*The Annual Market Value Fees cover:
  - The transfer, set-up and custody of assets in one account per plan.
  - All Plan assets covered under the terms of a Schwab Bank trust or custody agreement regardless of whether they are held at Schwab Bank or by a Schwab Bank-authorized sub-custodian, including Charles Schwab & Co., Inc.
  - The processing of electronically transmitted transactions including but not limited to mutual fund, participant master note, and company stock transactions.
  - Electronic receipts for employer and employee contributions and master note loan repayments.
  - Interest, dividend and capital gains posting; processing of capital changes (splits, reorganizations, etc.).
  - Online access to account statements, reports and transaction functionality.
  - Delivery of proxy and other asset-related mailings to the Company or its authorized party.
  - A cash sweep feature if requested by the Company or its authorized party.
  - The processing and reporting of Schwab Bank Savings deposits and withdrawals as well as processing and reporting of interest earnings from Schwab Bank Savings balances.
7. \*\*Brokerage commissions and transaction fees for Separate Account and Self-Directed Brokerage Accounts are defined in the Other Fee Schedules and are not included in the invoice for the other fees described in this fee schedule.
8. \*\*\*Additional Fees:
  - Brokerage commissions and transaction fees are charged at the time of each transaction directly to (i) each Account held at Schwab Bank, and (ii) to each PCRA account, unitized separate account, or non-unitized separate account held by a Schwab Bank-authorized sub-custodian, including Charles Schwab & Co., Inc.
  - Pursuant to an agreement between Charles Schwab & Co., Inc. and Schwab Bank, Schwab Bank receives a percentage of the brokerage commissions and transaction fees charged, and mutual fund revenues received, by Charles Schwab & Co., Inc. with respect to brokerage and mutual fund transactions entered into on behalf of accounts for which Schwab Bank acts as trustee or custodian.
  - Any waiver of plan-level mutual fund sales charges/loads or investment minimums is based on the qualifications set forth in the applicable fund's prospectus and on the completion of any documentation required by the fund's issuer.
  - Manual Transaction Fees apply to both settlement transactions for trades traded away from, but settling at, Schwab Bank and all transactions, whether trade- or cash-based, that are not placed by the Company or the Recordkeeper through any Schwab Bank-provided electronic data communications systems. In addition, manual transaction fees apply to the processing of distribution and contribution directives not sent via an automated file.
  - The Stale-Dated Check Void Fee will apply to the voiding of all checks in the amount of \$20 or less that remain uncashed for more than 180 days or that are voided at the direction of an authorized party; information with respect to such checks is reported to the Company or Plan Recordkeeper, or is made available to the Company or Plan Recordkeeper for review on Schwab Bank's websites on a periodic basis. In the absence of any direction to the contrary from the Company or Plan Recordkeeper, Schwab Bank will automatically void such checks after 180 days. Schwab Bank will charge the Fee at the time the checks are voided, provided that Schwab Bank agrees to repay such amounts to the Account in the event that the recipient of a check subsequently presents the check for payment or is otherwise located and claims the amount of such distribution. Based on past experience, the amount of such remuneration received by Schwab Bank is expected to be negligible; however, this does not represent the impact of future experience.
9. Schwab Bank reserves the right to charge overdraft fees and will provide notice of such overdraft charges to the Company where applicable. Should Schwab Bank decide at its sole discretion to charge such an overdraft fee, such overdrafts will be tracked on a daily basis per Account and will be charged at an annualized interest rate of Fed Funds plus 100 basis points on the amount of each day's overdraft. Accumulated overdraft charges will be billed on a quarterly basis.

## Additional Terms

1. In addition to the expenses, specific fees and other remuneration that are set forth in this fee schedule or Other Fee Schedules, Schwab may receive remuneration from Fund Companies or their affiliates, underwriters, issuers, managers, distributors or trustees ("Program Fee Payments") for the billing, collection, asset reconciliation and other administrative services (the "Shareholder Services") it provides to Schwab customers who are fund shareholders, pursuant to a services or substantively similar agreement entered into between Schwab and the Program Fund. Such Program Fee Payments may include maintenance, networking and marketing fees in addition to Shareholder Services fees.
2. Schwab may also receive compensation for serving as investment advisor, administrator, underwriter, transfer agent, shareholder servicing agent, and/or broker of record with respect to the Affiliated Funds.
3. Schwab maintains a variety of pricing alternatives which generally are based on the level of Account assets held at Schwab for which the Recordkeeper provides services. Schwab typically retains a specific amount of the fees collected from Fund Companies on Account assets for the billing, collection, asset reconciliation and other Shareholder Services Schwab provides with respect to assets held in the Accounts, as follows:
  - (a) Where Account assets are held at Schwab Bank, except as set forth in (i) and (ii) and (iii) below, Schwab Bank will generally retain up to two basis points of the services fees received by Schwab from a Program Fund with the following exceptions:
    - (i) Where Schwab Bank Account assets are invested in the Schwab Funds and Laudus Funds, Schwab Bank will pass through the entire Program Fee Payment received from the funds as a "Shareholder Servicing Payment."
    - (ii) Where Schwab Bank Account assets are invested in Schwab Bank's collective trust funds, Schwab Bank will retain from 40% to 100% of the OER of each fund as published in the fund's Declaration of Trust and/or Participation Agreements.
  - (b) Where Account assets are held at Charles Schwab & Co. Inc., Schwab will retain up to 100% of the Program Fee Payments for the Shareholder Services Schwab provides with respect to assets held in the Accounts.
  - (c) The Company may direct Schwab, pursuant to the Company's election, to retain up to 100% of the Program Fund payments for the trust, custody and other services that Schwab provides to the Account and which are described in this fee schedule. After the trust, custody and other fees described herein are paid to Schwab, Schwab shall forward the applicable remaining portion of the Program Fund payments collected from the Fund Companies to the Recordkeeper as described in this section, or if so directed, to the Account. Recordkeeper acknowledges and agrees that it will, upon request, provide the Company further information regarding specific amounts remitted by Schwab or to the Recordkeeper for Shareholder Services.
  - (d) With respect to any portion of the Program Fund payments that are not retained by Schwab, the Company may direct Schwab to forward to and deposit that portion of fees collected from Fund Companies into the Account. For purposes of this direction, the Program Fund payments forwarded to and deposited into the Account shall not include any income earned on cash float, gains from trade errors and amounts related to uncashed checks, any hard dollar fees, and any participant level charges and commissions, including those associated with the self-directed brokerage option.
  - (e) If the Company elects to have the Program Fund payments deposited to the plan Account, the Company represents that the Program Fund payments forwarded to and deposited into the Account, if any, shall be applied for the sole and exclusive purpose of paying, during the applicable plan year, such direct, necessary and proper Account expenses as are incurred during such plan year, as directed by the Company in its sole discretion. The Company or its agent shall have all responsibility for investing the compensation forwarded to and deposited into the Account in accordance with the terms of the plan and trust and any other governing documents. The Company further agrees and acknowledges as follows: (i) It has the sole responsibility and liability for determining whether expenses constitute direct, necessary and proper expenses of the trust under ERISA, other governing law, and the terms of the plan and trust, (ii) neither Schwab nor its affiliates shall have responsibility or liability with respect to the direction above and/or such determination, and (iii) without limiting the general limitation of liability and Indemnification contained in any trust or custody Agreement between Company and Schwab, the Company shall indemnify, release and hold harmless Schwab and its officers, directors, employees, agents, affiliates, successors and assigns from and against any and all loss, liabilities, demands, claims, actions and expenses (including, without limitation, any attorney fees, sanctions and taxes) arising out of, or in connection with the foregoing.
  - (f) The exact amount of the fees may be more or less than the stated ranges included herein based upon the individual funds selected for inclusion in the Plan's investment options. The Company acknowledges and agrees that the amounts described in this Section are approved by it and are payable to Charles Schwab Bank and to the Recordkeeper or Account, as applicable, and that such amounts have been taken into consideration in determining the reasonableness of the amounts payable to Charles Schwab Bank and the Recordkeeper or Account. The amounts forwarded to the Recordkeeper are reported to the Company on the Shareholder Services Reports, which are made available to the Company via Schwab's schwabretirementcenter.com Web site or are mailed directly to the Company, as applicable.
4. The Company further acknowledges that Schwab Bank may receive, as compensation for its services, any credit, interest or other earnings (collectively "Float") on aggregate cash balances that Schwab Bank has on deposit with Charles Schwab Bank or any third-party bank or other financial institution. Such cash balances may result from cash contributions not yet invested, cash pending trade settlement, or cash pending distribution from the Account. See the Schwab Bank Trust or Custody Agreement for more information regarding the applicable service standards for these processes.
  - Schwab Bank has the authority to initiate investments on behalf of the Account only upon receipt of instructions from the Company or other authorized party. Schwab Bank calculates its cash Float investment amount each business day by netting all cash activity and adjusting for cash reserved for investment or reinvestment and for cash reserved for distributions. The result is further adjusted by an additional reserve amount determined by Schwab Bank in its sole discretion as necessary to satisfy the Account's cash needs the following day for settlement of trades and payments, which may be adjusted from time to time.
  - The net cash Float amount is held subject to the earning of Float as non-interest bearing deposits by Charles Schwab Bank, and such net cash Float amount is commingled with the general assets of Charles Schwab Bank. Charles Schwab Bank estimates the value of float on uninvested cash deposit balances to be equal to the federal funds rate (which is the rate at which depository institutions lend balances at the Federal Reserve to other depository institutions overnight) less the cost of FDIC insurance premiums Charles Schwab Bank is required to pay on such deposits. Exact rates earned for representative periods are available upon request.
5. The Company acknowledges and agrees that the amounts described in this fee schedule, including those described in this Additional Terms section, are payable to Schwab Bank, and that such amounts have been taken into consideration in determining the reasonableness of the amounts payable to Schwab Bank pursuant to this fee schedule. The Company acknowledges and agrees that it is responsible for accessing the Schwab Retirement Center website or contacting Schwab Bank for further information regarding any of the fees described herein.



# Charles Schwab Bank Fee Schedule

## Shareholder Servicing Payments (select one):

- Shareholder Servicing Payment to Recordkeeper** - The Company directs and authorizes Charles Schwab Bank to forward all Shareholder Servicing Payments received by the Program Funds to the Recordkeeper pursuant to Section 3(c) of the "Additional Terms" of this Fee Schedule.
- Fee Offset by Shareholder Servicing Payments and forward to Recordkeeper** - The Company directs and authorizes Charles Schwab Bank to deduct the quarterly fee invoice amount from the Shareholder Servicing Payments received by the Program Funds pursuant to Section 3(c) of the "Additional Terms" of this Fee Schedule. Charles Schwab Bank will forward any remaining Shareholder Servicing Payments to the Recordkeeper.
- Fee Offset by Shareholder Servicing Payments and Deposit into Plan** - The Company directs and authorizes Charles Schwab Bank to deduct the quarterly fee invoice amount from the Shareholder Servicing Payments received by the Program Funds pursuant to Section 3(d) of the "Additional Terms" of this Fee Schedule. Charles Schwab Bank will deposit any remaining Shareholder Servicing Payments to the plan Account.
- Shareholder Servicing Payment to Plan** - The Company directs and authorizes Charles Schwab Bank to deposit all Shareholder Servicing Payments received by the Program Funds into the plan Account pursuant to Section 3(d) of the "Additional Terms" of this Fee Schedule.

## Agreement and Acceptance

**Invoice Mailing:** I instruct Charles Schwab Bank to mail the quarterly fee invoices to the (check one):

- Company  Recordkeeper

**Mailing Address:**

Company / Recordkeeper Name			
Attention To			
Address	City	State	Zip Code

**Plan Information:**

Plan Name		
Total Plan Assets	Total Plan Participants	Effective Date of Fee Schedule

**Agreed and Accepted:**

Signature Required

**X**

Authorizing Person Signature	Title	Date <small>(mm/dd/yyyy)</small>
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Print Name Company

**Please check Authorizing Person's capacity:**  Company  Trustee

## Northern Inyo County Local Hospital District DC Plans

This Agreement confirms with Northern Inyo County Local Hospital District (hereinafter “Client”) the terms upon which Hooker & Holcombe Investment Advisors, Inc. (hereinafter “HHIA”) will provide ongoing discretionary 3(38) investment advisory services to the Client for the Northern Inyo County Local Hospital District 401(a) and 457(b) defined contribution plans (hereinafter “Plan”). Acting in fiduciary capacity, HHIA will provide the following services:

- 1. Scope of Engagement** – The Client hereby appoints HHIA as the Plan’s investment advisor to perform the services hereinafter described on a discretionary basis, and HHIA accepts such appointment under the terms and conditions hereinafter stated. HHIA shall be responsible for the review of the Plan’s goals and objectives, and shall provide the Client with advice with respect thereof.

Unless otherwise specifically and expressly indicated in this Agreement, the Client acknowledges and understands that the services to be provided by HHIA under this Agreement are limited to the discretionary management of the investable assets. To the extent that the Client desires any services outside the scope of this Agreement, the specific nature of the services required shall be set forth in a separate written agreement between the parties, for which services there shall be paid a separate and additional fee.

- 2. Services Provided** – HHIA will provide the services as outlined below regarding the Plan:

- Investment policy setup and annual review
- Initial manager/fund selection and ongoing reviews and monitoring
- Ongoing investment manager/fund changes as warranted
- Quarterly performance reporting and analysis
- Monitoring and analysis of Plan fees
- Quarterly investment review conference calls with the pension committee
- General investment/regulatory/market research
- Fiduciary education for pension committee
- Assist recordkeeper with investment education for plan participants
- Co-fiduciary responsibility
- Other work as needed

- 3. Client Responsibilities** – The Client represents that it has the full legal power and authority to enter into this Agreement and that the terms of this Agreement do not violate any obligation or duty to which it is bound, whether arising out of contract, operation of law, or otherwise. The Client has the authority and responsibility for the selection of the trustee or Custodian for the Plan. The Client agrees to provide or cause its accountants, trustees, investment managers, plan providers, and other agents (collectively, the “Service Providers”) to provide HHIA with such information regarding investments, distributions, and expenses as HHIA may reasonably require to perform the services described in the first section of this Agreement. The Client acknowledges that HHIA may rely on the information provided by the Client and its Service Providers and HHIA is not required to verify the accuracy of the information. The Client acknowledges receipt of PART II of HHIA’s Form ADV.
- 4. Advisor Obligations** – HHIA represents that it is duly registered as an investment advisor with the Securities and Exchange Commission. HHIA agrees to execute its responsibilities under this Agreement in the sole interests of beneficiaries of each Plan and that it will follow applicable fiduciary standards as set forth in the Investment Advisors Act of 1940. HHIA will prepare its reports and analysis based on information obtained from a wide variety of public and private sources. Although the information collected by HHIA is believed to be reliable, HHIA cannot verify or guarantee the accuracy or validity of such information.
- 5. Confidentiality** – All information and advice furnished by either party to the other, including their agents and representatives, shall be treated as confidential and not disclosed to third parties except as agreed upon in writing by the parties, reasonably necessary for the Client to carry out its duties and obligations with respect to the Plans or as required by law. HHIA is given authority by the Client to disclose, provide copies of, and communicate information relative to the Plan’s investment policy and portfolio monitoring process to the trustee or Custodian. The Client acknowledges receipt of HHIA’s Privacy Policy which further explains HHIA’s duty to the Client to protect the privacy of client information.
- 6. Custodian** – The Account shall be held by an independent custodian, not the Advisor. The custodial fees charged to the Account are exclusive of, and in addition to, Advisor compensation as defined in this Agreement. The Client authorizes the Advisor to give instructions to the Custodian in furtherance of Advisor’s services under this Agreement.
- 7. Proxy Voting** – HHIA does not retain any authority or discretion with regard to voting proxies for securities held in the Plan. The power to vote proxies is reserved to the Client.

**8. Risk Acknowledgement** – HHIA does not guarantee the future performance of the Account which is subject to various market, currency, economic, political and business risks, and that those investment decisions will not always be profitable. The Client also understands that the prior performance of an investment manager or mutual fund is not necessarily indicative of such manager or fund's future results.

**9. Advisor Liability** – Except as otherwise provided by law, neither Advisor nor any of its employees, officers, affiliates, representatives or agents shall be liable for (a) any loss that the Client may suffer by reason of any investment decision made or other action taken or omitted in good faith with that degree of care, skill, prudence, and diligence under the circumstances that a person acting in a fiduciary capacity would use, (b) any loss arising from adherence to the Client's reasonable written or oral instructions, or (c) any act or failure to act by the Custodian, any broker-dealer to which Advisor directs transactions for the Account. The federal and state securities laws impose liabilities under certain circumstances on persons who act in good faith, and therefore nothing in this Agreement will waive or limit any rights that you may have under those laws. Moreover, Advisor shall not be liable for the acts of any party selected by the Advisor to perform services with respect to the Account if such party is negligent, acts in bad faith or otherwise acts improperly with respect to the Account.

If the account contains only a portion of the Plan's total assets, Advisor shall not be responsible for any assets not covered by this Agreement, or diversification of all of the Plan's assets.

**10. Notices** – Any notice, correspondence, or other communication required in connection with this Agreement will be deemed effective upon receipt if delivered to either party at their address on file unless or by electronic delivery (e.g., e-mail). All of the Client's directions to Advisor (including notices, instructions, and directions relating to changes in investment objectives) shall be in writing. Advisor may rely upon any such reasonable direction, notice, or instruction unless and until Advisor has been advised in writing of changes thereto.

**11. Assignment** – Neither party may assign this Agreement without the consent of the other party. Both parties acknowledge and agree that transactions that do not result in a change or actual control of management shall not be considered an assignment.

**12. Entire Agreement** – This Agreement constitutes the entire Agreement between the parties and supersedes all understandings, agreements (oral and written), or representations with respect to the subject matter hereof. This Agreement may only be amended, revised or modified with both parties' written consent. Each party acknowledges that no representation, inducement or condition not set forth herein

has been made or relied upon by either party.

**13. Waiver** – No failure by Advisor to exercise any right, power, or privilege that Advisor may have under this Agreement shall operate as a waiver thereof. Further, no waiver of any deviation from, or breach of, this Agreement by the Client shall be deemed to be a waiver of any subsequent deviation or breach.

**14. Severability** – If any provision of this Agreement is deemed to be invalid or unenforceable or is prohibited by the laws of the state or jurisdiction where it is to be performed, this Agreement shall be considered divisible as to such provision and such provision shall be inoperative in such state or jurisdiction. The remaining provisions of this Agreement shall be valid and binding and of full force and effect as though such provision was not included.

**15. Counterparts** – This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. The execution of this Agreement may be by actual or facsimile signature.

**16. Fees** – The Client shall pay fees to HHIA for investment advisory services. Such fees shall not be increased for a period of at least three years from the date of this Agreement. HHIA's fees will be a 15 basis points (0.15%) per annum on the market value of plan assets, billed quarterly in arrears. Such fee shall be subject to a quarterly minimum of \$1,500. The Client acknowledges that the Custodian will not verify the accuracy of the fee calculation and that it is the Client's responsibility.

The Client agrees to pay such fees within 30 days following the receipt of a bill from HHIA so long as the Client does not reasonably object to such bill. The Client may choose to pay fees for advisory services directly or from the assets of the Plan, provided such payments are not disallowed in legal documentation for such Plan. Upon termination of this Agreement, fees for services rendered will be prorated based on the number of days in the quarter the Advisor is the Plan's investment advisor divided by total days in the quarter, if applicable.

**17. Termination** – Either party may terminate this Agreement upon thirty (30) days prior written notice to the other party. Such termination will not, however, affect the liabilities or obligations of the parties arising from transactions initiated prior to such termination, and such liabilities and obligations shall survive any expiration or termination of this Agreement. Upon the effective date of termination, Advisor will have no further obligation under this Agreement to act or advise the Client with respect to Services under this Agreement.

**18. Effective Date** – The effective date of this Agreement is April 1, 2021

By each party executing this Agreement, they acknowledge and accept their respective rights, duties, and responsibilities hereunder.

Client Signature:

By: \_\_\_\_\_

Date: \_\_\_\_\_

Vinay Behl  
Chief Financial Officer  
Northern Inyo County Local Hospital District

HHIA Signature:

By: \_\_\_\_\_

Date: \_\_\_\_\_

Rodger K. Metzger, CFA  
President & Chief Investment Office

## Northern Inyo County Local Hospital District Pension Plan

This Agreement confirms with the Northern Inyo County Local Hospital District (hereinafter “Client”) the terms upon which Hooker & Holcombe Investment Advisors, Inc. (hereinafter “HHIA”) will provide ongoing discretionary 3(38) investment advisory services to the Client for the Northern Inyo County Local Hospital District Pension Plan (hereinafter “Plan”). Acting in fiduciary capacity, HHIA will provide the following services:

- 1. Scope of Engagement** – The Client hereby appoints HHIA as the Plan’s investment advisor to perform the services hereinafter described on a discretionary basis, and HHIA accepts such appointment under the terms and conditions hereinafter stated. HHIA shall be responsible for the review of the Plan’s funding and liquidity requirements and the goals and objectives of the Client with regard to the Plan, and shall provide the Client with advice with respect thereof, including advice concerning the investment and reinvestment of the Plan’s assets.

The Client hereby grants HHIA limited trading authority to implement transactions for the Plan at its discretion, and authorizes it to buy, sell, and trade in mutual funds, exchange traded funds, and other securities and/or contracts relating to the same, including investing assets in short-term money-market instruments when HHIA deems it advisable, and to give instructions in furtherance of such trading authority to the broker-dealer of the Account (“Broker-Dealer”) and/or the custodian of the Account (“Custodian”).

Unless otherwise specifically and expressly indicated in this Agreement, the Client acknowledges and understands that the services to be provided by HHIA under this Agreement are limited to the discretionary management of the investable assets HHIA advises on with respect to the Plan. To the extent that the Client desires any services outside the scope of this Agreement, the specific nature of the services required shall be set forth in a separate written agreement between the parties, for which services there shall be paid a separate and additional fee.

**2. Services Provided** – HHIA will provide the services as outlined below regarding the Plan:

- Establish investment policy
- Develop asset allocation strategy
- Establish manager strategy and structure
- Select investment managers/funds
- Implement investment strategy
- Execute trades or direct Broker-Dealer or Custodian to execute trades on behalf of the Account in accordance with the investment strategy
- Monitor and evaluate portfolio and manager/fund performance
- Coordinate investment related interactions with managers, actuary, trustee, etc.
- Prepare quarterly investment reports
- Quarterly investment review conference calls with the pension committee
- General investment/regulatory/market research
- Fiduciary education for pension committee
- Co-fiduciary responsibility
- Other work as needed

**3. Client Responsibilities** – The Client represents that it has the full legal power and authority to enter into this Agreement and that the terms of this Agreement do not violate any obligation or duty to which it is bound, whether arising out of contract, operation of law, or otherwise. The Client has the authority and responsibility for the selection of the trustee or Custodian for the Plan. The Client agrees to provide or cause its accountants, trustees, investment managers, plan providers, and other agents (collectively, the “Service Providers”) to provide HHIA with such information regarding investments, distributions, and expenses as HHIA may reasonably require to perform the services described in the first section of this Agreement. The Client acknowledges that HHIA may rely on the information provided by the Client and its Service Providers and HHIA is not required to verify the accuracy of the information. The Client acknowledges receipt of PART II of HHIA’s Form ADV.

**4. Advisor Obligations** – HHIA represents that it is duly registered as an investment advisor with the Securities and Exchange Commission. HHIA agrees to execute its responsibilities under this Agreement in the sole interests of beneficiaries of each Plan and that it will follow applicable fiduciary standards as set forth in the Investment Advisors Act of 1940. HHIA will prepare its reports and analysis based on information obtained from a wide variety of public and private sources. Although the information collected by HHIA is believed to be reliable, HHIA cannot verify or guarantee the accuracy or validity of such information.

**5. Confidentiality** – All information and advice furnished by either party to the other, including their agents and representatives, shall be treated as confidential and not disclosed to third parties except as agreed upon in writing by the parties, reasonably necessary for the Client to carry out its duties and obligations with respect to the Plans or as required by law. HHIA is given authority by the Client to disclose, provide copies of, and communicate information relative to the Plan’s investment policy and portfolio monitoring process to the trustee or Custodian. The Client acknowledges receipt of HHIA’s Privacy Policy which further explains HHIA’s duty to the Client to protect the privacy of client information.

6. **Custodian** – The Account shall be held by an independent custodian, not the Advisor. The custodial fees charged to the Account are exclusive of, and in addition to, Advisor compensation as defined in this Agreement. The Client authorizes the Advisor to give instructions to the Custodian in furtherance of Advisor’s services under this Agreement.
7. **Proxy Voting** – HHIA does not retain any authority or discretion with regard to voting proxies for securities held in the Plan. The power to vote proxies is reserved to the Client.
8. **Risk Acknowledgement** – HHIA does not guarantee the future performance of the Account which is subject to various market, currency, economic, political and business risks, and that those investment decisions will not always be profitable. The Client also understands that the prior performance of an investment manager or mutual fund is not necessarily indicative of such manager or fund’s future results.
9. **Advisor Liability** – Except as otherwise provided by law, neither Advisor nor any of its employees, officers, affiliates, representatives or agents shall be liable for (a) any loss that the Client may suffer by reason of any investment decision made or other action taken or omitted in good faith with that degree of care, skill, prudence, and diligence under the circumstances that a person acting in a fiduciary capacity would use, (b) any loss arising from adherence to the Client’s reasonable written or oral instructions, or (c) any act or failure to act by the Custodian, any broker-dealer to which Advisor directs transactions for the Account. The federal and state securities laws impose liabilities under certain circumstances on persons who act in good faith, and therefore nothing in this Agreement will waive or limit any rights that you may have under those laws. Moreover, Advisor shall not be liable for the acts of any party selected by the Advisor to perform services with respect to the Account if such party is negligent, acts in bad faith or otherwise acts improperly with respect to the Account.

If the account contains only a portion of the Plan’s total assets, Advisor shall not be responsible for any assets not covered by this Agreement, or diversification of all of the Plan’s assets.

10. **Notices** – Any notice, correspondence, or other communication required in connection with this Agreement will be deemed effective upon receipt if delivered to either party at their address on file unless or by electronic delivery (e.g., e-mail). All of the Client’s directions to Advisor (including notices, instructions, and directions relating to changes in investment objectives) shall be in writing. Advisor may rely upon any such reasonable direction, notice, or instruction unless and until Advisor has been advised in writing of changes thereto.

11. **Assignment** – Neither party may assign this Agreement without the consent of the

other party. Both parties acknowledge and agree that transactions that do not result in a change or actual control of management shall not be considered an assignment.

- 12. Entire Agreement** – This Agreement constitutes the entire Agreement between the parties and supersedes all understandings, agreements (oral and written), or representations with respect to the subject matter hereof. This Agreement may only be amended, revised or modified with both parties' written consent. Each party acknowledges that no representation, inducement or condition not set forth herein has been made or relied upon by either party.
- 13. Waiver** – No failure by Advisor to exercise any right, power, or privilege that Advisor may have under this Agreement shall operate as a waiver thereof. Further, no waiver of any deviation from, or breach of, this Agreement by the Client shall be deemed to be a waiver of any subsequent deviation or breach.
- 14. Severability** – If any provision of this Agreement is deemed to be invalid or unenforceable or is prohibited by the laws of the state or jurisdiction where it is to be performed, this Agreement shall be considered divisible as to such provision and such provision shall be inoperative in such state or jurisdiction. The remaining provisions of this Agreement shall be valid and binding and of full force and effect as though such provision was not included.
- 15. Counterparts** – This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. The execution of this Agreement may be by actual or facsimile signature.
- 16. Fees** – The Client shall pay fees to HHIA for investment advisory services. Such fees shall not be increased for a period of at least three years from the date of this Agreement. HHIA's fees will be a 15 basis points (0.15%) per annum on the market value of plan assets, billed quarterly in arrears. Such fee shall be subject to a quarterly minimum of \$1,500. The Client acknowledges that the Custodian will not verify the accuracy of the fee calculation and that it is the Client's responsibility.

The Client agrees to pay such fees within 30 days following the receipt of a bill from HHIA so long as the Client does not reasonably object to such bill. The Client may choose to pay fees for advisory services directly or from the assets of the Plan, provided such payments are not disallowed in legal documentation for such Plan. Upon termination of this Agreement, fees for services rendered will be prorated based on the number of days in the quarter the Advisor is the Plan's investment advisor divided by total days in the quarter, if applicable.

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written notice to the other party. Such termination will not, however, affect the liabilities or obligations of the parties arising from transactions initiated prior to such termination, and such liabilities and obligations shall survive any expiration or termination of this Agreement. Upon the effective date of termination, Advisor will have no further obligation under this Agreement to act or advise the Client with respect to Services under this Agreement.

**18. Effective Date** – The effective date of this Agreement is April 1, 2021

By each party executing this Agreement, they acknowledge and accept their respective rights, duties, and responsibilities hereunder.

Client Signature:

By: \_\_\_\_\_

Date: \_\_\_\_\_

Vinay Behl  
Chief Financial Officer  
Northern Inyo County Local Hospital District

HHIA Signature:

By: \_\_\_\_\_

Date: \_\_\_\_\_

Rodger K. Metzger, CFA  
President & Chief Investment Office

**Part 2A of Form ADV: *Firm Brochure***

**Hooker & Holcombe Investment Advisors, Inc.**

1300 Hall Boulevard, Suite 1C

Bloomfield, CT 06002

Telephone: 860-856-2125

Email: [jfuller@hhconsultants.com](mailto:jfuller@hhconsultants.com)

Web Address: [hhconsultants.com](http://hhconsultants.com)

3/23/2021

This brochure provides information about the qualifications and business practices of Hooker & Holcombe Investment Advisors, Inc. If you have any questions about the contents of this brochure, please contact us at 860-856-2125 or [jfuller@hhconsultants.com](mailto:jfuller@hhconsultants.com). The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority.

Additional information about Hooker & Holcombe Investment Advisors, Inc. also is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). You can search this site by a unique identifying number, known as a CRD number. Our firm's CRD number is 125791.

## **Item 2 Material Changes**

The SEC adopted "Amendments to Form ADV" in July, 2010. This Firm Brochure, dated 3/23/2021, is our disclosure document prepared according to the SEC's requirements and rules. This is an update to our Firm Brochure dated 3/27/2020.

This Item is used to provide our clients with a summary of new and/or updated information.

Consistent with the rules, we will ensure that you receive a summary of any material changes to this and subsequent Brochures within 120 days of the close of our business' fiscal year. Furthermore, we will provide you with other interim disclosures about material changes as necessary.

### **Material Changes Contained in this Brochure:**

Our current brochure dated 3/23/2021 contains the following material changes from our brochure dated 3/27/2020:

Item 4 – Advisory Business: This section was modified to remove two services we previously offered to retail clients: Managed Model Portfolios and Financial Planning Services.

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## Item 4 Advisory Business

Hooker & Holcombe Investment Advisors, Inc. (HHIA) is an SEC-registered investment adviser with its principal place of business located in Bloomfield CT. HHIA began conducting business in 1996 under the name Hooker & Holcombe Investment Solutions.

Listed below are the firm's principal shareholders (i.e., those individuals and/or entities controlling 25% or more of this company).

- Hooker & Holcombe, Inc.,

HHIA offers the following advisory services to our clients:

### INVESTMENT ADVISORY SERVICES

The primary clients for these services are pension, profit sharing and 401(k) plans, 403(b) plans, 457(b) plans, and 401(a) plans, but we offer these services, where appropriate, to other post-retirement employee benefit plans (OPEB), trusts, estates and charitable organizations including foundations and endowments. Under this service model HHIA acts as the primary advisor and is responsible for advising the client on virtually all aspects of their investment program. Investment Advisory Services are comprised of nine distinct services but depending on the type of plan or portfolio, not all services will apply to every client. HHIA can provide these services on a discretionary or nondiscretionary basis. Note that throughout this document the word “plan” is used broadly to refer to both retirement plans of all types, and portfolios for trusts, estates, foundations and endowments.

*Investment Policy Statement Preparation (hereinafter referred to as "IPS"):*

We will meet with the client (in person, by telephone, or virtual meeting) to determine an appropriate investment strategy that reflects the plan sponsor's stated investment objectives for management of the overall plan. Our firm then prepares a written IPS detailing plan objectives, investment objectives, investment committee responsibilities, investment guidelines and restrictions, and performance measurement standards. The IPS also lists the criteria for selection or removal of investment vehicles as well as the procedures and timing interval for monitoring of investment performance.

*Asset Allocation Strategy:*

For defined benefit pension plans, OPEB plans, foundations, and endowments, HHIA will work with the client to develop an asset allocation strategy which factors in forward looking capital market assumptions, the plan's liability structure, liquidity needs and expected cash inflows and outflows. HHIA, when appropriate, will incorporate modern portfolio theory in evaluating different risk and return scenarios, providing tailored portfolio alternatives to meet a client's specific needs.

*Selection of Investment Vehicles:*

The HHIA Investment Committee is responsible for maintaining and monitoring a list of quality investment options (primarily mutual funds and ETFs) across the spectrum of asset classes based on a proprietary quantitative and qualitative rating system. This list of “approved” investment options is the primary (although not exclusive) source for selecting investments for clients’ portfolios. Where investment limitations exist on a custodial platform, or as dictated by client-specific needs, other investment options are considered for inclusion in a client’s portfolio. The number of investments to be recommended will be determined in consultation with the client based on plan specific factors such as size, demographics, and funded status, etc. HHIA regularly reviews client portfolios and the performance of investment managers contained therein in light of the Investment Policy Statement. If HHIA believes that a particular manager is performing inadequately, or if HHIA believes a different

manager is more suitable for the client's needs, HHIA will suggest that the client contract with a different one. Under this scenario, HHIA will assist the client in selecting a new manager. Where HHIA acts as a discretionary adviser the same process is followed with the exception that client consent is not required prior to implementation of changes.

#### *Monitoring of Investment Performance:*

HHIA regularly monitors investment performance of client investments and also monitors non-performance factors of investment managers (e.g. portfolio manager changes, investment objective changes, etc.) based on objective evaluation standards. HHIA keeps clients apprised of investment performance with quarterly reports and regular client meetings and proactively works with the client to assure remedial efforts are taken to deal with investments where performance is not meeting established standards.

#### *Portfolio Trading and Administration:*

For defined benefit pension plans, OPEB plans, foundations, and endowments, HHIA will work with the custodian of the assets to set up and remove investment options, effect trades, rebalance the portfolio, and may assist with expense and benefit payments. HHIA acts as a liaison between the client and the custodian to make sure all of the investment related administrative functions of the portfolio are carried out.

#### *Asset Allocation Models:*

Our firm offers asset allocation models within defined contribution plans. This service is typically available only to larger plans. Each allocation model is designed to meet a particular risk based investment goal. Models are composed from the plan's menu of funds that are available to participants to invest in individually. The following is a description of the models. Plans may include selected models, or all of them.

##### **Ultra-Conservative Strategy**

- The long-term strategic allocation is 0% equities and 100% fixed income
- May be appropriate for those with a very low risk tolerance, or an inability to assume risk, or will begin drawing on their account within the next few years
- Primary objective is preservation of capital
- Primary risks include loss of purchasing power over time due to inflation and reduced likelihood of meeting long-term investment objectives

##### **Conservative Strategy**

- The long-term strategic allocation is 20% equities and 80% fixed income
- May be appropriate for those with a very low risk tolerance, or an inability to assume risk, or will begin drawing on their account within the next few years
- Primary objectives are high current income and preservation of capital
- Primary risks include loss of purchasing power over time due to inflation and reduced likelihood of meeting long-term investment objectives

##### **Moderate Strategy**

- The long-term strategic allocation is 40% equities and 60% fixed income

- May be appropriate for those with a low risk tolerance and a moderate ability to assume risk, or will begin drawing on their account within the next five years
- Primary objectives are moderate current income and low to moderate capital appreciation
- Primary risks include loss of purchasing power over time due to inflation, loss of principal over the short-term, and reduced likelihood of meeting long-term investment objectives

### **Balanced Strategy**

- The long-term strategic allocation is 60% equities and 40% fixed income
- May be appropriate for those with a medium risk tolerance and a moderate ability to assume risk, and do not expect to draw on their account for at least five years
- Primary objectives are current income and moderate capital appreciation
- Primary risks include loss of principal

### **Growth Strategy**

- The long-term strategic allocation is 80% equities and 20% fixed income
- May be appropriate for those with a high risk tolerance and a great ability to assume risk and do not expect to draw on their account for at least ten years
- Primary objectives are low current income and high capital appreciation over the long-term
- Primary risks include loss of principal and limited ability to meet cash flow needs with low-risk investments

### **Equity Growth Strategy**

- The long-term strategic allocation is 100% equities and 0% fixed income
- May be appropriate for those with a very high risk tolerance and a great ability to assume risk and do not expect to draw on their account for at least fifteen years
- Primary objective is high capital appreciation over the long-term
- Primary risks include loss of principal and inability to meet cash flow needs with low-risk investments

We manage these portfolio models on a discretionary basis. We review the models quarterly and tactical adjustments and/or fund changes are made based on market expectations and individual fund performance. Portfolios are automatically rebalanced regularly (typically quarterly) by the plan's recordkeeper. The models are managed based on the model's goal, rather than on each plan participant's individual needs.

#### *Client Communications:*

We will meet with the client at least annually (in person or virtually) to provide an update on the economic and financial markets. In addition we will conduct a thorough review of the plan's or portfolio's investments and keep the client apprised of the latest regulatory developments that may affect them. We may also discuss new investment options or suggest alternatives to existing investments. Clients also receive portfolio review reports quarterly.

#### *Employee Communications:*

For defined contribution plan clients with individual plan participants exercising control over assets in their own account ("self-directed plans"), HHIA may provide educational support and investment workshops designed for the plan participants in conjunction with the plan's other service providers. The nature of the topics to be covered will be determined by us and the client under the guidelines

established in ERISA Section 404(c). The educational support and investment workshops may or may not provide plan participants with individualized investment consultations.

*Individual Financial Wellness Services:*

Coinciding with on-site employee education for defined contribution plan clients, HHIA offers an optional comprehensive financial planning review for their employees. It provides one-on-one session during which an HHIA financial counselor discusses goals, risk tolerance, cash flow, budgeting, educational and retirement planning, asset allocation, and estate planning considerations with the employee.

## **INVESTMENT OVERSIGHT SERVICES**

The primary clients for these services will be pension plans, OPEB plans, profit sharing and 401(k) plans, 403(b) plans 457(b) plans, and 401(a) plans but we also offer these services, where appropriate, to trusts, estates and charitable organizations including foundations and endowments. Under this service model HHIA acts in a limited capacity to oversee the functioning of the plan's investment program. Typically the plan will also have a primary advisor, or the client will have an investment committee that fulfills the functions of a primary advisor. Investment Oversight Services are comprised of four distinct services but depending on the type of plan, not all services will apply to every client.

*Investment Policy Statement Review (hereinafter referred to as "IPS"):*

Our firm will assist the client in reviewing the plan's written IPS to help ensure that the provisions are adequate and that they are being followed.

*Monitoring of Investment Performance:*

HHIA will work with the client to establish objective evaluation standards for investment performance, periodically evaluate and report investment manager performance against established standards and proactively work with the client to ensure remedial efforts are taken to deal with investment performance not meeting established standards.

*Client Communications:*

We will meet with the client at least annually (in person or virtually) to provide an update on the economic and financial markets. In addition we will conduct a thorough review of the plan's investments and keep the client apprised of the latest regulatory developments that may affect them. We may also discuss new investment options. Clients also receive portfolio review reports quarterly.

*Employee Communications:*

For defined contribution plan clients with individual plan participants exercising control over assets in their own account ("self-directed plans"), HHIA may also provide educational support and investment workshops designed for the plan participants in conjunction with the plan's other service providers. The nature of the topics to be covered will be determined by us and the client under the guidelines established in ERISA Section 404(c). The educational support and investment workshops may or may not provide plan participants with individualized consultations.

## **REQUEST FOR PROPOSAL SERVICE**

HHIA will assist plan sponsors in their search for an investment adviser and/or investment manager or a custodial/trustee/recordkeeping service provider. HHIA assists the client in soliciting RFP's from qualified service providers, and then reviews, screens, scores, and summarizes the RFP's, and assists with interviews of the vendors. The plan sponsor is responsible for making any final decisions at the conclusion of this process. At the client's request, HHIA will also assist in the transition process to the selected service provider, including interim advisory services during the transition period.

## **INVESTMENT AUDIT SERVICES**

HHIA assists clients in reviewing the investment practices of their advisers and/or custodial service providers. In performing audits HHIA reviews quality and breadth of investment options, appropriateness of share classes, direct and indirect fees being assessed, and scope and quality of services provided. HHIA provides benchmarks for reasonableness of fees in relation to services provided, considers conflicts of interest of service providers, and looks at contract provisions to ensure they are being adhered to.

## **PUBLICATION OF PERIODICALS**

HHIA publishes a weekly market review newsletter which includes economic and financial headlines, market performance, interest and currency rates, and commodity prices. No investment recommendations are provided in the newsletter and the information provided does not purport to meet the objectives or needs of any individual or organization. The newsletter is distributed upon request free of charge via email to our advisory clients and is also available for viewing on our website.

## **403(b)(7) PROGRAM ADVISORY AND EDUCATIONAL SERVICES**

HHIA provides advisory and educational services to school districts in Connecticut that sponsor a 403(b)(7) mutual fund program. School districts have the option of making this program available to their employees. In general, employees have the option of choosing this program or one of several other programs chosen by the school administrators. The services provided are part of a bundled service arrangement that includes recordkeeping and administrative services provided by Hooker & Holcombe Retirement Services, Inc. (hereinafter, "HHRs"), a corporation related to HHIA through common control and ownership, and custodial services provided by a third party not related to HHIA (the "Custodian"). Services provided by HHIA include:

### *Investment Menu Selection and Monitoring*

HHIA, on a discretionary basis, selects a menu of mutual funds from the universe of funds that are available on the Custodian's platform. HHIA generally selects at least two mutual funds from most of the major asset classes, for a total of 40 –50 funds. The selected funds form a standard menu of mutual funds for all school districts participating in the program. HHIA formulates and maintains an Investment Policy Statement (IPS) which applies to all plans serviced by this program. The IPS establishes performance and other quantitative and qualitative criteria for monitoring the funds. HHIA regularly monitors funds and will, on a discretionary basis, add or delete funds from the menu and map investments from discontinued funds into new funds. HHIA does not have any authority or responsibility for, and does not provide any advisory services with respect to the allocation of participants' contributions and existing account balances among the menu of mutual funds under this program; the participants are solely responsible for determining how to allocate their contributions and account balances.

### *Participant Communication and Education*

HHIA in conjunction with HHRS will disseminate generic investment information to plan participants in connection with this program via any of the following methods (a) group meetings, (b) individual meetings, (c) written communications, (d) electronic communications, and (e) internet access. All such materials and communications will be solely informational and educational in nature and should not be construed to be investment advice specific to the participant's unique circumstances. Participants shall be solely responsible for determining how to allocate their contributions and existing account balances among the menu of mutual funds available under the program.

### **CONSULTING SERVICES**

Institutional clients can also receive investment advice on a more focused basis. This may include advice on only isolated areas of concern such as asset allocation, investment product research, asset / liability modeling, capital market research, etc. Consulting recommendations are not limited to any specific product or service offered by a broker-dealer or insurance company.

### **INDIVIDUAL PORTFOLIO MANAGEMENT SERVICES**

HHIA provides portfolio management services to individuals. Our firm provides continuous advice to the client regarding the investment of client funds based on the individual needs of the client. Through personal discussions in which goals and objectives based on a client's particular circumstances are established, we develop the client's personal investment policy and create and manage a portfolio based on that policy. During our data-gathering process, we determine the client's individual objectives, time horizon, risk tolerance, liquidity needs, and any other assets that should be taken into consideration when deciding upon an appropriate investment allocation. As appropriate, we also review and discuss a client's prior investment history, as well as family composition and background.

Our investment recommendations are limited to products or services with which we have expertise and will generally include advice regarding the following securities:

- Exchange-listed securities
- Corporate debt securities (other than commercial paper)
- US Treasury securities
- Certificates of deposit
- Municipal securities
- Variable life insurance
- Variable annuities
- Mutual fund shares
- Separately Managed Accounts
- Stable Value Funds

Because some types of investments involve additional degrees of risk, they will only be recommended when consistent with the client's stated investment objectives (e.g. capital preservation, growth and income, capital appreciation), risk tolerance, liquidity needs and time horizon, as well as tax considerations. We manage these advisory accounts on a non-discretionary or discretionary basis.

### *Non-Discretionary Portfolio Management*

Non-discretionary portfolio management is available to clients with account balances in excess of \$1.0 million. HHIA will develop a custom portfolio based on input from the client but implementation and changes will be carried out only after getting approval from the client. HHIA may impose reasonable restrictions on investing in certain securities, types of securities, or industry sectors.

### *Discretionary Portfolio Management*

Discretionary custom portfolio management is available to clients with account balances in excess of \$1.0 million. HHIA will develop a custom portfolio based on input from the client. Following approval from the client HHIA will implement the portfolio. As deemed appropriate, HHIA's portfolio manager will modify investment options and allocations from time to time based on market conditions, quality of investments, and availability of investment alternatives as part of its portfolio monitoring and maintenance functions. HHIA will inform the client of changes but does not require approval from the client prior to implementation.

## **INDIVIDUAL INVESTMENT OVERSIGHT SERVICES**

Under this program HHIA provides limited non-discretionary oversight, advice, and monitoring of the client's investment accounts. The client is responsible for the day to day administration and trading of their accounts and is free to maintain accounts with brokers of their choice.

## **FIDUCIARY ASSESSMENT SERVICES**

The primary clients for these services will be pension, profit sharing, 401(k), and 403(b) plans, but we offer these services, where appropriate, to trusts, estates and charitable organizations including foundations and endowments. Under this service HHIA works primarily with the client's investment committee that is responsible for fiduciary oversight of the plan's or organization's portfolio. HHIA consultants review the committee's charter and current fiduciary practices, and recommends actions to address risk areas and help ensure compliance with applicable state and Federal law, and ERISA requirements for qualified plans. This service serves to educate fiduciaries on best practices to help limit legal liability and regulatory exposure.

## **AMOUNT OF MANAGED ASSETS**

As of 1/1/2021, HHIA had \$486.4 million in Assets Under Management which is defined as accounts for which we provide *continuous and regular supervisory services*. Assets under this definition include all discretionary accounts and only the non-discretionary accounts for which we provide continuous and regular supervisory services including trading and rebalancing authority. Total client assets for which HHIA provides advisory services was \$3.9 billion as of 1/1/2021. Assets under this definition include those mentioned above under the definition of regulatory Assets Under Management plus all additional non-discretionary accounts that don't meet the definition of *continuous and regular supervisory services*.

## **Item 5 Fees and Compensation**

### **INVESTMENT ADVISORY SERVICES**

Our annual fees for Investment Advisory Services are either based upon a percentage of assets under management and generally range from 0.05% to 1.00%, or are a flat fee which can range from \$2,000 to \$75,000. The actual amount depends on the type of portfolio (defined benefit, 401(k), endowment, etc.) and the types of services required by the client, and by the size of the portfolio.

### **INVESTMENT OVERSIGHT SERVICES**

Our annual fees for Investment Oversight Services are either based upon a percentage of assets under management and generally range from 0.05% to 0.50%, or are a flat fee which can range from \$2,000 to \$50,000. The actual amount depends on the type of portfolio (defined benefit, 401(k), endowment, etc.) and the types of services required by the client, and by the size of the portfolio.

### **PUBLICATION OF PERIODICALS OR NEWSLETTERS**

We do not charge a fee for this service.

### **403(b)(7) PROGRAM ADVISORY AND EDUCATIONAL SERVICES**

Our annual fees for 403(b)(7) Program Advisory and Educational Services are 0.10% of assets under management. This fee may be explicit or part of a single fee for bundled services.

### **GENERAL AD HOC CONSULTING SERVICES**

Our fees for ad hoc consulting services, which would include Request for Proposal Services, Investment Audit Services, and general Consulting Services are generally a flat fee based on an estimate of how much time will be required to complete the project. The fees can range from \$5,000 to \$50,000 which is dependent on the size and scope of the project.

### **INDIVIDUAL PORTFOLIO MANAGEMENT SERVICES**

Our annual fees for Individual Portfolio Management Services are based on the market value of assets under management. Depending on the type of service being provided the fees are on a graded schedule and range from 1.00%/annum on smaller accounts to 0.25%/annum on large accounts.

### **INDIVIDUAL INVESTMENT OVERSIGHT SERVICES**

Our annual fees for Individual Investment Oversight Services are based on the market value of assets under management. Depending on the type of service being provided the fees are on a graded schedule and range from 1.00%/annum on smaller accounts to 0.25%/annum on large accounts.

### **FIDUCIARY ASSESSMENT SERVICES**

Our fees for Fiduciary Assessment Services are a flat fee which can range from \$3,000 to \$20,000 for the first year and \$1,000 to \$5,000 in subsequent years. The actual amount depends on the type of portfolio (defined benefit, 401(k), endowment, etc.), the complexity of the investment committee, and the types and depth of services required by the client.

***Limited Negotiability of Advisory Fees:*** Although HHIA has established the aforementioned fee schedule(s), we retain the discretion to negotiate alternative fees on a client-by-client basis. Client facts, circumstances and needs are considered in determining the fee schedule. These include the complexity of the client, assets to be placed under management, anticipated future additional assets; related accounts; portfolio style, account composition, reporting requirements, among other factors. The specific annual fee schedule is identified in the contract between the adviser and each client.

## GENERAL INFORMATION

**How Fees are Paid:** Clients have the option of paying fees directly or they may allow us to have the custodian deduct them directly from their accounts. In general we assess fees quarterly in arrears.

**Termination of the Advisory Relationship:** A client agreement may be canceled at any time, by either party, for any reason upon receipt of 30 days written notice. Upon termination of any account, any prepaid, unearned fees will be promptly refunded.

**Mutual Fund Fees:** All fees paid to HHIA for investment advisory services are separate and distinct from the fees and expenses charged by mutual funds and/or ETFs to their shareholders. These fees and expenses are described in each fund's prospectus. These fees will generally include a management fee, other fund expenses, and a possible distribution fee. HHIA does not recommend funds that impose sales charges. A client could invest in a mutual fund directly, without our services. In that case, the client would not receive the services provided by our firm which are designed, among other things, to assist the client in determining which mutual fund or funds are most appropriate to each client's financial condition and objectives. Accordingly, the client should review both the fees charged by the funds and our fees to fully understand the total amount of fees to be paid by the client and to thereby evaluate the advisory services being provided.

**Wrap Fee Programs and Separately Managed Account Fees:** Clients participating in separately managed account programs may be charged various program fees in addition to the advisory fee charged by our firm. Such fees may include the investment advisory fees of the independent advisers, which may be charged as part of a wrap fee arrangement. In a wrap fee arrangement, clients pay a single fee for advisory, brokerage and custodial services. A client's portfolio transactions are executed without commission or transaction charges in a wrap fee arrangement. In evaluating such an arrangement, the client should also consider that, depending upon the level of the wrap fee charged by the broker-dealer, the amount of portfolio activity in the client's account, and other factors, the wrap fee may or may not exceed the aggregate cost of such services if they were to be provided separately. We will review with clients any separate program fees that may be charged to clients.

**Additional Fees and Expenses:** In addition to our advisory fees, clients are also responsible for the fees and expenses charged by custodians, recordkeepers, and third party administrators. In addition, fees may be imposed by broker dealers, including, but not limited to, any transaction charges imposed by a broker dealer with which an independent investment manager effects transactions for the client's account(s). Also, some transactions that HHIA executes on certain custodial platforms may be subject to transaction fees. Please refer to the "Brokerage Practices" section (Item 12) of this Form ADV for additional information.

**ERISA Accounts:** HHIA is deemed to be a fiduciary to advisory clients that are employee benefit plans pursuant to the Employee Retirement Income and Securities Act ("ERISA"), and regulations under the Internal Revenue Code of 1986 (the "Code"), respectively. As such, our firm is subject to specific duties and obligations under ERISA and the Internal Revenue Code that include among other things, restrictions concerning certain forms of compensation. To avoid engaging in prohibited transactions, HHIA offsets its fees by any revenue sharing commissions or 12b-1 fees or fees of any kind that it receives from any broker or custodian in relation to the plan.

**Advisory Fees in General:** Clients should note that similar advisory services may (or may not) be available from other registered (or unregistered) investment advisers for similar or higher or lower fees.

**Limited Prepayment of Fees:** Under no circumstances do we require or solicit payment of fees in excess of \$1200 more than six months in advance of services rendered.

## **Item 6 Performance-Based Fees and Side-By-Side Management**

Hooker & Holcombe Investment Advisors, Inc. does not charge performance-based fees.

## **Item 7 Types of Clients**

Hooker & Holcombe Investment Advisors, Inc. provides advisory services to the following types of clients:

- Qualified retirement plans (both defined benefit and defined contribution)
- Other Post-Retirement Employee Benefit Plans (OPEB)
- Non-Qualified benefit and retirement plans
- Foundations
- Endowments
- Charitable organizations
- Corporations or other businesses not listed above
- State or municipal government entities
- High Net Worth individuals
- Individuals (other than High Net Worth)

## **Item 8 Methods of Analysis, Investment Strategies and Risk of Loss**

### **METHODS OF ANALYSIS**

We use the following methods of analysis in formulating our investment advice and/or managing client assets:

***Mutual Fund and/or ETF Analysis.*** We start by evaluating funds using a proprietary quantitative rating system that looks at a number of measures including (but not limited to):

- performance versus an appropriate benchmark
- performance versus other funds with a similar style
- a variety of modern portfolio theory statistics
- reasonableness of fund expenses

We then make qualitative assessments based on research reports, interviews with fund representatives, and information gathered at conferences. When considering an investment for a particular portfolio, we may also look at the underlying assets in a mutual fund or ETF in an attempt to determine if there is significant overlap in the underlying investments held in another fund in the client's portfolio. We also monitor investments to determine if they are continuing to follow their stated investment strategy.

A risk of mutual fund and/or ETF analysis is that, as in all securities investments, past performance does not guarantee future results. A manager who has been successful may not be able to replicate that

success in the future. In addition, as we do not control the underlying investments in a fund or ETF, managers of different funds held by the client may purchase the same security, increasing the risk to the client if that security were to fall in value. There is also a risk that a manager may deviate from the stated investment mandate or strategy of the fund or ETF, which could make the holding(s) less suitable for the client's portfolio.

***Third-Party Money Manager Analysis.*** We apply a similar quantitative analysis as described above for mutual funds. We also examine the experience, expertise, investment philosophies, and past performance of independent third-party investment managers in an attempt to determine if that manager has demonstrated an ability to invest over a period of time and in different economic conditions. We monitor the manager's underlying holdings, strategies, concentrations and leverage as part of our overall periodic risk assessment. Additionally, as part of our due-diligence process, we survey the manager's compliance and business enterprise risks.

A risk of investing with a third-party manager who has been successful in the past is that he/she may not be able to replicate that success in the future. In addition, as we do not control the underlying investments in a third-party manager's portfolio, there is also a risk that a manager may deviate from the stated investment mandate or strategy of the portfolio, making it a less suitable investment for our clients. Moreover, as we do not control the manager's daily business and compliance operations, we may be unaware of the lack of internal controls necessary to prevent business, regulatory or reputational deficiencies.

***Risks for all forms of analysis.*** Our securities analysis methods rely on the assumption that the mutual fund companies or investment managers whose securities we purchase and sell, are providing accurate and unbiased data. While we are alert to indications that data may be incorrect, there is always a risk that our analysis may be compromised by inaccurate or misleading information.

### ***INVESTMENT STRATEGIES***

We use the following strategies in managing client accounts, provided that such strategies are appropriate to the needs of the client and consistent with the client's investment objectives, risk tolerance, and time horizon, among other considerations:

***Long-term purchases.*** We purchase securities with the idea of holding them in the client's account for a year or longer. We generally look at investments over a full market cycle (3 to 5 years) rather than on a short-term (3 month or 1 year) basis. Virtually all investment managers will see fluctuations over the short-term and will fall below their benchmark on occasion as the markets favor differing sectors or investment approaches for short periods of time.

A risk in a long-term purchase strategy is that by holding the security for an extended period of time, we may not take advantage of short-term gains that could be profitable to a client. Moreover, if our predictions are incorrect, a security may decline sharply in value before we make the decision to sell.

***Tactical Shifts.*** In making tactical shifts, we temporarily adjust asset allocations (typically a year or less) away from the long-term strategic allocation targets to take advantage of short-term opportunities in the markets. We do this in an attempt to take advantage of conditions that we believe will soon result in a positive price swing in the securities we purchase or to avoid a downward price movement in the securities we sell.

A risk in this strategy is that if our predictions are incorrect, the portfolio may suffer more losses or may not see as much in gains than if the adjustments were not made.

***Risk of Loss.*** Securities investments are not guaranteed and you may lose money on your investments.

We ask that you work with us to help us understand your tolerance for risk.

## **Item 9 Disciplinary Information**

We are required to disclose any legal or disciplinary events that are material to a client's or prospective client's evaluation of our advisory business or the integrity of our management.

Our firm and our management personnel have no reportable disciplinary events to disclose.

## **Item 10 Other Financial Industry Activities and Affiliations**

Hooker & Holcombe Investment Advisors, Inc. is a wholly owned subsidiary of **Hooker & Holcombe, Inc., (H&H)** a pension consulting firm which provides retirement plan consulting, actuarial services, and benefits administration to corporations and municipalities primarily throughout the northeast. H&H may refer plan sponsors in need of advisory services to our firm. Conversely, we may refer clients in need of pension consulting and actuarial services to H&H. However, there are no referral fee arrangements between H&H and our firm for these recommendations. Consulting and actuarial services provided by H&H are separate and distinct from the advisory services we provide, and are provided for separate and typical compensation. No advisory client is obligated to use H&H for any consulting or actuarial services, and no client of H&H is obligated to utilize our advisory services. Sponsors or trustees of pension plans or other client accounts subject to the provisions of ERISA or the prohibited transaction provisions of the Internal Revenue Code are solely responsible for determining whether or not to engage the services of H&H.

Hooker & Holcombe Investment Advisors, Inc. is also affiliated with **Hooker & Holcombe Retirement Services, Inc. (HHRS)**, a recordkeeper and third-party administrator which provides back office support services to the sponsors of qualified retirement plans for a fee. In particular, HHRS provides account recordkeeping services and a trading platform (via internet and telephone) by which plan participants may direct the investment of assets in their qualified plan account. HHRS may refer plan sponsors in need of advisory services to our firm. Conversely, we may refer clients in need of third-party administrative services to HHRS. However, there are no referral fee arrangements between HHRS and our firm for these recommendations. Recordkeeping and third-party administrative services provided by HHRS are separate and distinct from the advisory services we provide, and are provided for separate and typical compensation. No advisory client is obligated to use HHRS for any third-party administrative services, and no client of HHRS is obligated to utilize our advisory services. Sponsors or trustees of pension, profit-sharing, 401(k), IRA or other client accounts subject to the provisions of ERISA or the prohibited transaction provisions of the Internal Revenue Code are solely responsible for determining whether or not to engage the services of HHRS.

Clients should be aware that the receipt of additional compensation by HHIA and its management persons or employees creates a conflict of interest that may impair the objectivity of our firm and these individuals when making advisory recommendations. HHIA endeavors at all times to put the interest of its clients first as part of our fiduciary duty as a registered investment adviser; we take the following steps to address this conflict:

- we are a fee only advisor and receive only the amount of compensation stipulated by our advisory agreement. Commissions, revenue sharing, 12b-1's or other revenues, if any, paid to HHIA by brokers, custodians or third party administrators in connection with our services directly offset fees we charge to our clients. We do not accept any revenue in excess of what is stipulated in our

advisory agreement.

- we disclose to clients the existence of all material conflicts of interest, including the potential for our firm and our employees to earn compensation from advisory clients in addition to our firm's advisory fees;
- we collect, maintain and document accurate, complete and relevant client background information, including the client's financial goals, objectives and risk tolerance;
- our firm's management conducts regular reviews of each client account to verify that all recommendations made to a client are suitable to the client's needs and circumstances;
- we require that our employees seek prior approval of any outside employment activity so that we may ensure that any conflicts of interests in such activities are properly addressed;
- we periodically monitor these outside employment activities to verify that any conflicts of interest continue to be properly addressed by our firm; and
- we educate our employees regarding the responsibilities of a fiduciary, including the need for having a reasonable and independent basis for the investment advice provided to clients.

In addition, some of HHIA's employees are registered representatives of **Pensionmark Securities, LLC**, a registered broker dealer, Member FINRA/SIPC. As a registered broker dealer, Pensionmark is able to hold certain FINRA securities licenses for such employees. In addition, Pensionmark provides our firm with a variety of resources and tools that help with our advisory services. Pensionmark may also refer our firm to new business opportunities. Note that HHIA pays Pensionmark a flat annual fee for its services and we do not pay Pensionmark any commissions or fees for their referrals. HHIA is not a subsidiary or control affiliate of Pensionmark.

## **Item 11 Code of Ethics, Participation or Interest in Client Transactions and Personal Trading**

Our firm has adopted a Code of Ethics which sets forth high ethical standards of business conduct that we require of our employees, including compliance with applicable federal securities laws.

HHIA and our personnel owe a duty of loyalty, fairness and good faith towards our clients, and have an obligation to adhere not only to the specific provisions of the Code of Ethics but to the general principles that guide the Code.

Our Code of Ethics includes policies and procedures for the review of quarterly securities transactions reports as well as initial and annual securities holdings reports that must be submitted by the firm's access persons. Among other things, our Code of Ethics also requires the prior approval of any acquisition of securities in a limited offering (e.g., private placement) or an initial public offering. Our code also provides for oversight, enforcement and recordkeeping provisions.

HHIA's Code of Ethics further includes the firm's policy prohibiting the use of material non-public information. While we do not believe that we have any particular access to non-public information, all employees are reminded that such information may not be used in a personal or professional capacity.

A copy of our Code of Ethics is available to our advisory clients and prospective clients. You may request a copy by email sent to [jfuller@hhconsultants.com](mailto:jfuller@hhconsultants.com), or by calling us at 860-856-2125.

Our Code of Ethics is designed to ensure that the personal securities transactions, activities and

interests of our employees will not interfere with (i) making decisions in the best interest of advisory clients and (ii) implementing such decisions while, at the same time, allowing employees to invest for their own accounts.

Our firm and/or individuals associated with our firm may buy or sell for their personal accounts securities identical to or different from those recommended to our clients. In addition, any related person(s) may have an interest or position in certain securities which may also be recommended to a client.

It is the expressed policy of our firm that no person employed by us may purchase or sell any individual security prior to a transaction being implemented for an advisory account, thereby preventing such employee from benefiting from transactions placed on behalf of advisory accounts.

As these situations represent actual or potential conflicts of interest to our clients, we have established the following policies and procedures for implementing our firm's Code of Ethics, to ensure our firm complies with its regulatory obligations and provides our clients and potential clients with full and fair disclosure of such conflicts of interest:

- No principal or employee of our firm may put his or her own interest above the interest of an advisory client.
- No principal or employee of our firm may buy or sell securities for their personal portfolio(s) where their decision is a result of information received as a result of his or her employment unless the information is also available to the investing public.
- It is the expressed policy of our firm that no person employed by us may purchase or sell any individual security prior to a transaction being implemented for an advisory account. This prevents such employees from benefiting from transactions placed on behalf of advisory accounts.
- Our firm requires prior approval for any IPO or private placement investments by related persons of the firm.
- We maintain a list of all reportable securities holdings for our firm and anyone associated with this advisory practice that has access to advisory recommendations ("access person"). These holdings are reviewed on a regular basis by our firm's Chief Compliance Officer or his/her designee.
- We have established procedures for the maintenance of all required books and records.
- All of our principals and employees must act in accordance with all applicable Federal and State regulations governing registered investment advisory practices.
- We require delivery and acknowledgement of the Code of Ethics by each supervised person of our firm.
- We have established policies requiring the reporting of Code of Ethics violations to our senior management.
- Any individual who violates any of the above restrictions may be subject to disciplinary action or termination.

## Item 12 Brokerage Practices

Hooker & Holcombe Investment Advisors, Inc. does not have any soft-dollar arrangements and does not receive any soft-dollar benefits.

In general, HHIA does very little trading in individual securities, relying primarily on mutual funds, ETF's and separate accounts. On rare occasions we are involved in transitioning clients out of a portfolio of individual securities, in which case we are required to sell the securities. In addition we purchase bonds on occasion when appropriate for a client's situation. We do not block client trades; transactions are entered separately for each account, therefore our clients may not receive volume discounts available to advisers who block client trades.

Depending on the services a client desires, HHIA may recommend that clients establish brokerage accounts with Schwab Advisor Services, an affiliate of Charles Schwab & Co., Inc. ("CS&Co"), a FINRA registered broker-dealer, member SIPC, to maintain custody of clients' assets and to effect trades for their accounts. Although we recommend that clients establish accounts at Schwab, it is the client's decision to custody assets with Schwab. HHIA is independently owned and operated and not affiliated with Schwab. The client has the option to custody assets with a custodian of their own choosing. HHIA does not receive any commissions or fees from Schwab for recommending that clients utilize their services.

Schwab Advisor Services serves independent advisory firms like ours. Through Schwab Advisor Services, CS&Co provides us and our clients, with access to its institutional brokerage services – trading, custody, reporting and related services – many of which are not typically available to CS&Co retail customers. CS&Co also makes available various support services. Some of those services help us manage or administer our clients' accounts while others help us manage and grow our business. CS&Co's support services described below are generally available on an unsolicited basis (we don't have to request them) and at no charge to us. The availability to us of CS&Co's products and services is not based on us giving particular investment advice, such as buying particular securities for our clients. Here is a more detailed description of CS&Co's support services:

CS&Co's institutional brokerage services include access to a broad range of investment products, execution of securities transactions, and custody of client assets. The investment products available through Schwab include some of which we might not otherwise have access or that would require a significantly higher minimum initial investment by our clients. CS&Co's services described in this paragraph generally benefit the client and the client's account.

CS&Co also makes available to us other products and services that benefit us but may not directly benefit the client or its account. These products and services assist us in managing and administering our clients' accounts. They include investment research, both Schwab's own and that of third parties. We may use this research to service all or some substantial number of our clients' accounts, including accounts not maintained at CS&Co. In addition to investment research, CS&Co also makes available software and other technology that:

- provides access to client account data (such as duplicate trade confirmations and account statements);
- facilitates trade execution and allocate aggregated trade orders for multiple client accounts;
- provides pricing and other market data;
- facilitates payment of our fees from our clients' accounts; and
- assists with back-office functions, recordkeeping and client reporting.

CS&Co also offers other services intended to help us manage and further develop our business

enterprise. These services include:

- educational conferences and events
- technology, compliance, legal, and business consulting;
- publications and conferences on practice management and business succession; and
- access to employee benefits providers, human capital consultants and insurance providers.

CS&Co may provide some of these services itself. In other cases, it will arrange for third-party vendors to provide the services to us. CS&Co may also discount or waive its fees for some of these services or pay all or a part of a third party's fees. CS&Co may also provide us with other benefits such as occasional business entertainment of our personnel.

The availability of services from CS&Co benefits us because we do not have to produce or purchase them. We don't have to pay for these services, and they are not contingent upon us committing any specific amount of business to CS&Co in trading commissions or assets in custody. In light of our arrangements with Schwab, we may have an incentive to recommend that clients maintain their accounts with CS&Co based on our interest in receiving Schwab's services that benefit our business rather than based on the client's interest in receiving the best value in custody services and the most favorable execution of transactions. This is a potential conflict of interest. We believe, however, that our selection of CS&Co as custodian and broker is in the best interests of our clients. It is primarily supported by the scope, quality and price of CS&Co's services and not Schwab's services that benefit only us.

### **Item 13 Review of Accounts**

While the underlying funds and separate accounts within a client's account are continually monitored, ongoing clients' accounts for which we provide advisory or oversight services are reviewed at least *quarterly*. Accounts are reviewed in the context of each client's stated investment objectives and guidelines. More frequent reviews may be triggered by material changes in variables such as a plan's funded status, a client's individual circumstances, market conditions, or political or economic environment.

These accounts are reviewed by: *Rodger K. Metzger, CFA; Arthur J. Meizner, CFA, CFP, CAIA, AIF; Pam Minish, CFA, CAIA, or John N. Fuller, CFA, AIF*

In addition to the monthly statements and confirmations of transactions that clients receive from their broker-dealer or custodian, we provide *quarterly* reports summarizing account performance, balances and holdings.

Clients for which we provide ad hoc consulting services may receive reviews at different stages depending on the nature and terms of the specific engagement. Such reviews will be conducted by the client's account representative. These client accounts will receive reports as contracted for at the inception of the advisory engagement.

### **Item 14 Client Referrals and Other Compensation**

HHIA may engage solicitors to refer potential clients to our firm. The prospect receives full disclosure of the relationship between HHIA and the solicitor and their compensation arrangement along with our firm's ADV Part 2 at the time of the solicitation.

It is HHIA's policy not to accept or allow our related persons to accept any form of compensation, including cash, sales awards or other prizes, from a non-client in conjunction with the advisory services we provide to our clients.

We receive an economic benefit from Schwab in the form of the support products and services it makes available to us. These products and services, how they benefit us, and the related conflicts of interest are described above under Item 12 Brokerage Practices. The availability to us of Schwab's products and services is not based on us giving particular investment advice, such as buying particular securities for our clients.

## **Item 15 Custody**

Under government regulations, we are deemed to have custody of a client's assets if the client authorizes us to instruct the custodian of the assets to deduct our advisory fees directly from the client's account.

As part of this billing process, the client's custodian is advised of the amount of the fee to be deducted from that client's account. On at least a quarterly basis, the custodian is required to make available to the client a statement showing all transactions within the account during the reporting period.

Because the custodian does not calculate the amount of the fee to be deducted, it is important for clients to carefully review their custodial statements to verify the accuracy of the calculation, among other things. Clients should contact us directly if they believe that there may be an error in their statement.

In addition to the periodic statements that clients receive directly from their custodians, we also send account statements directly to our clients on a *quarterly* basis. We urge our clients to carefully compare the information provided on these statements to ensure that all account transactions, holdings and values are correct and current.

Our firm does not have actual or constructive custody of client accounts.

## **Item 16 Investment Discretion**

HHIA provides both discretionary and non-discretionary asset management services.

## **Item 17 Voting Client Securities**

As a matter of firm policy, we do not vote proxies on behalf of clients. Therefore, although our firm may provide investment advisory services relative to client investment assets, clients maintain exclusive responsibility for: (1) directing the manner in which proxies solicited by issuers of securities beneficially owned by the client shall be voted, and (2) making all elections relative to any mergers, acquisitions, tender offers, bankruptcy proceedings or other type events pertaining to the client's investment assets. Clients are responsible for instructing each custodian of the assets, to forward to the client copies of all proxies and shareholder communications relating to the client's investment assets.

We may provide clients with consulting assistance regarding proxy issues if they contact us with questions at our principal place of business.

## **Item 18 Financial Information**

Under no circumstances do we require or solicit payment of fees in excess of \$1200 per client more than six months in advance of services rendered. Therefore, we are not required to include a financial statement.

Hooker & Holcombe Investment Advisors, Inc. has not been the subject of a bankruptcy petition at any time during the past ten years.

Rodger K. Metzger  
Hooker & Holcombe Investment Advisors, Inc.  
1300 Hall Boulevard, Suite 1C  
Bloomfield, CT 06002  
860-856-2134  
March 30, 2019

This Brochure Supplement provides information about Rodger K. Metzger that supplements Hooker & Holcombe Investment Advisors, Inc. (HHIA) Brochure. You should have received a copy of that Brochure. Please contact John Fuller if you did not receive HHIA's Brochure or if you have any questions about the contents of this supplement.

### **Educational Background and Business Experience**

- 1) Name: Rodger K. Metzger
- 2) Year of Birth: 1959
- 3) Formal education after high school:
  - Bachelor's of Arts degree from St. Lawrence University
  - Master of Business Administration from University of Hartford
- 4) Business background (last 5 years):
  - Hooker & Holcombe Investment Advisors, Inc.: President & Chief Investment Officer
- 5) Professional Designations
  - Chartered Financial Analyst (CFA®)

This designation is offered by the CFA Institute (formerly the Association for Investment Management and Research [AIMR]). To obtain the CFA charter, candidates must successfully complete three difficult exams and gain at least four (4) years of qualifying work experience, among other requirements. In passing these exams, candidates demonstrate their competence, integrity and extensive knowledge in accounting, ethical and professional standards, economics, portfolio management and security analysis.

- Accredited Investment Fiduciary<sup>®</sup> (AIF<sup>®</sup>)<sup>1</sup>

This designation is offered by the Center for Fiduciary Studies<sup>™</sup>, the standards setting body for fi360. The designation is the culmination of a rigorous training program, which includes a comprehensive, closed-book final examination which gauges the designee's full understanding of fiduciary practices and how to apply them with individual and institutional clients. In addition, the designee agrees to abide by the Code of Ethics and is required to meet ongoing continuing education requirements annually to maintain the AIF Designation.

<sup>1</sup>The AIF<sup>®</sup> trademark is registered with the U.S. Patent and Trademark Office under the Center for Fiduciary Studies, a division of Fiduciary360.

### **Disciplinary Information**

Registered investment advisers are required to disclose all material facts regarding any legal or disciplinary events that would be material to your evaluation of each supervised person providing investment advice. No information is applicable to this Item.

### **Other Business Activities**

Registered investment advisers are required to disclose any investment-related business activity or any material non-investment related business that the supervised person is engaged in. No information is applicable to this Item.

### **Additional Compensation**

Registered investment advisers are required to disclose whether a supervised person receives any economic benefit from someone who is not a client for advisory services. No information is applicable to this Item.

### **Supervision**

Rodger Metzger, HHIA's President and Chief Investment Officer is responsible for supervision of all practices and investment advice associated with HHIA. In addition, the HHIA Investment Committee meets on a regular basis to review and discuss investment in general and issues affecting individual clients. The Committee also meets annually for a thorough review of each client of the firm.

Arthur J. Meizner  
Hooker & Holcombe Investment Advisors, Inc.  
1300 Hall Boulevard, Suite 1C  
Bloomfield, CT 06002  
860-856-2081  
March 30, 2019

This Brochure Supplement provides information about Arthur J. Meizner that supplements Hooker & Holcombe Investment Advisors, Inc. (HHIA) Brochure. You should have received a copy of that Brochure. Please contact John Fuller if you did not receive HHIA's Brochure or if you have any questions about the contents of this supplement.

### **Educational Background and Business Experience**

- 1) Name: Arthur J. Meizner
- 2) Year of Birth: 1950
- 3) Formal education after high school:
  - Bachelor of Arts degree from University of Buffalo
  - Master of Science degree from Syracuse University
- 4) Business background (last 5 years):
  - Hooker & Holcombe Investment Advisors, Inc.: Director, Investment Consulting Services
- 5) Professional Designations
  - Chartered Financial Analyst® (CFA®)

This designation is offered by the CFA Institute (formerly the Association for Investment Management and Research [AIMR]). To obtain the CFA charter, candidates must successfully complete three difficult exams and gain at least four (4) years of qualifying work experience, among other requirements. In passing these exams, candidates demonstrate their competence, integrity and extensive knowledge in accounting, ethical and professional standards, economics, portfolio management and security analysis.

- Chartered Alternative Investment Analyst (CAIA)

Sponsored by the CAIA Association<sup>®</sup>, the Chartered Alternative Investment Analyst (CAIA) Charter is the only credential for individuals specializing in alternative investments (AI). Covering real assets, private equity, commodities, hedge funds, and structured products, the CAIA Charter proves one's commitment to professionalism and command of AI's unique attributes.

- Certified Financial Planner<sup>®</sup> (CFP<sup>®</sup>)

The program is administered by the Certified Financial Planner Board of Standards Inc. Those with the CFP<sup>®</sup> designation have demonstrated competency in all areas of finance related to financial planning. Candidates complete studies on over 100 topics, including stocks, bonds, taxes, insurance, retirement planning and estate planning. In addition to passing the CFP certification exam, candidates must also complete qualifying work experience and agree to adhere to the CFP Board's code of ethics and professional responsibility and financial planning standards.

- Accredited Investment Fiduciary<sup>®</sup> (AIF<sup>®</sup>)<sup>1</sup>

This designation is offered by the Center for Fiduciary Studies<sup>™</sup>, the standards setting body for fi360. The designation is the culmination of a rigorous training program, which includes a comprehensive, closed-book final examination which gauges the designee's full understanding of fiduciary practices and how to apply them with individual and institutional clients. In addition, the designee agrees to abide by the Code of Ethics and is required to meet ongoing continuing education requirements annually to maintain the AIF Designation.

<sup>1</sup>The AIF<sup>®</sup> trademark is registered with the U.S. Patent and Trademark Office under the Center for Fiduciary Studies, a division of Fiduciary360.

### **Disciplinary Information**

Registered investment advisers are required to disclose all material facts regarding any legal or disciplinary events that would be material to your evaluation of each supervised person providing investment advice. No information is applicable to this Item.

### **Other Business Activities**

Registered investment advisers are required to disclose any investment-related business activity or any material non-investment related business that the supervised person is engaged in. Mr. Meizner is a registered representative of Pensionmark Securities, LLC (Member SIPC). HHIA is not a subsidiary or control affiliate of Pensionmark.

### **Additional Compensation**

Registered investment advisers are required to disclose whether a supervised person receives any economic benefit from someone who is not a client for advisory services. No information is applicable to this Item.

### **Supervision**

Rodger Metzger, HHIA's President and Chief Investment Officer is responsible for supervision of all practices and investment advice associated with HHIA. In addition, the HHIA Investment Committee meets on a regular basis to review and discuss investment in general and issues affecting individual clients. The Committee also meets annually for a thorough review of each client of the firm.

Pamela E. Minish  
Hooker & Holcombe Investment Advisors, Inc.  
1300 Hall Boulevard, Suite 1C  
Bloomfield, CT 06002  
860-856-2084  
March 30, 2019

This Brochure Supplement provides information about Pamela E. Minish that supplements Hooker & Holcombe Investment Advisors, Inc. (HHIA) Brochure. You should have received a copy of that Brochure. Please contact John Fuller if you did not receive HHIA's Brochure or if you have any questions about the contents of this supplement.

### **Educational Background and Business Experience**

- 1) Name: Pamela E. Minish
- 2) Year of Birth: 1962
- 3) Formal education after high school:
  - Bachelor of Arts degree from Vanderbilt University
  - Master of International Management from Thunderbird School of Global Management
- 4) Business background (last 5 years):
  - Hooker & Holcombe Investment Advisors, Inc.: Managing Director
  - Key Private Bank: Vice President, Portfolio Strategist
- 5) Professional Designations
  - Chartered Financial Analyst® (CFA®)

This designation is offered by the CFA Institute (formerly the Association for Investment Management and Research [AIMR]). To obtain the CFA charter, candidates must successfully complete three difficult exams and gain at least four (4) years of qualifying work experience, among other requirements. In passing these exams, candidates demonstrate their competence, integrity and extensive knowledge in accounting, ethical and professional standards, economics, portfolio management and security analysis.

- Chartered Alternative Investment Analyst (CAIA)

Sponsored by the CAIA Association<sup>®</sup>, the Chartered Alternative Investment Analyst (CAIA) Charter is the only credential for individuals specializing in alternative investments (AI). Covering real assets, private equity, commodities, hedge funds, and structured products, the CAIA Charter proves one's commitment to professionalism and command of AI's unique attributes.

#### **Disciplinary Information**

Registered investment advisers are required to disclose all material facts regarding any legal or disciplinary events that would be material to your evaluation of each supervised person providing investment advice. No information is applicable to this Item.

#### **Other Business Activities**

Registered investment advisers are required to disclose any investment-related business activity or any material non-investment related business that the supervised person is engaged in.

#### **Additional Compensation**

Registered investment advisers are required to disclose whether a supervised person receives any economic benefit from someone who is not a client for advisory services. No information is applicable to this Item.

#### **Supervision**

Rodger Metzger, HHIA's President and Chief Investment Officer is responsible for supervision of all practices and investment advice associated with HHIA. In addition, the HHIA Investment Committee meets on a regular basis to review and discuss investment in general and issues affecting individual clients. The Committee also meets annually for a thorough review of each client of the firm.

Stuart H. Herskowitz  
Hooker & Holcombe Investment Advisors, Inc.  
1300 Hall Boulevard  
Bloomfield, CT 06002  
860-856-2071  
March 30, 2019

This Brochure Supplement provides information about Stuart H. Herskowitz that supplements Hooker & Holcombe Investment Advisors, Inc. (HHIA) Brochure. You should have received a copy of that Brochure. Please contact John Fuller if you did not receive HHIA's Brochure or if you have any questions about the contents of this supplement.

### **Educational Background and Business Experience**

- 1) Name: Stuart H. Herskowitz
- 2) Year of Birth: 1963
- 3) Formal education after high school:
  - Bachelor of Science degree from William Paterson College
- 4) Business background (last 5 years):
  - Hooker & Holcombe Investment Advisors, Inc.: Senior Vice President, Director
- 5) Professional Designations
  - Accredited Investment Fiduciary<sup>®</sup> (AIF<sup>®</sup>)<sup>1</sup>

This designation is offered by the Center for Fiduciary Studies<sup>™</sup>, the standards setting body for fi360. The designation is the culmination of a rigorous training program, which includes a comprehensive, closed-book final examination which gauges the designee's full understanding of fiduciary practices and how to apply them with individual and institutional clients. In addition, the designee agrees to abide by the Code of Ethics and is required to meet ongoing continuing education requirements annually to maintain the AIF Designation.

<sup>1</sup>The AIF<sup>®</sup> trademark is registered with the U.S. Patent and Trademark Office under the Center for Fiduciary Studies, a division of Fiduciary360.

### **Disciplinary Information**

Registered investment advisers are required to disclose all material facts regarding any legal or disciplinary events that would be material to your evaluation of each supervised person providing investment advice. No information is applicable to this Item.

### **Other Business Activities**

Registered investment advisers are required to disclose any investment-related business activity or any material non-investment related business that the supervised person is engaged in. Mr. Herskowitz is a registered representative of Pensionmark Securities, LLC (member SIPC). HHIA is not a subsidiary or control affiliate of Pensionmark.

### **Additional Compensation**

Registered investment advisers are required to disclose whether a supervised person receives any economic benefit from someone who is not a client for advisory services. No information is applicable to this Item.

### **Supervision**

Rodger Metzger, HHIA's President and Chief Investment Officer is responsible for supervision of all practices and investment advice associated with HHIA. In addition, the HHIA Investment Committee meets on a regular basis to review and discuss investment in general and issues affecting individual clients. The Committee also meets annually for a thorough review of each client of the firm.

**GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY** ("Great-West") A Stock Company

8515 East Orchard Road, Greenwood Village, CO 80111

For inquiries, information or resolution of complaint, call 1-877-694-4015

**APPLICATION for GROUP UNALLOCATED ANNUITY CONTRACT****SECTION A. PLAN SPONSOR**

NAME OF PLAN SPONSOR <b>Northern Inyo Healthcare District</b>			PLAN SPONSOR FEDERAL TAX ID # <b>95-6005449</b>
STREET ADDRESS <b>150 Pioneer Lane</b>			State of SITUS <b>CA</b>
CITY <b>Bishop</b>	STATE <b>CA</b>	ZIP Code <b>93514</b>	TELEPHONE # <b>760-873-5811</b>
TYPE OF ENTITY: <input type="checkbox"/> Government (State, local, county, municipality, Healthcare, Public School) <input type="checkbox"/> Corporation <input type="checkbox"/> S Corp <input type="checkbox"/> LLC <input type="checkbox"/> LLP <input type="checkbox"/> 501(c)(3) (tax-exempt non-profit organization) <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other (specify):			

FULL LEGAL PLAN NAME (as appears on Plan Document)

**Northern Inyo County Local Hospital District 401(a) Retirement Plan****SECTION B. CONTRACTHOLDER**

NAME OF TRUSTEE, IF DIFFERENT THAN THE PLAN SPONSOR			TRUSTEE FEDERAL TAX ID #, if applicable
STREET ADDRESS			State of SITUS
CITY	STATE	ZIP Code	TELEPHONE #
TYPE OF ENTITY: <input type="checkbox"/> Bank <input type="checkbox"/> Trust Company <input type="checkbox"/> Individual(s) <input type="checkbox"/> Other (Specify) _____			

**SECTION C. PRODUCT INFORMATION** Fixed Annuity  Fixed-Variable Annuity**SECTION D. PLAN INFORMATION**TYPE of Plan (select one):  401(k)  401(a)  457(b) (governmental)Is this Plan subject to ERISA (Employee Retirement Income Security Act)?  YES  No**SECTION E. FIXED ACCOUNT**
 Great-West Investments Fixed Account – Series I  Great-West Investments Fixed Account – Series V  
 Great-West Investments Fixed Account – Series II  Great-West Investments Fixed Account – Series VI  
 Great-West Investments Fixed Account – Series III  None  
 Great-West Investments Fixed Account – Series IV
**SECTION F. SERIES ACCOUNTS** FutureFunds II Series Account  None**SECTION G. AGREEMENT AND SIGNATURES**

By signing this Application, Plan Sponsor and Contractholder, if different than Plan Sponsor, understand, accept, and otherwise agree to the provisions of the attached Group Annuity Contract, represent that the information contained on this application is true and correct to the best of their knowledge, understand that Great-West will rely on such information, and agree to notify Great-West of any changes to the information provided above. Any information provided herewith shall be considered to be representations and not warranties.

Signature of Plan Sponsor \_\_\_\_\_ Date \_\_\_\_\_

Signature of Contractholder (Trustee) \_\_\_\_\_ Date \_\_\_\_\_  
if different than Plan Sponsor

Print Name \_\_\_\_\_

Print Name \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

## IMPORTANT NOTICES

Below are notices that apply only in certain states. Please read the following carefully to see if any apply in your state.

### **Alabama, Arkansas, Louisiana, Rhode Island, and West**

**Virginia:** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

**Colorado:** It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies.

**District of Columbia:** WARNING: It is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits, if false information materially related to a claim was provided by the applicant.

**Kentucky:** Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime.

**Maryland:** Any person who knowingly or willfully presents a false or fraudulent claim for payment of a loss or benefit or who knowingly or willfully presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

**Maine, Tennessee, and Washington:** It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties may include imprisonment, fines or a denial of insurance benefits.

**New Jersey:** Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

**New Mexico:** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to civil fines and criminal penalties.

**Ohio:** Any person who, with intent to defraud or knowing that he is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement is guilty of insurance fraud.

**Oklahoma:** WARNING: Any person who knowingly, and with intent to injure, defraud or deceive any insurer, makes any claim for the proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony.

**Pennsylvania:** Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

# GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY

A Stock Company

8515 East Orchard Road, Greenwood Village, CO 80111

*For inquiries, information or resolution of complaint, call 1-877-694-4015*

## Group Unallocated Fixed Deferred Annuity Contract ("Contract") *Non-Participating*

PLAN SPONSOR                    **Northern Inyo Healthcare District**

CONTRACTHOLDER            **Northern Inyo Healthcare District and the Trustee/s of the Northern Inyo County Local Hospital District 401(a) Retirement Plan as identified on the Group Annuity Contract Application**

PLAN                                **Northern Inyo County Local Hospital District 401(a) Retirement Plan**

CONTRACT NUMBER            **100158-02**

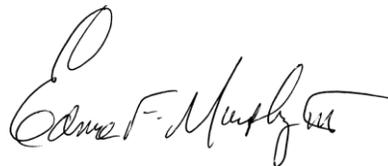
CONTRACT DATE                April 14, 2021 or the later of the dates signed by all parties.

Great-West Life & Annuity Insurance Company ("Great-West") agrees to pay annuity benefits provided by this Contract, subject to its terms and conditions. The provisions on the following pages, together with the application for this Contract, and other documents referenced in Section 10.2, are part of this Contract.

Signed for Great-West Life & Annuity Insurance Company and effective on the Contract Date.



Secretary



President

This Contract is a legal contract between Contractholder, Plan Sponsor and Great-West Life & Annuity Insurance Company. PLEASE READ THIS CONTRACT CAREFULLY.

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## SECTION 1. DEFINITIONS

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**Administrative Offices** – 8515 East Orchard Road, Greenwood Village, CO 80111.

**Alternate Payee(s)** – any spouse, former spouse, child or other dependent of a Participant or any other person recognized under applicable law or Court Order as having a right to receive all or a portion of the benefit payable under a Plan with respect to such Participant.

**Annuitant** – the person for whom an annuity is purchased, and upon whose life the payment of the annuity is based.

**Annuity Commencement Date** – the date on which annuity payments begin.

**Applicable Tax** – the amount of tax charged by a state or other governmental authority.

**Beneficiary(ies)** – a person or entity designated by the Participant or under the terms of the Plan to receive all or a portion of the amount in the Contractual Account attributable to a Participant upon his or her death.

**Business Day** – any day and during the hours on which the New York Stock Exchange is open for trading. Except as otherwise provided in this Contract, in the event that a date falls on a non-Business Day, the date of the succeeding Business Day will be used.

**Code** – the Internal Revenue Code of 1986, as amended, and all related laws and regulations which are in effect during the term of the Contract.

**Contract Date** – the effective date of this Contract listed on the first page of this Contract.

**Contractholder** – The entity referenced on the cover page of this Contract that holds this Contract. For certain plans, the Contractholder also may be the Plan Sponsor.

**Contractual Account** – The Plan's aggregate amount in the Fixed Account(s).

**Contractual Account Value** – The sum of all amounts credited to the Contractual Account, less the sum of all amounts withdrawn from that account, reflecting amounts in the Fixed Account(s).

**Contributions** – salary reduction contributions, Participant after-tax contributions, employer contributions, or other contributions made by the Plan Sponsor to the Plan on behalf of a Participant under the Code.

**Court Order** – An order of a court of competent jurisdiction, such as a qualified domestic relations order that: (i) creates or recognizes the existence of an Alternate Payee's right to, or assigns to an Alternate Payee the right to, receive all or a portion of the benefits payable with respect to a Plan Participant; (ii) complies with applicable requirements of the Code and/or ERISA; and (iii) is approved by the Plan Sponsor or its designee.

**Deposits** – to the extent permitted under the Plan type, Participant initiated rollovers, plan to Plan transfers, Transfers, or other amounts, other than Contributions.

**Distributions** – amounts paid to the Contractholder on behalf of a Participant, Beneficiary or Alternate Payee, pursuant to the terms of the Plan and the Code.

**ERISA** – Employee Retirement Income Security Act of 1974, as amended.

**Fixed Account** – an investment option, the assets of which are part of the General Account of Great-West.

**Fixed Account Value** – the sum of the amounts in the Fixed Account(s).

**General Account** – Great-West's assets other than those held in any segregated investment account.

**Good Order** – A notice or instruction from a person authorized to initiate a transaction that is received by Great-West at our Administrative Offices, Great-West may have forms available for such purposes that set forth all the information, documentation, and instructions necessary for Great-West to process such transaction.

**Great-West (we, us, our)** – Great-West Life & Annuity Insurance Company, located at the Administrative Offices at the address shown under this Section 1.

**Participant** – an individual eligible to participate in the Plan.

**Payee** – a person entitled to receive all or a portion of the value of the Participant's interest in the Contractual Account.

**Plan** – A retirement program that an employer offers to its employees that is funded in part by this Contract. Each Plan must meet the applicable requirements of Code §401(a) or §457(b), as applicable.

**Plan Sponsor** – an entity maintaining the Plan on behalf of Participants, Alternate Payees and Beneficiaries. In a multiple employer plan, the Plan Sponsor shall be considered the entity maintaining the multiple employer plan on behalf of participating employers and the participating employers Participants, Alternate Payees and Beneficiaries. If the Plan is intended to qualify under Code §457(b), the Plan Sponsor must be an eligible employer described in Code §457(e)(1)(A).

**Request(s)** – inquiry or instruction that is/are: (1) received by Great-West at its Administrative Offices in Good Order; and (2) submitted in accordance with the provisions of this Contract, or as required by Great-West. The Requests for changes will be effective as of the date Great-West receives the Request in Good Order, and is subject to any action taken by Great-West before such receipt.

**Start-Up Costs** – the amounts incurred by Great-West in acquiring and implementing the Plan, which may include but are not limited to restorations, commissions or other costs, if applicable.

**Transfer(s)** – the reinvestment or exchange by the designated Plan recordkeeper of all or a portion of the Participant's interest from one investment option or provider under the Plan to another.

## **SECTION 2. OWNERSHIP PROVISIONS**

---

### 2.1 Ownership of the Contract

Contractholder is the owner of the Contract and is identified on the first page of the Contract. The Plan Sponsor and the Contractholder have certain rights, responsibilities and privileges as set forth under this Contract. For certain Plan types, the Contractholder also may be the Plan Sponsor. Please see applicable tax endorsement attached to this Contract, which endorsement pertains to your specific type of Plan.

### 2.2 Transfer and Assignment

The interests of the Contractholder and the Plan Sponsor under this Contract are nontransferable and may not be waived, relinquished or assigned, sold, pledged, charged, encumbered, or in any way alienated, except as may be permitted under the Code, by law, or by applicable Court Order. If, however, the Plan is consolidated or merged with another retirement plan, or if the assets and liabilities of the Plan are transferred to another retirement plan or are acquired by another plan sponsor, this Contract may be assigned to the new plan sponsor and/or trustee.

### 2.3 Trust

The Contract may be used in lieu of a trust agreement for purposes of satisfying Code sections 401(a), 401(f) and 457(g) and no portion of the amount contributed to the Contract, plus earnings thereon, may be used for or diverted to any purpose other than the exclusive benefit of Participants and their Beneficiaries prior to the satisfaction of all liabilities to them.

## **SECTION 3. CONTRACTUAL ACCOUNT VALUE**

---

### 3.1 Contractual Account Value

The Contractual Account Value is calculated as follows:

- (a) all Contributions and Deposits to the Fixed Account option selected, made for or on behalf of Participant(s), Alternate Payee(s) and Beneficiary(ies); plus
- (b) all interest credited to the Contractholder's assets in such Fixed Account in accordance with the applicable Fixed Account rider; less
- (c) any amounts transferred or distributed from the Fixed Account; less
- (d) any applicable charges, fees and Applicable Tax, if any.

### 3.2 Transaction Date

All Requests, Contributions and Deposits received in Good Order with all required documentation at Great-West's Administrative Offices prior to the close of business of the New York Stock Exchange will be processed as of the date received, and if received after the close of business of the New York Stock Exchange will be processed on the next Business Day. However, Great-West shall not be liable for the results of any delay or interruption in processing transaction Requests or Contributions or performing required acts hereunder due to extreme unforeseeable and unpreventable circumstances or causes or conditions beyond its control, such as power failure, fire, extreme flooding, earthquake, tsunami, mudslides, hurricane, tornado, blizzard, cyber-attack or disruptions in orderly trading on any relevant exchange or market, including disruptions due to extraordinary market volume that result in substantial delay in receipt of correct data.

## **SECTION 4. CONTRIBUTIONS AND DEPOSITS**

---

### 4.1 Contributions

Prior to the termination of the Contract and unless otherwise described in a Fixed Account rider, Contributions may be made at any time on behalf of Participants, pursuant to the terms of the Plan.

The Contribution amounts will be allocated to the Fixed Account in accordance with instructions from the Plan Sponsor pursuant to the accompanying Contribution report. When the Contribution report does not coincide with the Contribution received and the inconsistency is not resolved within a period of time required under the law, Great-West may return the Contribution.

### 4.2 Limitations on Salary Reduction Contributions

For limitations on salary reduction Contributions, if any, please see the applicable tax endorsement for your specific type of Plan, attached to this Contract.

### 4.3 Deposits

Deposits made directly to Great-West by Plan Sponsor will be accepted and assumed permitted under the terms of the Plan and applicable Code requirements.

### 4.4 Allocation of Contributions and Deposits

Contributions and Deposits, less Applicable Tax, if any, will be allocated when received by Great-West at its Administrative Offices, subject to Section 3.2 of this Contract.

If a selected Fixed Account option is changed or will no longer be made available, then Contributions and Deposits may be redirected to another available Fixed Account option and the account balance may be reallocated subject to the terms of the account selected. Great-West will provide notice of any such changes in accordance with Section 10.4.

## **SECTION 5. CONTRACT CHARGES AND FEES**

---

### 5.1 Contract Termination Charge

Upon termination of the Contract by Plan Sponsor, a Contract termination charge *may* apply, as set forth in the Specification Page.

### 5.2 Service Charges and Fees

Great-West and Plan Sponsor may enter into agreements for other services to the Plan not otherwise provided under this Contract. Charges and fees, if applicable, for these services will be described in such separate agreement(s).

### 5.3 Contract Series Charge

The Contract series charge, if any, for the Fixed Account rider, shall be set forth in the Fixed Account rider selected by the Plan Sponsor or authorized Plan fiduciary.

### 5.4 Payment of Charges and Fees

Any charges and fees imposed under this Contract may be billed directly to Plan Sponsor. If Plan Sponsor does not elect to have such charges and fees billed to Plan Sponsor, such charges and fees shall be deducted from the Contractual Account Value.

In all instances where Plan Sponsor has elected to be billed for any fees and charges and any of the fees or charges are unpaid after the date billed, as disclosed in and pursuant to the procedures in the fee disclosure and/or service agreement for the Plan, Plan Sponsor and Contractholder hereby instruct Great-West to debit the Contractual Account. Great-West may continue to deduct charges and fees quarterly from the Contractual Account Value unless and until Plan Sponsor provides Great-West with written instructions to reinitiate billing.

Great-West may change any charges and fees upon not fewer than thirty (30) calendar days advance written notice to Plan Sponsor.

## **SECTION 6. PARTICIPANT-, ALTERNATE PAYEE-, AND BENEFICIARY-DIRECTED TRANSFERS AMONG INVESTMENT OPTIONS OFFERED BY THE PLAN**

---

Upon receipt of a Request by Plan Sponsor or its designee made on behalf of Participants, Alternate Payees or Beneficiaries, meeting all of the requirements of this section, Great-West will process Transfers. Transfers must:

- (a) satisfy the terms of the Plan in accordance with the appropriate provisions of the Code; and
- (b) satisfy any restrictions in the attached Fixed Account rider.

## **SECTION 7. PAYMENTS TO PLAN SPONSOR FOR DISTRIBUTIONS**

---

### 7.1 Distribution Requirements

Notwithstanding any provision herein to the contrary, payments made to the Plan Sponsor or its designee for Distributions to a Payee, or Plan to Plan transfers, may only be made in accordance with the terms of the Plan and applicable Code sections and any terms of the Fixed Account rider(s). Great-West shall be entitled to rely solely on information provided by Plan Sponsor or its designee as to compliance with all applicable law and the terms of this Contract, any attached tax endorsement and any applicable Fixed Account rider(s) for such Distributions.

## **SECTION 8. BENEFIT PAYMENT OPTIONS**

---

### 8.1 Plan Sponsor Requests for Distributions for Participants, Beneficiaries or Alternate Payees

The Plan Sponsor may elect to provide Distributions by directing Great-West to withdraw from the Contractual Account Value the amounts necessary to provide such benefits, subject to this Section 8. As long as the Contractual Account Value is greater than zero and as allowed by the Plan and Code, a Request may be made by the Plan Sponsor on behalf of a Payee to:

- (a) Elect an annuity payment option, provided such Request is made at least thirty (30) calendar days before the Annuity Commencement Date;
- (b) Elect a lump sum payment option and designate the date of payment.

### 8.2 Conditions of Payment

Approved Distributions shall be effective on the later of: (a) the date elected subject to any restrictions of the Plan and Code and the applicable Fixed Account rider(s); and (b) the date of the Request.

### 8.3 Lump Sum Payment Option

If the Plan Sponsor determines that the Payee is entitled to a Distribution under the applicable terms and provisions of the Plan and the Code sections governing the Plan, the Plan Sponsor or its designee may direct us to withdraw from the Contractual Account a lump sum payment amount as selected by the Payee.

Subject to the provisions of the attached Fixed Account rider(s), the amount to be distributed is: (i) the lump sum amount requested; less (ii) the Applicable Tax, if any, as of the date of the amount distributed, and (iii) any applicable fees and charges.

### 8.4 Periodic Payment Options

If, based upon information provided by Plan Sponsor, the Payee is entitled to a Distribution under the applicable terms and provisions of the Plan and the Code sections governing the Plan, all or a portion of a Participant's interest in the Contractual Account may be applied to a periodic payment option selected by the Payee, subject to any restrictions in a Fixed Account rider. Charges and fees will continue to apply. An Applicable Tax, if any, may apply. Plan Sponsor will provide Great-West with any Requests for periodic payments by Participants and shall instruct its designated Plan recordkeeper to administer such payments.

Plan Sponsor shall provide Great-West notice in Good Order upon the death of any Participant who is receiving periodic payments and of the deceased Participant's Beneficiary's election of a payment option under this Section 8 meeting all the requirements of Code section 401(a)(9).

### 8.5 Annuity Payment Options

If, based upon information provided by Plan Sponsor, the Payee is entitled to a Distribution under the applicable terms and provisions of the Plan and the Code sections governing the Plan, all or a portion of the interest in the Contractual Account attributable to the Participant may be applied to an annuity payment option selected by the Payee, so long as the requirements of Code section 401(a)(9) are met. Thereafter, this Contract shall no longer be applicable with respect to amounts directed to the annuity payment option. Great-West will issue an 'individual retired life certificate' to each Annuitant describing the rights and benefits payable under the elected annuity payment option provided to the Participant/Payee under this Contract.

The amount to be applied to an annuity payment option is: (i) the portion of the interest in the Contractual Account attributable to the Participant elected by Payee subject to any applicable

restrictions in the Fixed Account rider, less (ii) Applicable Tax, less (iii) any fees and charges described in this Contract.

The minimum amount that may be applied under the elected annuity option for any Payee is \$5,000. If any payments to be made under the elected annuity payment option will be less than \$50, Great-West may make the payments in the most frequent interval that produces a payment of at least \$50.

### 8.6 Election of Annuity Options

In order to elect, or change the election of, an annuity payment option, Great-West must receive the Request at least thirty (30) calendar days before the Annuity Commencement Date.

To the extent available under the Plan, the available annuity payment options are:

- Period Certain Annuity
- Single Life Only Annuity
- Single Life Only Annuity with Period Certain
- Single Life Only Annuity with Cash Refund
- Single Life Only Annuity with Installment Refund
- Joint and Survivor Annuity
- Joint and Survivor Annuity with Period Certain
- Subject to regulatory approval and the terms of the Plan, any other form of annuity offered by Great-West.

Annuities will be purchased using Great-West's current purchase rates for contracts of this class at the time the annuity is purchased. These rates will be at least as favorable to the Annuitant as an annuity purchased with rates based on the following actuarial assumptions:

- Interest Rate Assumption: 1.00%
- Mortality Assumption: 2012 IAM Basic Female mortality table with Projection Scale G2 improvement factors applied; Static improvement from year of table (2012) to year of the annuity election, generational improvement thereafter
- Loading: 5.00%

Great-West will review this guaranteed actuarial basis annually and may change it by providing at least ninety (90) calendar days' advance written notice to the Plan Sponsor. However unless Great-West and Plan Sponsor otherwise agree in writing, Great-West will only change the guaranteed actuarial basis once in any sixty (60) month period, in which case the actuarial basis will be at least as favorable as the actuarial basis Great-West offers to any other contractholder in the same class as this Contract at the time of such change.

### 8.7 Misstatement of Age

Great-West may require the Payee or the Contractholder on behalf of a Payee to provide to Great-West adequate proof of the age and death of any Payee before processing a Request for or making any payment. Generally, adequate proof consists of a state-issued driver's license, birth certificate or death certificate, as applicable. Additionally, for life contingent annuity options, Great-West may require evidence of survival of any Annuitant periodically on or after the Annuity Commencement Date. If the age of the Payee has been misstated, the payments established for him/her under the applicable payment option will be made on the basis of his/her correct age, the correct facts will be used to adjust payments.

If payments made pursuant to an annuity payment option were too large because of a misstatement of age, Great-West may deduct the difference from the next payment or payments. If payments were too small, Great-West may add the difference to the next payment.

### 8.8 Great-West's Liability

Great- West's liability is for the payment of requested benefits to Participants, including the provision of annuity benefits, as directed by the Contractholder, as set forth in Section 8.5 and 8.6 hereof, on the basis of making correct withdrawals in accordance with the terms of the Contract.

## **SECTION 9. CONTRACT TERMINATION**

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### 9.1 Notice of Contract Termination and Selection of Termination Option(s)

Either Great-West or Plan Sponsor may terminate this Contract with advance written notice to the other party or parties. The Contract termination date shall be the seventy-fifth (75<sup>th</sup>) calendar day after the date written notice is received in the Administrative Offices in Good Order. If the seventy-fifth (75<sup>th</sup>) day is not a Business Day, the Contract termination date shall be the Business Day immediately following the seventy-fifth (75<sup>th</sup>) day. Prior to the Contract termination date, Great-West and Plan Sponsor may agree to an alternate Contract termination date. Contract termination may not occur on the date selected by Plan Sponsor unless Great-West has received all required information.

### 9.2 Contract Termination Provisions

In the event this Contract is terminated, Great-West will pay the Contractual Account Value as described below.

Great-West will remit the Fixed Account Value in accordance with the applicable Fixed Account rider.

Plan Sponsor and Contractholder hereby instruct Great-West to deduct any outstanding charges and fees, including the Contract termination charge, if applicable, due to Great-West from the amount remitted from the Fixed Account.

### 9.3 Contract Termination due to Plan Termination

If Plan Sponsor terminates the Plan, it shall notify Great-West of such Plan termination and that final Contributions have been remitted to Great-West. Upon notice of Contract termination due to Plan termination, Plan Sponsor agrees to provide any and all information and instructions Great-West requires to properly comply with Plan Sponsor's notification of Plan termination.

Plan Sponsor acknowledges that the amount distributed from the Contract upon Plan termination will be equal to the Contractual Account balance and subject to the provisions in the applicable Fixed Account rider, less all outstanding charges or fees and any applicable Contract termination charge due upon Distribution.

Plan Sponsor shall file any and all required Forms 5500.

If the Plan is abandoned, orphaned or if Plan Sponsor cannot be located or Plan Sponsor fails to provide appropriate representations and instructions to Great-West in connection with termination of the Plan, Great-West is authorized to accept notices, representations and instructions from the Plan administrator or trustee, the bankruptcy trustee for Plan Sponsor, the U.S. Department of Labor, if applicable, or an authorized and appropriate representative of Plan Sponsor. Great-West may also utilize any procedures promulgated by the U.S. Department of Labor, if applicable, or other applicable regulatory agencies for abandoned or orphaned plans including the facilitation of Distributions to Payees performed by a Qualified Termination Administrator, as that term is defined under Federal law and regulations promulgated thereunder, or comparable person as allowed by applicable law.

Once Great-West has distributed all Plan assets in accordance with the terms of the Contract and the Fixed Account rider(s), Great-West is discharged of all its obligations with respect to the Contractual Account and this Contract.

The Contract shall terminate once all Plan assets have been distributed.

## **SECTION 10. GENERAL PROVISIONS**

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### 10.1 Contract

Great-West has issued this Contract to Plan Sponsor and Contractholder in consideration of the application and payment of the initial Contributions or Deposits.

This Contract is subject to the laws of the state in which it was delivered. Great-West reserves the right to interpret provisions of this Contract accordingly, and to amend this Contract as necessary to maintain compliance with applicable state and federal law and regulations.

### 10.2 Entire Contract

This Contract, including the application, tax endorsement(s), specification page, and Fixed Account or other rider(s)/endorsement(s) (*subject to regulatory approval*), if any, constitute the entire contract between Plan Sponsor, Contractholder and Great-West.

### 10.3 Contract Modification

Great-West may modify this Contract from time to time to conform it to changes in tax or other law, including applicable regulations and rulings, without consent of Plan Sponsor, Contractholder, or any other person. Great-West will provide notice and a copy of any such modification to Plan Sponsor and Contractholder as soon as reasonably practicable. Only the President, Vice-President, or the Secretary of Great-West, or their authorized designees, can agree on behalf of Great-West to modify any provisions of the Contract.

Plan Sponsor and Great-West, with the acknowledgment of Contractholder, may, by written agreement or amendment, make other modifications to this Contract, subject to the approval of the appropriate state department of insurance, if applicable. No such modification will, without the written consent of Plan Sponsor, affect the terms, provisions, or conditions of this Contract, which are or may be applicable to Contributions or Deposits made prior to the date of such modification.

### 10.4 Modification of Fixed Account Options

Great-West may offer new or cease offering existing Fixed Account options, or make other changes to the Fixed Account options as Great-West deems necessary, and subject to the approval of the state insurance department, if applicable. If Great-West changes material provisions of its Fixed Account option(s), Great-West will provide at least sixty (60) calendar days' written notice to the Plan Sponsor. This notice shall explain any Fixed Account change(s), communicate the timeline and effective date of any Fixed Account change and explain Plan Sponsor's right to opt out of any Fixed Account change. Plan Sponsor's absence of an objection to such notice will be considered consent to the change(s).

If Great-West replaces a Fixed Account option and does not receive an objection from the Plan Sponsor, Transfers between account options as disclosed in the notice will be completed by Great-West as of the effective date of the change. Such allocation will be in effect until such time as Great-West receives a written Request for a different allocation.

If Plan Sponsor provides written objection to Great-West within the sixty (60) calendar day notice period, Great-West will not make the Fixed Account change at issue. If Plan Sponsor objects to the Fixed Account change, Great-West may terminate this Contract by providing written notice pursuant to Section 9.1 of this Contract.

### 10.5 Restorations

Great-West may agree to restore any back-end load charges, or other charges deducted from Plan assets. Great-West recovers restoration amounts, if applicable, at Contract termination through the Contract termination charge.

### 10.6 Plan Provisions

In all cases, the Plan document shall determine (subject to the Code) the specific features of the Plan, which may include the availability of certain types of investment options, Distributions, loans, and other features allowed but not mandated by the Code. Any provision of this Contract which deals with a feature not included in the Plan shall be ineffective.

### 10.7 Non-Participating

This Contract is Non-Participating, meaning that it is not eligible to share in Great-West's divisible surplus.

### 10.8 Currency and Contributions and Deposits

All amounts to be paid to or by Great-West must be in currency of the United States of America. All Contributions and Deposits to this Contract must be made payable to Great-West or to a designee acceptable to Great-West.

### 10.9 Notices

Great-West may provide any notice or demand to Plan Sponsor, Contractholder, Payee, or other person, by either sending it to such person's last known address, email address, or facsimile number on file with Great-West, or by posting it to an electronic network or website so long as a separate email notice is sent to the email address on file with Great-West.

An application, report, Request, election, direction, notice or demand by Plan Sponsor or a Payee/Annuitant must be made in Good Order. When Great-West requires it, Plan Sponsor will obtain the signature of the Payee on forms provided by Great-West. Great-West must first approve any written materials describing this Contract that are developed by any other person.

### 10.10 Disclaimer

Nothing contained in this Contract shall be construed to be tax, investment or legal advice, and Great-West assumes no responsibility or liability for any costs, including but not limited to taxes, penalties or interest incurred by the Plan, Plan Sponsor or any other Payee arising out of a determination of liability. Great-West shall not be held liable for any third party's negligence, willful misconduct, or failure to perform.

### 10.11 Representations

Great-West shall be entitled to rely and act solely on the reports, directions, proofs, notices, elections, and other information furnished to it by Contractholder, Plan Sponsor, or their designee(s), and such acts shall be conclusive and final.

### 10.12 Non-Waiver

Great-West may elect not to exercise a right, privilege, or option under this Contract. Such election shall not constitute a waiver of the right to exercise such right, privilege, or option at any subsequent time, nor shall it constitute a waiver of any provision of this Contract.

### 10.13 Information

Plan Sponsor shall furnish all information that Great-West may reasonably require for the administration of this Contract. Great-West shall not be responsible for any obligation under this Contract until it receives all requested information in Good Order.

# GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY

A Stock Company

## ENDORSEMENT for SECTION 401(a) and 401(k) Plans

### Attached to and forming a part of the Unallocated Group Annuity Contract ("Contract")

*This Endorsement is a part of the Great-West Life & Annuity Insurance Company ("Great-West") Contract to which it is attached.*

*Terms defined in the Contract have the same meaning where used in this Endorsement.*

This Endorsement forms a part of the Contract to which it is attached and addresses certain requirements under the Internal Revenue Code of 1986, as amended (the "Code"). The following provisions apply to Contracts issued under plans intended to satisfy the requirements of Section 401(a) and 401(k) of the Code ("Plan" or "Plans").

The effective date of this Endorsement is the issue date of the Contract or such later date necessary to maintain the status of the Plan under Section 401(a) of the Code.

If there is a conflict between the terms of this Endorsement and the terms of the Contract or riders thereto, the terms of this Endorsement will control.

All capitalized terms in this Endorsement shall have the same meaning as attributed to them in the Contract.

1. The Group Annuity Contract and Application are intended to conform to Code sections 401(a) and 401(k). To maintain eligibility under Code sections 401(a) and 401(k), if applicable, the Plan must continue to hold Plan assets in trust.
2. Any Annuitant under this Contract will be a Participant or Beneficiary of the Plan and the Contractholder of this Contract will be the owner as provided under the Plan.
3. The Contractholder shall hold all Plan assets hereunder for the exclusive benefit of Plan Participants and Beneficiaries and no portion of the amount deposited into the Contract or earnings thereon may be used for, or diverted to, any purpose other than for the exclusive benefit of such persons prior to the satisfaction of all liabilities with respect to such persons.
4. The Contract shall be subject to the provisions, terms and conditions of the Plan, and any payment, distribution, or transfer under this Contract shall comply with the provisions, terms and conditions under the Plan as determined by the Plan Administrator, trustee or other Plan fiduciary. We shall have no responsibility with respect to the provisions, terms and conditions of the Plan, including but not limited to, determining whether any payment, distribution or transfer complies with the provisions, terms and conditions of the Plan or with Applicable Law, or in administration of the Plan. Further, the terms of the Plan cannot expand the terms of the Contract or impose responsibilities or duties on Great-West not specifically set forth in the Contract.
5. A Plan Participant or Beneficiary may request Contractholder to direct us to have any portion of an eligible rollover distribution (within the meaning of Section 402(c)(4) of the Code) paid directly to an eligible retirement plan described in Section 402(c)(8)(B) of the Code by means of a direct transfer or direct rollover under Section 401(a)(31) of the Code.

6. If the Plan distributes from the Contract to a Participant or Beneficiary and the Plan is subject to Section 401(a)(11) of the Code, benefits under the Contract should be provided in accordance with the applicable consent, present value, and other requirements of Sections 401(a)(11) and 417 of the Code that are applicable to the plan.

Signed for Great-West Life & Annuity Insurance Company on the Effective Date of the Contract.

A handwritten signature in black ink, appearing to read "Edward F. Murphy". The signature is written in a cursive style with a large initial "E" and a long horizontal flourish at the end.

President

# GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY

A Stock Company

## Great-West Investments Fixed Account – Series III FIXED ACCOUNT RIDER

*This Great-West Investments Fixed Account – Series III rider (the “Rider”) is part of the Great-West Life & Annuity Insurance Company (“Great-West”) Contract to which it is attached. Terms defined in the Contract have the same meaning where used in this Rider.*

The Great-West Investments Fixed Account – Series III (“Fixed Account”) is a Fixed Account that is part of the General Account of Great-West. All or a portion of the Contributions and Deposits may be allocated to the Fixed Account.

### **Definitions**

A **Competing Fund** is any of the following types of funds offered by the Plan Sponsor:

- (a) any stable value fund; or
- (b) any fund with a known or periodically declared rate of interest; or
- (c) any money market fund; or
- (d) any bond fund with a duration of 3 years or less; or
- (e) any investment option at any time under a Plan that, unless otherwise agreed by Great-West, is a balanced fund that seeks to maintain 75% or more of its assets invested in investment grade U.S. fixed income assets that have a stated benchmark of less than three (3) year or long term objective of maintaining a duration of less than three (3) years; or is a fund that has investment characteristics substantially similar or identical to a stable value fund; or is a fund that Great-West, in accordance with its underwriting standards, has determined to be a Competing Fund.

**Contractual Account Value** – For the purposes of this Rider only, the book value of the Fixed Account.

**Plan Sponsor Initiated Event (“PSIE”)** – Plan Sponsor action that leads to a transfer of Plan assets from the Fixed Account, including but not limited to, spin-off, layoff, sale, merger, terminating union in a multi-employer plan; terminating participating employer in a multiple employer plan; termination by a political subdivision, agency, or instrumentality of a governmental plan.

### **Credited Interest Rate**

Interest earned on the amounts invested in the Fixed Account is compounded daily at the declared credited interest rate. At the end of each calendar quarter, Great-West will establish and declare the interest rate to be credited to the Plan’s assets held in the Fixed Account during the next calendar quarter. Great-West will reset the interest rate quarterly and declare all reset credited interest rates at least 48 hours in advance of each reset.

### **Guaranteed Minimum Interest Rate**

The guaranteed minimum interest rate will be equal to 0.00%.

### **Contract Series Charge**

Great-West will accrue a charge to cover expenses, which as of the Contract Date, includes an amount for Contract administration, investment management, and various recordkeeping and other services that are provided to the Plan pursuant to a separate agreement with the Plan (which may

include services provided by one of Great-West's affiliates or subsidiaries). The accrual will be an amount determined by applying an effective annual Contract series charge rate of 0.25%.

In addition to the annual Contract series charge outlined above, there may be an adjustment to the credited interest rate which is used to reduce the amount for Plan recordkeeping/administration services that would otherwise be charged to the Plan, to the extent permissible under the Employee Retirement Income Security Act of 1974 (ERISA), as amended.

### **Limitations**

Great-West shall defer processing Distribution or Transfer Requests if transactions cannot be executed or settled due to the closing or disruption of financial markets or exchanges. Great-West shall resume the processing of Distributions and Transfers once the disruption is resolved.

Plan Sponsor shall not offer Competing Funds unless mutually agreed upon by Great-West and Plan Sponsor, in which case amounts withdrawn from the Fixed Account must be transferred to a non-competing fund and remain there for at least ninety (90) days before transferring to a Competing Fund.

Should the Plan Sponsor offer a Competing Fund without Great-West's agreement or should an existing Plan investment become a Competing Fund that is available to the Plan without Great-West's prior agreement, Great-West shall suspend all Transfers out of the Fixed Account upon at least thirty (30) calendar days advance written notice to the Plan Sponsor, which notice Plan Sponsor shall communicate promptly to the Participants, Alternate Payees and Beneficiaries invested in the Fixed Account. This Transfer restriction shall remain until the Competing Fund is removed as an eligible Plan investment option, or as otherwise mutually agreed.

### **Excessive Trading**

In order to discourage Transfer activities that are disruptive to the operation of the Great-West General Account, Plan Sponsor shall, or shall direct its designated Plan recordkeeper to track Participant, Alternate Payee, and Beneficiary initiated Transfers to identify a purchase into and sale out of the Fixed Account within a thirty (30) calendar day period of time (a "Round Trip").

If a Participant, Alternate Payee, or Beneficiary completes a second Round Trip within thirty (30) calendar days of completing the first Round Trip, Plan Sponsor shall, or shall direct its designated Plan recordkeeper to restrict such person from making a Transfer into or out of the Fixed Account for up to thirty (30) calendar days starting on the date the second Round Trip is completed (the "Transfer Restriction Period").

Contributions and Deposits, other than Transfers, will be allowed into the Fixed Account during the Transfer Restriction Period.

### **Transfers**

Unless otherwise provided in this Rider, Participant, Alternate Payee, and Beneficiary initiated Transfers of amounts held in the Fixed Account are permitted at any time.

### **Fixed Account Value**

The Plan's value in the Fixed Account is determined as the value of (a) minus (b) where:

- (a) is the sum of all Fixed Account Contributions and Deposits plus interest credited to the Fixed Account; and
- (b) is the sum of:
  - i. any amounts distributed;
  - ii. any Transfers from the Fixed Account;

- iii. any applicable fees and charges; and
- iv. any Applicable Tax.

**Plan Sponsor Initiated Events (“PSIE”)**

Plan Sponsor shall provide notification to Great-West, in writing, at least thirty (30) calendar days in advance of a PSIE.

Upon receipt of the written notification date, if the book value of the amount associated with the PSIE (“PSIE Fixed Account book value”) is less than or equal to the de minimis amount as disclosed on the Specification Page, then Great-West will remit the PSIE Fixed Account book value to Plan Sponsor’s designee within thirty (30) calendar days after the Event Date (as defined below).

With respect to the amounts in the Fixed Account associated with the PSIE that exceed the de minimis amount, Plan Sponsor must elect, in writing to Great-West, one of the following options on the date Great-West and Plan Sponsor mutually agree to transact the PSIE (the “Event Date”):

1. *PSIE Fixed Account Book Value* – Great-West shall remit to Plan Sponsor’s designee the amounts associated with the PSIE Fixed Account book value no later than twelve (12) months after the Event Date. However, if the average 3 year and 5 year Constant Maturity Treasury rates, as of the Event Date, is 300 basis points or more above the lowest weekly average of the 3 and 5 year Constant Maturity Treasury rates over the 104 weeks prior to the Event Date, Great-West will remit the Fixed Account book value no later than thirty-six (36) months after the Event Date. Great-West will use published rates from the United States Federal Reserve Website.

All the terms of the Contract shall remain in effect with regard to the interests in the Contractual Account impacted by the PSIE; however, no Plan loans and no additional Contributions or Deposits shall be made after the Event Date by or at direction of the Plan Sponsor with respect to amounts impacted by the PSIE. Additionally, no Plan Sponsor Transfers of the PSIE Fixed Account book value will be permitted.

2. *PSIE Market Value Adjustment (“MVA”)* –Within seven (7) Business Days after the Event Date, Great-West will remit to the Plan Sponsor’s designee the lesser of (a) Plan withdrawals associated with the PSIE (“PSIE Fixed Account book value”) and (b) the PSIE Fixed Account book value adjusted by the MVA factor as described below. However, if the Plan Sponsor pays from its own assets to Great-West the difference between the PSIE Fixed Account book value adjusted by the MVA factor as described below, prior to the Event Date, Great-West will remit the PSIE Fixed Account book value.

If the MVA Factor is positive, Great-West will not assess a market value adjustment.

$$\text{Market Value Adjustment (MVA)} = \text{MVA Factor} \times \text{Fixed Account value}$$

The MVA Factor is:

$$\text{MVA Factor} = \frac{((1+i)^3)}{((1+j+1.0\%)^3)} - 1$$

Where

*i* = the three (3) year Constant Maturity Treasury rate as published in *the United States Federal Reserve Website* on the later of the Contract Date and the last business day of the week two (2) years prior to the Calculation Date.

*j* = the three (3) year Constant Maturity Treasury rate as published in *the United States Federal Reserve Website* on the last business day of the week prior to the Calculation Date.

For the purposes of establishing a Calculation Date in the MVA factor formula, unless another date is mutually agreed upon, the Calculation Date will be the date Plan Sponsor notified Great-West of the PSIE.

## **Mischaracterization of PSIE**

If the Plan Sponsor timely notified Great-West of a withdrawal, but mischaracterized such withdrawal as a Participant-initiated withdrawal when it was due to a PSIE, and Great-West paid the full requested withdrawal amount, then Great-West will adjust the Fixed Account book value in accordance with the PSIE MVA provision. Specifically, if the MVA would have been negative, Great-West will make an additional charge to the book value equal to the PSIE amount that exceeds the de minimis amount, multiplied by the MVA factor.

## **Disputes**

If a dispute arises out of, or in connection with a withdrawal that was improperly characterized as a Participant-initiated withdrawal request rather than a PSIE withdrawal, Great-West and Plan Sponsor shall agree to pursue a resolution through good faith negotiation or other appropriate dispute resolution process.

## **Contract Termination Due to Full Plan Termination**

In the event of a full Plan termination, Plan Sponsor hereby instructs Great-West to pay Plan Sponsor the Contractual Account Value in a lump sum as soon as practicable, less any outstanding fees and charges.

## **Contract Termination other than Due to Full Plan Termination**

In order for the Plan Sponsor to terminate the Contract for any reason other than a full plan termination, at least sixty (60) calendar days before the Contract termination date, Plan Sponsor must notify Great-West, in writing, of Plan Sponsor's election of one of the Contract termination options described below ("Contract Termination Options"). Great-West shall remit all Fixed Account amounts pursuant to the Plan Sponsor's election less any outstanding fees and charges. The Plan Sponsor's election of the Contract Termination Option is irrevocable.

If Great-West terminates the Contract, no additional assets will be permitted to be allocated to this Rider. Unless Great-West and Plan Sponsor otherwise agree, Great-West will continue to administer all other applicable provisions of the Contract until Plan Sponsor notifies Great-West, in writing, of Plan Sponsor's election of one of the Contract Termination Options. Interest will continue to be credited to the Fixed Account from the date of termination to the date on which final payment is made. The rate will never be less than the guaranteed minimum interest rate.

However, if, on the written notification date, the book value is less than or equal to the de minimis amount as disclosed on the Specification Page, then Great-West will remit the book value to Plan Sponsor's designee within thirty (30) calendar days after the Contract termination date less any outstanding fees and charges

The Contract Termination Options are as follows:

1. ***Payment at Book Value*** – Great-West will remit the Contractual Account Value of the Contractholder's assets in the Fixed Account ("book value") either 12 or 36 months after the Contract termination date, depending on the conditions outlined in (a) and (b) below. Plan Sponsor and Great-West may mutually agree to an alternative book value payout date. If mutual agreement cannot be reached, then payment shall continue to proceed as described in accordance with (a) or (b), below. Starting on the Contract termination date, Great-West will continue to credit interest until Great-West remits the book value to the Plan Sponsor's designee.
  - (a) ***Payment at Book Value after 12 Months***: Great-West will remit the book value to the Plan Sponsor's designee twelve (12) months after the Contract termination date if, on the date Great-West receives notice of Contract termination in Good Order, the average of the 3

year and 5 year Constant Maturity Treasury rates is less than 300 basis points above the lowest weekly average of the 3 and 5 year Constant Maturity Treasury rates over the previous 104 weeks from notice.

Great-West will use published rates from the United States Federal Reserve Website.

*Numerical Example: On the date notice of Contract termination is received by Great-West in Good Order, the average of the 3 year and 5 year Constant Maturity Treasury rates is 4.00%. Over the previous 104 weeks from notice, the lowest average of the 3 year and 5 year Constant Maturity Treasury rates from the United States Federal Reserve Website was 2.25%. As 4.00% is less than 300 basis points above 2.25%, Great-West will remit the book value 12 months after the Contract termination date.*

Plan Sponsor may continue to direct Great-West to make Distributions and Participant, Alternate Payee, and Beneficiary-initiated Transfers from the Fixed Account at any time. However, no Plan Sponsor Transfers will be allowed after the Contract termination date.

Unless Plan Sponsor retains Great-West as the designated Plan recordkeeper, after the Contract termination date, Plan loans (if permitted under your Plan) will not be permitted to be made from the Fixed Account assets, and Contributions and Deposits will not be accepted into the Fixed Account.

- (b) **Payment at Book Value after 36 Months:** Great-West will remit the book value to the Plan Sponsor's designee thirty-six (36) months after the Contract termination date if, on the date Great-West receives notice of Contract termination in Good Order, the average of the 3 year and 5 year Constant Maturity Treasury rates is 300 basis points or more above the lowest weekly average of the 3 and 5 year Constant Maturity Treasury rates over the previous 104 weeks from notice.

Great-West will use published rates from the United States Federal Reserve Website.

*Numerical Example: On the date notice of Contract termination is received by Great-West in Good Order, the average of the 3 year and 5 year Constant Maturity Treasury rates is 6.00%. Over the previous 104 weeks from notice, the lowest average of the 3 year and 5 year Constant Maturity Treasury rates from the United States Federal Reserve Website was 2.50%. As 6.00% is more than 300 basis points above 2.50%, Great-West will remit the book value 36 months after the Contract termination date.*

Plan Sponsor may continue to direct Great-West to make Distributions and Participant, Alternate Payee, and Beneficiary-initiated Transfers from the Fixed Account at any time. However, no Plan Sponsor Transfers will be allowed after the Contract termination date.

Unless Plan Sponsor retains Great-West as the designated Plan recordkeeper, after the Contract termination date, Plan loans (if permitted under your Plan) will not be permitted to be made from the Fixed Account assets, and Contributions and Deposits will not be accepted into the Fixed Account.

- 2. Payment in 20 Quarterly Installments** – Great-West will remit the total Contractual Account Value of the Contractholder's assets in the Fixed Account ("book value") in twenty (20) quarterly installments. Great-West will make the first installment no later than ninety (90) calendar days after Contract termination date. The first installment will be 1/20<sup>th</sup> of the book value on the payment date. The remaining installments will be incrementally remitted in fractional amounts of remaining book value each calendar quarter over the succeeding nineteen quarters (e.g., 1/19, 1/18...1/1) until the total book value is remitted. Great-West will continue to credit interest to the book value held in the Fixed Account (i.e., the portion of the

book value that has not been transferred out of the Fixed Account) until Great-West remits the total book value to the Plan Sponsor's designee.

Plan Sponsor may continue to direct Great-West to make Distributions and Participant, Alternate Payee, and Beneficiary initiated Transfers from the Fixed Account at any time. However, no Plan Sponsor Transfers will be allowed after the Contract termination date.

Unless Plan Sponsor retains Great-West as the designated Plan recordkeeper, after the Contract termination date, Plan loans (if permitted under your Plan) will not be permitted to be made from the Fixed Account assets, and Contributions and Deposits will not be accepted into the Fixed Account.

- 3. Lump Sum Payment with Market Value Adjustment** – The Market Value Adjustment (“MVA”) of the Fixed Account value will be calculated as of the date Great-West receives notice of Contract termination in Good Order, or another date as mutually agreed (“Calculation Date”). Within seven (7) Business Days after the Contract termination date, Great-West will remit the lesser of (a) the total Contractual Account Value in the Fixed Account (“book value”) and (b) the book value adjusted by the MVA factor. However, if Great-West receives the difference between the book value and the book value adjusted by the MVA factor from the Plan Sponsor prior to the Contract termination date, Great-West will remit the book value.

Market Value Adjustment (MVA) = MVA Factor x Fixed Account value

The MVA Factor is:

$$\text{MVAF} = \frac{((1+i)^3)}{((1+j+1.0\%)^3)} - 1$$

Where

*i* = the three (3) year Treasury Constant Maturity rate as published in *the United States Federal Reserve Website* on the later of the Contract Date and the last business day of the week two (2) years prior to the Calculation Date.

*j* = the three (3) year Treasury Constant Maturity rate as published in *the United States Federal Reserve Website* on the last business day of the week prior to the Calculation Date.

- 4. Any other termination option** allowable under applicable law as mutually agreed upon in writing by Great-West and the Plan Sponsor.

### **Plan Sponsor Termination and/or Transfer of Fixed Account under the Contract**

If Plan Sponsor elects to remove this Fixed Account as an eligible investment option but does not desire to terminate the Contract, Plan Sponsor must elect one of the Contract Termination Options listed in the “Contract Termination other than Due to Full Plan Termination” section of this Rider. Alternatively, if Plan Sponsor elects to remove this Fixed Account as an eligible Plan investment option but does not terminate the Contract, Plan Sponsor may request to transfer the Contractholder's Fixed Account value on a mutually agreeable date to another series of the Fixed Account. For purposes of this section, any references to Contract termination and Contract termination date in the “Contract Termination other than Due to Full Plan Termination” section of this Rider will be interpreted as Fixed Account Rider termination and Fixed Account Rider termination date, respectively.

### **General**

For the purposes of the reference in the Rider, Great-West shall use a comparable source if applicable information is unavailable in the United States Federal Reserve Website.

# GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY

A Stock Company

## GROUP UNALLOCATED ANNUITY CONTRACT SPECIFICATION PAGE

This Specification Page is made part of the Great-West Life & Annuity Insurance Company Group Annuity Contract ("Contract") to which it is attached.

Terms defined in the Contract have the same meaning where used in this Specification Page.

PLAN SPONSOR	<b>Northern Inyo Healthcare District</b>
CONTRACTHOLDER	<b>Northern Inyo Healthcare District and the Trustee/s of the Northern Inyo County Local Hospital District 401(a) Retirement Plan as identified on the Group Annuity Contract Application</b>
PLAN	<b>Northern Inyo County Local Hospital District 401(a) Retirement Plan</b>
CONTRACT NUMBER	<b>100158-02</b>
CONTRACT DATE	April 14, 2021 or the later of the dates signed by all parties.

### OTHER PROVISIONS

**Great-West Investment Fixed Account De Minimis Pay-out Amount** – The minimum guaranteed de minimis amount is \$20,000.

**NOTICE OF PROTECTION PROVIDED BY  
CALIFORNIA LIFE AND HEALTH INSURANCE GUARANTEE ASSOCIATION**

This notice provides a brief summary regarding the protections provided to policyholders by the California Life and Health Insurance Guarantee Association ("the Association"). The purpose of the Association is to assure that policyholders will be protected, within certain limits, in the unlikely event that a member insurer of the Association becomes financially unable to meet its obligations. Insurance companies licensed in California to sell life insurance, health insurance, annuities and structured settlement annuities are members of the Association. The protection provided by the Association is not unlimited and is not a substitute for consumers' care in selecting insurers. This protection was created under California law, which determines who and what is covered and the amounts of coverage.

Below is a brief summary of the coverages, exclusions and limits provided by the Association. This summary does not cover all provisions of the law; nor does it in any way change anyone's rights or obligations or the rights or obligations of the Association.

**COVERAGE**

• **Persons Covered**

Generally, an individual is covered by the Association if the insurer was a member of the Association *and* the individual lives in California at the time the insurer is determined by a court to be insolvent. Coverage is also provided to policy beneficiaries, payees or assignees, whether or not they live in California.

• **Amounts of Coverage**

The basic coverage protections provided by the Association are as follows.

• **Life Insurance, Annuities and Structured Settlement Annuities**

For life insurance policies, annuities and structured settlement annuities, the Association will provide the following:

• **Life Insurance**

80% of death benefits but not to exceed \$300,000

80% of cash surrender or withdrawal values but not to exceed \$100,000

• **Annuities and Structured Settlement Annuities**

80% of the present value of annuity benefits, including net cash withdrawal and net cash surrender values but not to exceed \$250,000

The maximum amount of protection provided by the Association to an individual, for *all* life insurance, annuities and structured settlement annuities is \$300,000, regardless of the number of policies or contracts covering the individual.

- **Health Insurance**

The maximum amount of protection provided by the Association to an individual, as of July 1, 2016, is \$546,741. This amount will increase or decrease based upon changes in the health care cost component of the consumer price index to the date on which an insurer becomes an insolvent insurer. Changes to this amount will be posted on the Association's website [www.califega.org](http://www.califega.org).

**COVERAGE LIMITATIONS AND EXCLUSIONS FROM COVERAGE**

The Association may not provide coverage for this policy. Coverage by the Association generally requires residency in California. You should not rely on coverage by the Association in selecting an insurance company or in selecting an insurance policy.

The following policies and persons are among those that are excluded from Association coverage:

- A policy or contract issued by an insurer that was not authorized to do business in California when it issued the policy or contract
- A policy issued by a health care service plan (HMO), a hospital or medical service organization, a charitable organization, a fraternal benefit society, a mandatory state pooling plan, a mutual assessment company, an insurance exchange, or a grants and annuities society
- If the person is provided coverage by the guaranty association of another state
- Unallocated annuity contracts; that is, contracts which are not issued to and owned by an individual and which do not guaranty annuity benefits to an individual
- Employer and association plans, to the extent they are self-funded or uninsured
- A policy or contract providing any health care benefits under Medicare Part C or Part D
- An annuity issued by an organization that is only licensed to issue charitable gift annuities
- Any policy or portion of a policy which is not guaranteed by the insurer or for which the individual has assumed the risk, such as certain investment elements of a variable life insurance policy or a variable annuity contract
- Any policy of reinsurance unless an assumption certificate was issued
- Interest rate yields (including implied yields) that exceed limits that are specified in Insurance Code Section 1067.02(b)(2)(C)

**NOTICES**

Insurance companies or their agents are required by law to give or send you this notice. Policyholders with additional questions should first contact their insurer or agent. To learn more about coverages provided by the Association, please visit the Association's website at [www.califega.org](http://www.califega.org), or contact either

California Life and Health  
Insurance  
Guarantee Association  
P.O. Box 16860  
Beverly Hills, CA 90209-3319  
(323) 782-0182

California Department of  
Insurance  
Consumer Communications  
Bureau  
300 South Spring Street  
Los Angeles, CA 90013  
(800) 927- 4357

**Insurance companies and agents are not allowed by California law to use the existence of the Association or its coverage to solicit, induce or encourage you to purchase any form of insurance. When selecting an insurance company, you should not rely on Association coverage. If there is any inconsistency between this notice and California law, then California law will control.**

**GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY** ("Great-West") A Stock Company

8515 East Orchard Road, Greenwood Village, CO 80111

For inquiries, information or resolution of complaint, call 1-877-694-4015

**APPLICATION for GROUP UNALLOCATED ANNUITY CONTRACT****SECTION A. PLAN SPONSOR**

NAME OF PLAN SPONSOR <b>Northern Inyo Healthcare District</b>			PLAN SPONSOR FEDERAL TAX ID # <b>95-6005449</b>
STREET ADDRESS <b>150 Pioneer Lane</b>			State of SITUS <b>CA</b>
CITY <b>Bishop</b>	STATE <b>CA</b>	ZIP Code <b>93514</b>	TELEPHONE # <b>760-873-5811</b>
TYPE OF ENTITY: <input type="checkbox"/> Government (State, local, county, municipality, Healthcare, Public School) <input type="checkbox"/> Corporation <input type="checkbox"/> S Corp <input type="checkbox"/> LLC <input type="checkbox"/> LLP <input type="checkbox"/> 501(c)(3) (tax-exempt non-profit organization) <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other (specify):			
FULL LEGAL PLAN NAME (as appears on Plan Document) <b>Northern Inyo Hospital 457 Plan</b>			

**SECTION B. CONTRACTHOLDER**

NAME OF TRUSTEE, IF DIFFERENT THAN THE PLAN SPONSOR			TRUSTEE FEDERAL TAX ID #, if applicable
STREET ADDRESS			State of SITUS
CITY	STATE	ZIP Code	TELEPHONE #
TYPE OF ENTITY: <input type="checkbox"/> Bank <input type="checkbox"/> Trust Company <input type="checkbox"/> Individual(s) <input type="checkbox"/> Other (Specify) _____			

**SECTION C. PRODUCT INFORMATION** Fixed Annuity  Fixed-Variable Annuity**SECTION D. PLAN INFORMATION**

TYPE of Plan (select one):  401(k)  401(a)  457(b) (governmental)

Is this Plan subject to ERISA (Employee Retirement Income Security Act)?  YES  No

**SECTION E. FIXED ACCOUNT**

Great-West Investments Fixed Account – Series I  Great-West Investments Fixed Account – Series V

Great-West Investments Fixed Account – Series II  Great-West Investments Fixed Account – Series VI

Great-West Investments Fixed Account – Series III  None

Great-West Investments Fixed Account – Series IV

**SECTION F. SERIES ACCOUNTS** FutureFunds II Series Account  None**SECTION G. AGREEMENT AND SIGNATURES**

By signing this Application, Plan Sponsor and Contractholder, if different than Plan Sponsor, understand, accept, and otherwise agree to the provisions of the attached Group Annuity Contract, represent that the information contained on this application is true and correct to the best of their knowledge, understand that Great-West will rely on such information, and agree to notify Great-West of any changes to the information provided above. Any information provided herewith shall be considered to be representations and not warranties.

Signature of Plan Sponsor \_\_\_\_\_ Date \_\_\_\_\_

Signature of Contractholder (Trustee) \_\_\_\_\_ Date \_\_\_\_\_  
if different than Plan Sponsor

Print Name \_\_\_\_\_

Print Name \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

## IMPORTANT NOTICES

Below are notices that apply only in certain states. Please read the following carefully to see if any apply in your state.

### **Alabama, Arkansas, Louisiana, Rhode Island, and West**

**Virginia:** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

**Colorado:** It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies.

**District of Columbia:** WARNING: It is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits, if false information materially related to a claim was provided by the applicant.

**Kentucky:** Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime.

**Maryland:** Any person who knowingly or willfully presents a false or fraudulent claim for payment of a loss or benefit or who knowingly or willfully presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

**Maine, Tennessee, and Washington:** It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties may include imprisonment, fines or a denial of insurance benefits.

**New Jersey:** Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

**New Mexico:** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to civil fines and criminal penalties.

**Ohio:** Any person who, with intent to defraud or knowing that he is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement is guilty of insurance fraud.

**Oklahoma:** WARNING: Any person who knowingly, and with intent to injure, defraud or deceive any insurer, makes any claim for the proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony.

**Pennsylvania:** Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

# GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY

A Stock Company

8515 East Orchard Road, Greenwood Village, CO 80111

*For inquiries, information or resolution of complaint, call 1-877-694-4015*

## Group Unallocated Fixed Deferred Annuity Contract ("Contract") *Non-Participating*

PLAN SPONSOR                    **Northern Inyo Healthcare District**

CONTRACTHOLDER            **Northern Inyo Healthcare District and the Trustee/s of the Northern Inyo Hospital 457 Plan as identified on the Group Annuity Contract Application**

PLAN                                **Northern Inyo Hospital 457 Plan**

CONTRACT NUMBER            **100158-01**

CONTRACT DATE                April 14, 2021 or the later of the dates signed by all parties.

Great-West Life & Annuity Insurance Company ("Great-West") agrees to pay annuity benefits provided by this Contract, subject to its terms and conditions. The provisions on the following pages, together with the application for this Contract, and other documents referenced in Section 10.2, are part of this Contract.

Signed for Great-West Life & Annuity Insurance Company and effective on the Contract Date.

  
Secretary

  
President

This Contract is a legal contract between Contractholder, Plan Sponsor and Great-West Life & Annuity Insurance Company. PLEASE READ THIS CONTRACT CAREFULLY.

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## SECTION 1. DEFINITIONS

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**Administrative Offices** – 8515 East Orchard Road, Greenwood Village, CO 80111.

**Alternate Payee(s)** – any spouse, former spouse, child or other dependent of a Participant or any other person recognized under applicable law or Court Order as having a right to receive all or a portion of the benefit payable under a Plan with respect to such Participant.

**Annuitant** – the person for whom an annuity is purchased, and upon whose life the payment of the annuity is based.

**Annuity Commencement Date** – the date on which annuity payments begin.

**Applicable Tax** – the amount of tax charged by a state or other governmental authority.

**Beneficiary(ies)** – a person or entity designated by the Participant or under the terms of the Plan to receive all or a portion of the amount in the Contractual Account attributable to a Participant upon his or her death.

**Business Day** – any day and during the hours on which the New York Stock Exchange is open for trading. Except as otherwise provided in this Contract, in the event that a date falls on a non-Business Day, the date of the succeeding Business Day will be used.

**Code** – the Internal Revenue Code of 1986, as amended, and all related laws and regulations which are in effect during the term of the Contract.

**Contract Date** – the effective date of this Contract listed on the first page of this Contract.

**Contractholder** – The entity referenced on the cover page of this Contract that holds this Contract. For certain plans, the Contractholder also may be the Plan Sponsor.

**Contractual Account** – The Plan's aggregate amount in the Fixed Account(s).

**Contractual Account Value** – The sum of all amounts credited to the Contractual Account, less the sum of all amounts withdrawn from that account, reflecting amounts in the Fixed Account(s).

**Contributions** – salary reduction contributions, Participant after-tax contributions, employer contributions, or other contributions made by the Plan Sponsor to the Plan on behalf of a Participant under the Code.

**Court Order** – An order of a court of competent jurisdiction, such as a qualified domestic relations order that: (i) creates or recognizes the existence of an Alternate Payee's right to, or assigns to an Alternate Payee the right to, receive all or a portion of the benefits payable with respect to a Plan Participant; (ii) complies with applicable requirements of the Code and/or ERISA; and (iii) is approved by the Plan Sponsor or its designee.

**Deposits** – to the extent permitted under the Plan type, Participant initiated rollovers, plan to Plan transfers, Transfers, or other amounts, other than Contributions.

**Distributions** – amounts paid to the Contractholder on behalf of a Participant, Beneficiary or Alternate Payee, pursuant to the terms of the Plan and the Code.

**ERISA** – Employee Retirement Income Security Act of 1974, as amended.

**Fixed Account** – an investment option, the assets of which are part of the General Account of Great-West.

**Fixed Account Value** – the sum of the amounts in the Fixed Account(s).

**General Account** – Great-West's assets other than those held in any segregated investment account.

**Good Order** – A notice or instruction from a person authorized to initiate a transaction that is received by Great-West at our Administrative Offices, Great-West may have forms available for such purposes that set forth all the information, documentation, and instructions necessary for Great-West to process such transaction.

**Great-West (we, us, our)** – Great-West Life & Annuity Insurance Company, located at the Administrative Offices at the address shown under this Section 1.

**Participant** – an individual eligible to participate in the Plan.

**Payee** – a person entitled to receive all or a portion of the value of the Participant's interest in the Contractual Account.

**Plan** – A retirement program that an employer offers to its employees that is funded in part by this Contract. Each Plan must meet the applicable requirements of Code §401(a) or §457(b), as applicable.

**Plan Sponsor** – an entity maintaining the Plan on behalf of Participants, Alternate Payees and Beneficiaries. In a multiple employer plan, the Plan Sponsor shall be considered the entity maintaining the multiple employer plan on behalf of participating employers and the participating employers Participants, Alternate Payees and Beneficiaries. If the Plan is intended to qualify under Code §457(b), the Plan Sponsor must be an eligible employer described in Code §457(e)(1)(A).

**Request(s)** – inquiry or instruction that is/are: (1) received by Great-West at its Administrative Offices in Good Order; and (2) submitted in accordance with the provisions of this Contract, or as required by Great-West. The Requests for changes will be effective as of the date Great-West receives the Request in Good Order, and is subject to any action taken by Great-West before such receipt.

**Start-Up Costs** – the amounts incurred by Great-West in acquiring and implementing the Plan, which may include but are not limited to restorations, commissions or other costs, if applicable.

**Transfer(s)** – the reinvestment or exchange by the designated Plan recordkeeper of all or a portion of the Participant's interest from one investment option or provider under the Plan to another.

## **SECTION 2. OWNERSHIP PROVISIONS**

---

### 2.1 Ownership of the Contract

Contractholder is the owner of the Contract and is identified on the first page of the Contract. The Plan Sponsor and the Contractholder have certain rights, responsibilities and privileges as set forth under this Contract. For certain Plan types, the Contractholder also may be the Plan Sponsor. Please see applicable tax endorsement attached to this Contract, which endorsement pertains to your specific type of Plan.

### 2.2 Transfer and Assignment

The interests of the Contractholder and the Plan Sponsor under this Contract are nontransferable and may not be waived, relinquished or assigned, sold, pledged, charged, encumbered, or in any way alienated, except as may be permitted under the Code, by law, or by applicable Court Order. If, however, the Plan is consolidated or merged with another retirement plan, or if the assets and liabilities of the Plan are transferred to another retirement plan or are acquired by another plan sponsor, this Contract may be assigned to the new plan sponsor and/or trustee.

### 2.3 Trust

The Contract may be used in lieu of a trust agreement for purposes of satisfying Code sections 401(a), 401(f) and 457(g) and no portion of the amount contributed to the Contract, plus earnings thereon, may be used for or diverted to any purpose other than the exclusive benefit of Participants and their Beneficiaries prior to the satisfaction of all liabilities to them.

## **SECTION 3. CONTRACTUAL ACCOUNT VALUE**

---

### 3.1 Contractual Account Value

The Contractual Account Value is calculated as follows:

- (a) all Contributions and Deposits to the Fixed Account option selected, made for or on behalf of Participant(s), Alternate Payee(s) and Beneficiary(ies); plus
- (b) all interest credited to the Contractholder's assets in such Fixed Account in accordance with the applicable Fixed Account rider; less
- (c) any amounts transferred or distributed from the Fixed Account; less
- (d) any applicable charges, fees and Applicable Tax, if any.

### 3.2 Transaction Date

All Requests, Contributions and Deposits received in Good Order with all required documentation at Great-West's Administrative Offices prior to the close of business of the New York Stock Exchange will be processed as of the date received, and if received after the close of business of the New York Stock Exchange will be processed on the next Business Day. However, Great-West shall not be liable for the results of any delay or interruption in processing transaction Requests or Contributions or performing required acts hereunder due to extreme unforeseeable and unpreventable circumstances or causes or conditions beyond its control, such as power failure, fire, extreme flooding, earthquake, tsunami, mudslides, hurricane, tornado, blizzard, cyber-attack or disruptions in orderly trading on any relevant exchange or market, including disruptions due to extraordinary market volume that result in substantial delay in receipt of correct data.

## **SECTION 4. CONTRIBUTIONS AND DEPOSITS**

---

### 4.1 Contributions

Prior to the termination of the Contract and unless otherwise described in a Fixed Account rider, Contributions may be made at any time on behalf of Participants, pursuant to the terms of the Plan.

The Contribution amounts will be allocated to the Fixed Account in accordance with instructions from the Plan Sponsor pursuant to the accompanying Contribution report. When the Contribution report does not coincide with the Contribution received and the inconsistency is not resolved within a period of time required under the law, Great-West may return the Contribution.

### 4.2 Limitations on Salary Reduction Contributions

For limitations on salary reduction Contributions, if any, please see the applicable tax endorsement for your specific type of Plan, attached to this Contract.

### 4.3 Deposits

Deposits made directly to Great-West by Plan Sponsor will be accepted and assumed permitted under the terms of the Plan and applicable Code requirements.

### 4.4 Allocation of Contributions and Deposits

Contributions and Deposits, less Applicable Tax, if any, will be allocated when received by Great-West at its Administrative Offices, subject to Section 3.2 of this Contract.

If a selected Fixed Account option is changed or will no longer be made available, then Contributions and Deposits may be redirected to another available Fixed Account option and the account balance may be reallocated subject to the terms of the account selected. Great-West will provide notice of any such changes in accordance with Section 10.4.

## **SECTION 5. CONTRACT CHARGES AND FEES**

---

### 5.1 Contract Termination Charge

Upon termination of the Contract by Plan Sponsor, a Contract termination charge *may* apply, as set forth in the Specification Page.

### 5.2 Service Charges and Fees

Great-West and Plan Sponsor may enter into agreements for other services to the Plan not otherwise provided under this Contract. Charges and fees, if applicable, for these services will be described in such separate agreement(s).

### 5.3 Contract Series Charge

The Contract series charge, if any, for the Fixed Account rider, shall be set forth in the Fixed Account rider selected by the Plan Sponsor or authorized Plan fiduciary.

### 5.4 Payment of Charges and Fees

Any charges and fees imposed under this Contract may be billed directly to Plan Sponsor. If Plan Sponsor does not elect to have such charges and fees billed to Plan Sponsor, such charges and fees shall be deducted from the Contractual Account Value.

In all instances where Plan Sponsor has elected to be billed for any fees and charges and any of the fees or charges are unpaid after the date billed, as disclosed in and pursuant to the procedures in the fee disclosure and/or service agreement for the Plan, Plan Sponsor and Contractholder hereby instruct Great-West to debit the Contractual Account. Great-West may continue to deduct charges and fees quarterly from the Contractual Account Value unless and until Plan Sponsor provides Great-West with written instructions to reinitiate billing.

Great-West may change any charges and fees upon not fewer than thirty (30) calendar days advance written notice to Plan Sponsor.

## **SECTION 6. PARTICIPANT-, ALTERNATE PAYEE-, AND BENEFICIARY-DIRECTED TRANSFERS AMONG INVESTMENT OPTIONS OFFERED BY THE PLAN**

---

Upon receipt of a Request by Plan Sponsor or its designee made on behalf of Participants, Alternate Payees or Beneficiaries, meeting all of the requirements of this section, Great-West will process Transfers. Transfers must:

- (a) satisfy the terms of the Plan in accordance with the appropriate provisions of the Code; and
- (b) satisfy any restrictions in the attached Fixed Account rider.

## **SECTION 7. PAYMENTS TO PLAN SPONSOR FOR DISTRIBUTIONS**

---

### 7.1 Distribution Requirements

Notwithstanding any provision herein to the contrary, payments made to the Plan Sponsor or its designee for Distributions to a Payee, or Plan to Plan transfers, may only be made in accordance with the terms of the Plan and applicable Code sections and any terms of the Fixed Account rider(s). Great-West shall be entitled to rely solely on information provided by Plan Sponsor or its designee as to compliance with all applicable law and the terms of this Contract, any attached tax endorsement and any applicable Fixed Account rider(s) for such Distributions.

## **SECTION 8. BENEFIT PAYMENT OPTIONS**

---

### 8.1 Plan Sponsor Requests for Distributions for Participants, Beneficiaries or Alternate Payees

The Plan Sponsor may elect to provide Distributions by directing Great-West to withdraw from the Contractual Account Value the amounts necessary to provide such benefits, subject to this Section 8. As long as the Contractual Account Value is greater than zero and as allowed by the Plan and Code, a Request may be made by the Plan Sponsor on behalf of a Payee to:

- (a) Elect an annuity payment option, provided such Request is made at least thirty (30) calendar days before the Annuity Commencement Date;
- (b) Elect a lump sum payment option and designate the date of payment.

### 8.2 Conditions of Payment

Approved Distributions shall be effective on the later of: (a) the date elected subject to any restrictions of the Plan and Code and the applicable Fixed Account rider(s); and (b) the date of the Request.

### 8.3 Lump Sum Payment Option

If the Plan Sponsor determines that the Payee is entitled to a Distribution under the applicable terms and provisions of the Plan and the Code sections governing the Plan, the Plan Sponsor or its designee may direct us to withdraw from the Contractual Account a lump sum payment amount as selected by the Payee.

Subject to the provisions of the attached Fixed Account rider(s), the amount to be distributed is: (i) the lump sum amount requested; less (ii) the Applicable Tax, if any, as of the date of the amount distributed, and (iii) any applicable fees and charges.

### 8.4 Periodic Payment Options

If, based upon information provided by Plan Sponsor, the Payee is entitled to a Distribution under the applicable terms and provisions of the Plan and the Code sections governing the Plan, all or a portion of a Participant's interest in the Contractual Account may be applied to a periodic payment option selected by the Payee, subject to any restrictions in a Fixed Account rider. Charges and fees will continue to apply. An Applicable Tax, if any, may apply. Plan Sponsor will provide Great-West with any Requests for periodic payments by Participants and shall instruct its designated Plan recordkeeper to administer such payments.

Plan Sponsor shall provide Great-West notice in Good Order upon the death of any Participant who is receiving periodic payments and of the deceased Participant's Beneficiary's election of a payment option under this Section 8 meeting all the requirements of Code section 401(a)(9).

### 8.5 Annuity Payment Options

If, based upon information provided by Plan Sponsor, the Payee is entitled to a Distribution under the applicable terms and provisions of the Plan and the Code sections governing the Plan, all or a portion of the interest in the Contractual Account attributable to the Participant may be applied to an annuity payment option selected by the Payee, so long as the requirements of Code section 401(a)(9) are met. Thereafter, this Contract shall no longer be applicable with respect to amounts directed to the annuity payment option. Great-West will issue an 'individual retired life certificate' to each Annuitant describing the rights and benefits payable under the elected annuity payment option provided to the Participant/Payee under this Contract.

The amount to be applied to an annuity payment option is: (i) the portion of the interest in the Contractual Account attributable to the Participant elected by Payee subject to any applicable

restrictions in the Fixed Account rider, less (ii) Applicable Tax, less (iii) any fees and charges described in this Contract.

The minimum amount that may be applied under the elected annuity option for any Payee is \$5,000. If any payments to be made under the elected annuity payment option will be less than \$50, Great-West may make the payments in the most frequent interval that produces a payment of at least \$50.

### 8.6 Election of Annuity Options

In order to elect, or change the election of, an annuity payment option, Great-West must receive the Request at least thirty (30) calendar days before the Annuity Commencement Date.

To the extent available under the Plan, the available annuity payment options are:

- Period Certain Annuity
- Single Life Only Annuity
- Single Life Only Annuity with Period Certain
- Single Life Only Annuity with Cash Refund
- Single Life Only Annuity with Installment Refund
- Joint and Survivor Annuity
- Joint and Survivor Annuity with Period Certain
- Subject to regulatory approval and the terms of the Plan, any other form of annuity offered by Great-West.

Annuities will be purchased using Great-West's current purchase rates for contracts of this class at the time the annuity is purchased. These rates will be at least as favorable to the Annuitant as an annuity purchased with rates based on the following actuarial assumptions:

- Interest Rate Assumption: 1.00%
- Mortality Assumption: 2012 IAM Basic Female mortality table with Projection Scale G2 improvement factors applied; Static improvement from year of table (2012) to year of the annuity election, generational improvement thereafter
- Loading: 5.00%

Great-West will review this guaranteed actuarial basis annually and may change it by providing at least ninety (90) calendar days' advance written notice to the Plan Sponsor. However unless Great-West and Plan Sponsor otherwise agree in writing, Great-West will only change the guaranteed actuarial basis once in any sixty (60) month period, in which case the actuarial basis will be at least as favorable as the actuarial basis Great-West offers to any other contractholder in the same class as this Contract at the time of such change.

### 8.7 Misstatement of Age

Great-West may require the Payee or the Contractholder on behalf of a Payee to provide to Great-West adequate proof of the age and death of any Payee before processing a Request for or making any payment. Generally, adequate proof consists of a state-issued driver's license, birth certificate or death certificate, as applicable. Additionally, for life contingent annuity options, Great-West may require evidence of survival of any Annuitant periodically on or after the Annuity Commencement Date. If the age of the Payee has been misstated, the payments established for him/her under the applicable payment option will be made on the basis of his/her correct age, the correct facts will be used to adjust payments.

If payments made pursuant to an annuity payment option were too large because of a misstatement of age, Great-West may deduct the difference from the next payment or payments. If payments were too small, Great-West may add the difference to the next payment.

### 8.8 Great-West's Liability

Great- West's liability is for the payment of requested benefits to Participants, including the provision of annuity benefits, as directed by the Contractholder, as set forth in Section 8.5 and 8.6 hereof, on the basis of making correct withdrawals in accordance with the terms of the Contract.

## **SECTION 9. CONTRACT TERMINATION**

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### 9.1 Notice of Contract Termination and Selection of Termination Option(s)

Either Great-West or Plan Sponsor may terminate this Contract with advance written notice to the other party or parties. The Contract termination date shall be the seventy-fifth (75<sup>th</sup>) calendar day after the date written notice is received in the Administrative Offices in Good Order. If the seventy-fifth (75<sup>th</sup>) day is not a Business Day, the Contract termination date shall be the Business Day immediately following the seventy-fifth (75<sup>th</sup>) day. Prior to the Contract termination date, Great-West and Plan Sponsor may agree to an alternate Contract termination date. Contract termination may not occur on the date selected by Plan Sponsor unless Great-West has received all required information.

### 9.2 Contract Termination Provisions

In the event this Contract is terminated, Great-West will pay the Contractual Account Value as described below.

Great-West will remit the Fixed Account Value in accordance with the applicable Fixed Account rider.

Plan Sponsor and Contractholder hereby instruct Great-West to deduct any outstanding charges and fees, including the Contract termination charge, if applicable, due to Great-West from the amount remitted from the Fixed Account.

### 9.3 Contract Termination due to Plan Termination

If Plan Sponsor terminates the Plan, it shall notify Great-West of such Plan termination and that final Contributions have been remitted to Great-West. Upon notice of Contract termination due to Plan termination, Plan Sponsor agrees to provide any and all information and instructions Great-West requires to properly comply with Plan Sponsor's notification of Plan termination.

Plan Sponsor acknowledges that the amount distributed from the Contract upon Plan termination will be equal to the Contractual Account balance and subject to the provisions in the applicable Fixed Account rider, less all outstanding charges or fees and any applicable Contract termination charge due upon Distribution.

Plan Sponsor shall file any and all required Forms 5500.

If the Plan is abandoned, orphaned or if Plan Sponsor cannot be located or Plan Sponsor fails to provide appropriate representations and instructions to Great-West in connection with termination of the Plan, Great-West is authorized to accept notices, representations and instructions from the Plan administrator or trustee, the bankruptcy trustee for Plan Sponsor, the U.S. Department of Labor, if applicable, or an authorized and appropriate representative of Plan Sponsor. Great-West may also utilize any procedures promulgated by the U.S. Department of Labor, if applicable, or other applicable regulatory agencies for abandoned or orphaned plans including the facilitation of Distributions to Payees performed by a Qualified Termination Administrator, as that term is defined under Federal law and regulations promulgated thereunder, or comparable person as allowed by applicable law.

Once Great-West has distributed all Plan assets in accordance with the terms of the Contract and the Fixed Account rider(s), Great-West is discharged of all its obligations with respect to the Contractual Account and this Contract.

The Contract shall terminate once all Plan assets have been distributed.

## **SECTION 10. GENERAL PROVISIONS**

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### 10.1 Contract

Great-West has issued this Contract to Plan Sponsor and Contractholder in consideration of the application and payment of the initial Contributions or Deposits.

This Contract is subject to the laws of the state in which it was delivered. Great-West reserves the right to interpret provisions of this Contract accordingly, and to amend this Contract as necessary to maintain compliance with applicable state and federal law and regulations.

### 10.2 Entire Contract

This Contract, including the application, tax endorsement(s), specification page, and Fixed Account or other rider(s)/endorsement(s) (*subject to regulatory approval*), if any, constitute the entire contract between Plan Sponsor, Contractholder and Great-West.

### 10.3 Contract Modification

Great-West may modify this Contract from time to time to conform it to changes in tax or other law, including applicable regulations and rulings, without consent of Plan Sponsor, Contractholder, or any other person. Great-West will provide notice and a copy of any such modification to Plan Sponsor and Contractholder as soon as reasonably practicable. Only the President, Vice-President, or the Secretary of Great-West, or their authorized designees, can agree on behalf of Great-West to modify any provisions of the Contract.

Plan Sponsor and Great-West, with the acknowledgment of Contractholder, may, by written agreement or amendment, make other modifications to this Contract, subject to the approval of the appropriate state department of insurance, if applicable. No such modification will, without the written consent of Plan Sponsor, affect the terms, provisions, or conditions of this Contract, which are or may be applicable to Contributions or Deposits made prior to the date of such modification.

### 10.4 Modification of Fixed Account Options

Great-West may offer new or cease offering existing Fixed Account options, or make other changes to the Fixed Account options as Great-West deems necessary, and subject to the approval of the state insurance department, if applicable. If Great-West changes material provisions of its Fixed Account option(s), Great-West will provide at least sixty (60) calendar days' written notice to the Plan Sponsor. This notice shall explain any Fixed Account change(s), communicate the timeline and effective date of any Fixed Account change and explain Plan Sponsor's right to opt out of any Fixed Account change. Plan Sponsor's absence of an objection to such notice will be considered consent to the change(s).

If Great-West replaces a Fixed Account option and does not receive an objection from the Plan Sponsor, Transfers between account options as disclosed in the notice will be completed by Great-West as of the effective date of the change. Such allocation will be in effect until such time as Great-West receives a written Request for a different allocation.

If Plan Sponsor provides written objection to Great-West within the sixty (60) calendar day notice period, Great-West will not make the Fixed Account change at issue. If Plan Sponsor objects to the Fixed Account change, Great-West may terminate this Contract by providing written notice pursuant to Section 9.1 of this Contract.

### 10.5 Restorations

Great-West may agree to restore any back-end load charges, or other charges deducted from Plan assets. Great-West recovers restoration amounts, if applicable, at Contract termination through the Contract termination charge.

### 10.6 Plan Provisions

In all cases, the Plan document shall determine (subject to the Code) the specific features of the Plan, which may include the availability of certain types of investment options, Distributions, loans, and other features allowed but not mandated by the Code. Any provision of this Contract which deals with a feature not included in the Plan shall be ineffective.

### 10.7 Non-Participating

This Contract is Non-Participating, meaning that it is not eligible to share in Great-West's divisible surplus.

### 10.8 Currency and Contributions and Deposits

All amounts to be paid to or by Great-West must be in currency of the United States of America. All Contributions and Deposits to this Contract must be made payable to Great-West or to a designee acceptable to Great-West.

### 10.9 Notices

Great-West may provide any notice or demand to Plan Sponsor, Contractholder, Payee, or other person, by either sending it to such person's last known address, email address, or facsimile number on file with Great-West, or by posting it to an electronic network or website so long as a separate email notice is sent to the email address on file with Great-West.

An application, report, Request, election, direction, notice or demand by Plan Sponsor or a Payee/Annuitant must be made in Good Order. When Great-West requires it, Plan Sponsor will obtain the signature of the Payee on forms provided by Great-West. Great-West must first approve any written materials describing this Contract that are developed by any other person.

### 10.10 Disclaimer

Nothing contained in this Contract shall be construed to be tax, investment or legal advice, and Great-West assumes no responsibility or liability for any costs, including but not limited to taxes, penalties or interest incurred by the Plan, Plan Sponsor or any other Payee arising out of a determination of liability. Great-West shall not be held liable for any third party's negligence, willful misconduct, or failure to perform.

### 10.11 Representations

Great-West shall be entitled to rely and act solely on the reports, directions, proofs, notices, elections, and other information furnished to it by Contractholder, Plan Sponsor, or their designee(s), and such acts shall be conclusive and final.

### 10.12 Non-Waiver

Great-West may elect not to exercise a right, privilege, or option under this Contract. Such election shall not constitute a waiver of the right to exercise such right, privilege, or option at any subsequent time, nor shall it constitute a waiver of any provision of this Contract.

### 10.13 Information

Plan Sponsor shall furnish all information that Great-West may reasonably require for the administration of this Contract. Great-West shall not be responsible for any obligation under this Contract until it receives all requested information in Good Order.

# GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY

A Stock Company

## ENDORSEMENT for SECTION 457(b) Governmental Plans

### Attached to and forming a part of the Unallocated Group Annuity Contract ("Contract")

*This Endorsement is a part of the Great-West Life & Annuity Insurance Company ("Great-West") Contract to which it is attached.*

*Terms defined in the Contract have the same meaning where used in this Endorsement.*

This Endorsement forms a part of the Contract to which it is attached and addresses certain requirements under the Internal Revenue Code of 1986, as amended (the "Code"). The following provisions apply to Contracts issued under plans intended to satisfy the requirements of Section 457(b) of the Code ("Plan" or "Plans") which are established and maintained by a governmental employer within the meaning of Section 457(b)(e)(1)(A) ("Governmental Employer").

The effective date of this Endorsement is the issue date of the Contract or such later date necessary to maintain the status of the Plan under Section 457(b) of the Code.

If there is a conflict between the terms of this Endorsement and the terms of the Contract or riders thereto, the terms of this Endorsement will control. The Contract may, however, contain further restrictions, including but not limited to the number and frequency of Contributions which will be accepted, which will continue to apply to the extent consistent with Federal tax law.

All capitalized terms in this Endorsement shall have the same meaning as attributed to them in the Contract.

1. Any Annuitant under this Contract will be a Participant or Beneficiary of the Plan. The Contractholder will be the owner of the Contract under the Plan.
2. The Contract shall be subject to the provisions, terms and conditions of the Plan, and any payment, distribution or transfer under this Contract shall comply with the provisions, terms and conditions under the Plan as determined by the Governmental Employer (or its authorized designee) who established the Plan. We shall have no responsibility with respect to the provisions, terms and conditions of the Plan, including but not limited to determining whether any payment, distribution or transfer complies with the provisions, terms and conditions of the Plan or with Applicable Law, or in administration of the Plan. Further, the terms of the Plan cannot expand the terms of the Contract or impose responsibilities or duties on Great-West not specifically set forth in the Contract.
3. To maintain eligibility under Code section 457(b), the Plan must continue to hold Plan assets in trust.
4. The Contractholder shall hold all Plan assets hereunder for the exclusive benefit of Plan Participants and Beneficiaries and no portion of Contributions or earnings thereon may be used for or diverted to any other purpose other than for the exclusive benefit of such persons prior to the satisfaction of all liabilities with respect to such persons.

5. A Plan Participant or Beneficiary may request Plan Sponsor to direct us to have any portion of an eligible rollover distribution (within the meaning of Section 402(c)(4) of the Code) paid directly to an eligible retirement plan described in Section 402(c)(8)(B) of the Code by means of a direct transfer or direct rollover under Section 401(a)(31) of the Code.
6. Distributions under the Contract and any annuities purchased under the Contract shall meet the requirements of Section 72(s) of the Code, as applicable.

Signed for Great-West Life & Annuity Insurance Company on the Effective Date of the Contract.

A handwritten signature in black ink, appearing to read "Edmund F. Murphy". The signature is fluid and cursive, with a large initial "E" and a long horizontal flourish at the end.

President

# GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY

A Stock Company

## Great-West Investments Fixed Account – Series III FIXED ACCOUNT RIDER

*This Great-West Investments Fixed Account – Series III rider (the “Rider”) is part of the Great-West Life & Annuity Insurance Company (“Great-West”) Contract to which it is attached. Terms defined in the Contract have the same meaning where used in this Rider.*

The Great-West Investments Fixed Account – Series III (“Fixed Account”) is a Fixed Account that is part of the General Account of Great-West. All or a portion of the Contributions and Deposits may be allocated to the Fixed Account.

### **Definitions**

A **Competing Fund** is any of the following types of funds offered by the Plan Sponsor:

- (a) any stable value fund; or
- (b) any fund with a known or periodically declared rate of interest; or
- (c) any money market fund; or
- (d) any bond fund with a duration of 3 years or less; or
- (e) any investment option at any time under a Plan that, unless otherwise agreed by Great-West, is a balanced fund that seeks to maintain 75% or more of its assets invested in investment grade U.S. fixed income assets that have a stated benchmark of less than three (3) year or long term objective of maintaining a duration of less than three (3) years; or is a fund that has investment characteristics substantially similar or identical to a stable value fund; or is a fund that Great-West, in accordance with its underwriting standards, has determined to be a Competing Fund.

**Contractual Account Value** – For the purposes of this Rider only, the book value of the Fixed Account.

**Plan Sponsor Initiated Event (“PSIE”)** – Plan Sponsor action that leads to a transfer of Plan assets from the Fixed Account, including but not limited to, spin-off, layoff, sale, merger, terminating union in a multi-employer plan; terminating participating employer in a multiple employer plan; termination by a political subdivision, agency, or instrumentality of a governmental plan.

### **Credited Interest Rate**

Interest earned on the amounts invested in the Fixed Account is compounded daily at the declared credited interest rate. At the end of each calendar quarter, Great-West will establish and declare the interest rate to be credited to the Plan’s assets held in the Fixed Account during the next calendar quarter. Great-West will reset the interest rate quarterly and declare all reset credited interest rates at least 48 hours in advance of each reset.

### **Guaranteed Minimum Interest Rate**

The guaranteed minimum interest rate will be equal to 0.00%.

### **Contract Series Charge**

Great-West will accrue a charge to cover expenses, which as of the Contract Date, includes an amount for Contract administration, investment management, and various recordkeeping and other services that are provided to the Plan pursuant to a separate agreement with the Plan (which may

include services provided by one of Great-West's affiliates or subsidiaries). The accrual will be an amount determined by applying an effective annual Contract series charge rate of 0.25%.

In addition to the annual Contract series charge outlined above, there may be an adjustment to the credited interest rate which is used to reduce the amount for Plan recordkeeping/administration services that would otherwise be charged to the Plan, to the extent permissible under the Employee Retirement Income Security Act of 1974 (ERISA), as amended.

### **Limitations**

Great-West shall defer processing Distribution or Transfer Requests if transactions cannot be executed or settled due to the closing or disruption of financial markets or exchanges. Great-West shall resume the processing of Distributions and Transfers once the disruption is resolved.

Plan Sponsor shall not offer Competing Funds unless mutually agreed upon by Great-West and Plan Sponsor, in which case amounts withdrawn from the Fixed Account must be transferred to a non-competing fund and remain there for at least ninety (90) days before transferring to a Competing Fund.

Should the Plan Sponsor offer a Competing Fund without Great-West's agreement or should an existing Plan investment become a Competing Fund that is available to the Plan without Great-West's prior agreement, Great-West shall suspend all Transfers out of the Fixed Account upon at least thirty (30) calendar days advance written notice to the Plan Sponsor, which notice Plan Sponsor shall communicate promptly to the Participants, Alternate Payees and Beneficiaries invested in the Fixed Account. This Transfer restriction shall remain until the Competing Fund is removed as an eligible Plan investment option, or as otherwise mutually agreed.

### **Excessive Trading**

In order to discourage Transfer activities that are disruptive to the operation of the Great-West General Account, Plan Sponsor shall, or shall direct its designated Plan recordkeeper to track Participant, Alternate Payee, and Beneficiary initiated Transfers to identify a purchase into and sale out of the Fixed Account within a thirty (30) calendar day period of time (a "Round Trip").

If a Participant, Alternate Payee, or Beneficiary completes a second Round Trip within thirty (30) calendar days of completing the first Round Trip, Plan Sponsor shall, or shall direct its designated Plan recordkeeper to restrict such person from making a Transfer into or out of the Fixed Account for up to thirty (30) calendar days starting on the date the second Round Trip is completed (the "Transfer Restriction Period").

Contributions and Deposits, other than Transfers, will be allowed into the Fixed Account during the Transfer Restriction Period.

### **Transfers**

Unless otherwise provided in this Rider, Participant, Alternate Payee, and Beneficiary initiated Transfers of amounts held in the Fixed Account are permitted at any time.

### **Fixed Account Value**

The Plan's value in the Fixed Account is determined as the value of (a) minus (b) where:

- (a) is the sum of all Fixed Account Contributions and Deposits plus interest credited to the Fixed Account; and
- (b) is the sum of:
  - i. any amounts distributed;
  - ii. any Transfers from the Fixed Account;

- iii. any applicable fees and charges; and
- iv. any Applicable Tax.

**Plan Sponsor Initiated Events (“PSIE”)**

Plan Sponsor shall provide notification to Great-West, in writing, at least thirty (30) calendar days in advance of a PSIE.

Upon receipt of the written notification date, if the book value of the amount associated with the PSIE (“PSIE Fixed Account book value”) is less than or equal to the de minimis amount as disclosed on the Specification Page, then Great-West will remit the PSIE Fixed Account book value to Plan Sponsor’s designee within thirty (30) calendar days after the Event Date (as defined below).

With respect to the amounts in the Fixed Account associated with the PSIE that exceed the de minimis amount, Plan Sponsor must elect, in writing to Great-West, one of the following options on the date Great-West and Plan Sponsor mutually agree to transact the PSIE (the “Event Date”):

1. *PSIE Fixed Account Book Value* – Great-West shall remit to Plan Sponsor’s designee the amounts associated with the PSIE Fixed Account book value no later than twelve (12) months after the Event Date. However, if the average 3 year and 5 year Constant Maturity Treasury rates, as of the Event Date, is 300 basis points or more above the lowest weekly average of the 3 and 5 year Constant Maturity Treasury rates over the 104 weeks prior to the Event Date, Great-West will remit the Fixed Account book value no later than thirty-six (36) months after the Event Date. Great-West will use published rates from the United States Federal Reserve Website.

All the terms of the Contract shall remain in effect with regard to the interests in the Contractual Account impacted by the PSIE; however, no Plan loans and no additional Contributions or Deposits shall be made after the Event Date by or at direction of the Plan Sponsor with respect to amounts impacted by the PSIE. Additionally, no Plan Sponsor Transfers of the PSIE Fixed Account book value will be permitted.

2. *PSIE Market Value Adjustment (“MVA”)* –Within seven (7) Business Days after the Event Date, Great-West will remit to the Plan Sponsor’s designee the lesser of (a) Plan withdrawals associated with the PSIE (“PSIE Fixed Account book value”) and (b) the PSIE Fixed Account book value adjusted by the MVA factor as described below. However, if the Plan Sponsor pays from its own assets to Great-West the difference between the PSIE Fixed Account book value adjusted by the MVA factor as described below, prior to the Event Date, Great-West will remit the PSIE Fixed Account book value.

If the MVA Factor is positive, Great-West will not assess a market value adjustment.

$$\text{Market Value Adjustment (MVA)} = \text{MVA Factor} \times \text{Fixed Account value}$$

The MVA Factor is:

$$\text{MVA Factor} = \frac{((1+i)^3)}{((1+j+1.0\%)^3)} - 1$$

Where

*i* = the three (3) year Constant Maturity Treasury rate as published in *the United States Federal Reserve Website* on the later of the Contract Date and the last business day of the week two (2) years prior to the Calculation Date.

*j* = the three (3) year Constant Maturity Treasury rate as published in *the United States Federal Reserve Website* on the last business day of the week prior to the Calculation Date.

For the purposes of establishing a Calculation Date in the MVA factor formula, unless another date is mutually agreed upon, the Calculation Date will be the date Plan Sponsor notified Great-West of the PSIE.

## **Mischaracterization of PSIE**

If the Plan Sponsor timely notified Great-West of a withdrawal, but mischaracterized such withdrawal as a Participant-initiated withdrawal when it was due to a PSIE, and Great-West paid the full requested withdrawal amount, then Great-West will adjust the Fixed Account book value in accordance with the PSIE MVA provision. Specifically, if the MVA would have been negative, Great-West will make an additional charge to the book value equal to the PSIE amount that exceeds the de minimis amount, multiplied by the MVA factor.

## **Disputes**

If a dispute arises out of, or in connection with a withdrawal that was improperly characterized as a Participant-initiated withdrawal request rather than a PSIE withdrawal, Great-West and Plan Sponsor shall agree to pursue a resolution through good faith negotiation or other appropriate dispute resolution process.

## **Contract Termination Due to Full Plan Termination**

In the event of a full Plan termination, Plan Sponsor hereby instructs Great-West to pay Plan Sponsor the Contractual Account Value in a lump sum as soon as practicable, less any outstanding fees and charges.

## **Contract Termination other than Due to Full Plan Termination**

In order for the Plan Sponsor to terminate the Contract for any reason other than a full plan termination, at least sixty (60) calendar days before the Contract termination date, Plan Sponsor must notify Great-West, in writing, of Plan Sponsor's election of one of the Contract termination options described below ("Contract Termination Options"). Great-West shall remit all Fixed Account amounts pursuant to the Plan Sponsor's election less any outstanding fees and charges. The Plan Sponsor's election of the Contract Termination Option is irrevocable.

If Great-West terminates the Contract, no additional assets will be permitted to be allocated to this Rider. Unless Great-West and Plan Sponsor otherwise agree, Great-West will continue to administer all other applicable provisions of the Contract until Plan Sponsor notifies Great-West, in writing, of Plan Sponsor's election of one of the Contract Termination Options. Interest will continue to be credited to the Fixed Account from the date of termination to the date on which final payment is made. The rate will never be less than the guaranteed minimum interest rate.

However, if, on the written notification date, the book value is less than or equal to the de minimis amount as disclosed on the Specification Page, then Great-West will remit the book value to Plan Sponsor's designee within thirty (30) calendar days after the Contract termination date less any outstanding fees and charges

The Contract Termination Options are as follows:

1. ***Payment at Book Value*** – Great-West will remit the Contractual Account Value of the Contractholder's assets in the Fixed Account ("book value") either 12 or 36 months after the Contract termination date, depending on the conditions outlined in (a) and (b) below. Plan Sponsor and Great-West may mutually agree to an alternative book value payout date. If mutual agreement cannot be reached, then payment shall continue to proceed as described in accordance with (a) or (b), below. Starting on the Contract termination date, Great-West will continue to credit interest until Great-West remits the book value to the Plan Sponsor's designee.
  - (a) ***Payment at Book Value after 12 Months***: Great-West will remit the book value to the Plan Sponsor's designee twelve (12) months after the Contract termination date if, on the date Great-West receives notice of Contract termination in Good Order, the average of the 3

year and 5 year Constant Maturity Treasury rates is less than 300 basis points above the lowest weekly average of the 3 and 5 year Constant Maturity Treasury rates over the previous 104 weeks from notice.

Great-West will use published rates from the United States Federal Reserve Website.

*Numerical Example: On the date notice of Contract termination is received by Great-West in Good Order, the average of the 3 year and 5 year Constant Maturity Treasury rates is 4.00%. Over the previous 104 weeks from notice, the lowest average of the 3 year and 5 year Constant Maturity Treasury rates from the United States Federal Reserve Website was 2.25%. As 4.00% is less than 300 basis points above 2.25%, Great-West will remit the book value 12 months after the Contract termination date.*

Plan Sponsor may continue to direct Great-West to make Distributions and Participant, Alternate Payee, and Beneficiary-initiated Transfers from the Fixed Account at any time. However, no Plan Sponsor Transfers will be allowed after the Contract termination date.

Unless Plan Sponsor retains Great-West as the designated Plan recordkeeper, after the Contract termination date, Plan loans (if permitted under your Plan) will not be permitted to be made from the Fixed Account assets, and Contributions and Deposits will not be accepted into the Fixed Account.

- (b) **Payment at Book Value after 36 Months:** Great-West will remit the book value to the Plan Sponsor's designee thirty-six (36) months after the Contract termination date if, on the date Great-West receives notice of Contract termination in Good Order, the average of the 3 year and 5 year Constant Maturity Treasury rates is 300 basis points or more above the lowest weekly average of the 3 and 5 year Constant Maturity Treasury rates over the previous 104 weeks from notice.

Great-West will use published rates from the United States Federal Reserve Website.

*Numerical Example: On the date notice of Contract termination is received by Great-West in Good Order, the average of the 3 year and 5 year Constant Maturity Treasury rates is 6.00%. Over the previous 104 weeks from notice, the lowest average of the 3 year and 5 year Constant Maturity Treasury rates from the United States Federal Reserve Website was 2.50%. As 6.00% is more than 300 basis points above 2.50%, Great-West will remit the book value 36 months after the Contract termination date.*

Plan Sponsor may continue to direct Great-West to make Distributions and Participant, Alternate Payee, and Beneficiary-initiated Transfers from the Fixed Account at any time. However, no Plan Sponsor Transfers will be allowed after the Contract termination date.

Unless Plan Sponsor retains Great-West as the designated Plan recordkeeper, after the Contract termination date, Plan loans (if permitted under your Plan) will not be permitted to be made from the Fixed Account assets, and Contributions and Deposits will not be accepted into the Fixed Account.

- 2. Payment in 20 Quarterly Installments** – Great-West will remit the total Contractual Account Value of the Contractholder's assets in the Fixed Account ("book value") in twenty (20) quarterly installments. Great-West will make the first installment no later than ninety (90) calendar days after Contract termination date. The first installment will be 1/20<sup>th</sup> of the book value on the payment date. The remaining installments will be incrementally remitted in fractional amounts of remaining book value each calendar quarter over the succeeding nineteen quarters (e.g., 1/19, 1/18...1/1) until the total book value is remitted. Great-West will continue to credit interest to the book value held in the Fixed Account (i.e., the portion of the

book value that has not been transferred out of the Fixed Account) until Great-West remits the total book value to the Plan Sponsor's designee.

Plan Sponsor may continue to direct Great-West to make Distributions and Participant, Alternate Payee, and Beneficiary initiated Transfers from the Fixed Account at any time. However, no Plan Sponsor Transfers will be allowed after the Contract termination date.

Unless Plan Sponsor retains Great-West as the designated Plan recordkeeper, after the Contract termination date, Plan loans (if permitted under your Plan) will not be permitted to be made from the Fixed Account assets, and Contributions and Deposits will not be accepted into the Fixed Account.

3. **Lump Sum Payment with Market Value Adjustment** – The Market Value Adjustment (“MVA”) of the Fixed Account value will be calculated as of the date Great-West receives notice of Contract termination in Good Order, or another date as mutually agreed (“Calculation Date”). Within seven (7) Business Days after the Contract termination date, Great-West will remit the lesser of (a) the total Contractual Account Value in the Fixed Account (“book value”) and (b) the book value adjusted by the MVA factor. However, if Great-West receives the difference between the book value and the book value adjusted by the MVA factor from the Plan Sponsor prior to the Contract termination date, Great-West will remit the book value.

Market Value Adjustment (MVA) = MVA Factor x Fixed Account value

The MVA Factor is:

$$\text{MVA Factor} = \frac{((1+i)^3)}{((1+j+1.0\%)^3)} - 1$$

Where

*i* = the three (3) year Treasury Constant Maturity rate as published in *the United States Federal Reserve Website* on the later of the Contract Date and the last business day of the week two (2) years prior to the Calculation Date.

*j* = the three (3) year Treasury Constant Maturity rate as published in *the United States Federal Reserve Website* on the last business day of the week prior to the Calculation Date.

4. **Any other termination option** allowable under applicable law as mutually agreed upon in writing by Great-West and the Plan Sponsor.

### **Plan Sponsor Termination and/or Transfer of Fixed Account under the Contract**

If Plan Sponsor elects to remove this Fixed Account as an eligible investment option but does not desire to terminate the Contract, Plan Sponsor must elect one of the Contract Termination Options listed in the “Contract Termination other than Due to Full Plan Termination” section of this Rider. Alternatively, if Plan Sponsor elects to remove this Fixed Account as an eligible Plan investment option but does not terminate the Contract, Plan Sponsor may request to transfer the Contractholder's Fixed Account value on a mutually agreeable date to another series of the Fixed Account. For purposes of this section, any references to Contract termination and Contract termination date in the “Contract Termination other than Due to Full Plan Termination” section of this Rider will be interpreted as Fixed Account Rider termination and Fixed Account Rider termination date, respectively.

### **General**

For the purposes of the reference in the Rider, Great-West shall use a comparable source if applicable information is unavailable in the United States Federal Reserve Website.

# GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY

A Stock Company

## GROUP UNALLOCATED ANNUITY CONTRACT SPECIFICATION PAGE

This Specification Page is made part of the Great-West Life & Annuity Insurance Company Group Annuity Contract ("Contract") to which it is attached.

Terms defined in the Contract have the same meaning where used in this Specification Page.

PLAN SPONSOR	<b>Northern Inyo Healthcare District</b>
CONTRACTHOLDER	<b>Northern Inyo Healthcare District and the Trustee/s of the Northern Inyo Hospital 457 Plan as identified on the Group Annuity Contract Application</b>
PLAN	<b>Northern Inyo Hospital 457 Plan</b>
CONTRACT NUMBER	<b>100158-01</b>
CONTRACT DATE	April 14, 2021 or the later of the dates signed by all parties.

### OTHER PROVISIONS

**Great-West Investment Fixed Account De Minimis Pay-out Amount** – The minimum guaranteed de minimis amount is \$20,000.

**NOTICE OF PROTECTION PROVIDED BY  
CALIFORNIA LIFE AND HEALTH INSURANCE GUARANTEE ASSOCIATION**

This notice provides a brief summary regarding the protections provided to policyholders by the California Life and Health Insurance Guarantee Association ("the Association"). The purpose of the Association is to assure that policyholders will be protected, within certain limits, in the unlikely event that a member insurer of the Association becomes financially unable to meet its obligations. Insurance companies licensed in California to sell life insurance, health insurance, annuities and structured settlement annuities are members of the Association. The protection provided by the Association is not unlimited and is not a substitute for consumers' care in selecting insurers. This protection was created under California law, which determines who and what is covered and the amounts of coverage.

Below is a brief summary of the coverages, exclusions and limits provided by the Association. This summary does not cover all provisions of the law; nor does it in any way change anyone's rights or obligations or the rights or obligations of the Association.

**COVERAGE**

• **Persons Covered**

Generally, an individual is covered by the Association if the insurer was a member of the Association *and* the individual lives in California at the time the insurer is determined by a court to be insolvent. Coverage is also provided to policy beneficiaries, payees or assignees, whether or not they live in California.

• **Amounts of Coverage**

The basic coverage protections provided by the Association are as follows.

• **Life Insurance, Annuities and Structured Settlement Annuities**

For life insurance policies, annuities and structured settlement annuities, the Association will provide the following:

• **Life Insurance**

80% of death benefits but not to exceed \$300,000

80% of cash surrender or withdrawal values but not to exceed \$100,000

• **Annuities and Structured Settlement Annuities**

80% of the present value of annuity benefits, including net cash withdrawal and net cash surrender values but not to exceed \$250,000

The maximum amount of protection provided by the Association to an individual, for *all* life insurance, annuities and structured settlement annuities is \$300,000, regardless of the number of policies or contracts covering the individual.

- **Health Insurance**

The maximum amount of protection provided by the Association to an individual, as of July 1, 2016, is \$546,741. This amount will increase or decrease based upon changes in the health care cost component of the consumer price index to the date on which an insurer becomes an insolvent insurer. Changes to this amount will be posted on the Association's website [www.califega.org](http://www.califega.org).

**COVERAGE LIMITATIONS AND EXCLUSIONS FROM COVERAGE**

The Association may not provide coverage for this policy. Coverage by the Association generally requires residency in California. You should not rely on coverage by the Association in selecting an insurance company or in selecting an insurance policy.

The following policies and persons are among those that are excluded from Association coverage:

- A policy or contract issued by an insurer that was not authorized to do business in California when it issued the policy or contract
- A policy issued by a health care service plan (HMO), a hospital or medical service organization, a charitable organization, a fraternal benefit society, a mandatory state pooling plan, a mutual assessment company, an insurance exchange, or a grants and annuities society
- If the person is provided coverage by the guaranty association of another state
- Unallocated annuity contracts; that is, contracts which are not issued to and owned by an individual and which do not guaranty annuity benefits to an individual
- Employer and association plans, to the extent they are self-funded or uninsured
- A policy or contract providing any health care benefits under Medicare Part C or Part D
- An annuity issued by an organization that is only licensed to issue charitable gift annuities
- Any policy or portion of a policy which is not guaranteed by the insurer or for which the individual has assumed the risk, such as certain investment elements of a variable life insurance policy or a variable annuity contract
- Any policy of reinsurance unless an assumption certificate was issued
- Interest rate yields (including implied yields) that exceed limits that are specified in Insurance Code Section 1067.02(b)(2)(C)

**NOTICES**

Insurance companies or their agents are required by law to give or send you this notice. Policyholders with additional questions should first contact their insurer or agent. To learn more about coverages provided by the Association, please visit the Association's website at [www.califega.org](http://www.califega.org), or contact either

California Life and Health  
Insurance  
Guarantee Association  
P.O. Box 16860  
Beverly Hills, CA 90209-3319  
(323) 782-0182

California Department of  
Insurance  
Consumer Communications  
Bureau  
300 South Spring Street  
Los Angeles, CA 90013  
(800) 927- 4357

**Insurance companies and agents are not allowed by California law to use the existence of the Association or its coverage to solicit, induce or encourage you to purchase any form of insurance. When selecting an insurance company, you should not rely on Association coverage. If there is any inconsistency between this notice and California law, then California law will control.**

**RESOLUTION NO. 21-04**

**RESOLUTION OF THE BOARD OF DIRECTORS OF  
NORTHERN INYO HEALTHCARE DISTRICT  
APPROVING THE APPOINTMENT OF NEW ADVISORS TO THE  
PENSION PLAN, THE 401(a) RETIREMENT PLAN, AND THE 457(b) PLAN**

WHEREAS, Northern Inyo Healthcare (“District”) previously established the Northern Inyo County Local Hospital District Retirement Plan (“Pension Plan”), the Northern Inyo County Local Hospital District 401(a) Retirement Plan (“DC Plan”), and the Northern Inyo Hospital 457 Plan (“457 Plan”) (collectively referred to as the “Plans”);

WHEREAS, the Board of Directors of the District (“Board”) previously authorized a review of the current advisors of the Plans which resulted in a committee of District and bargaining unit representatives (“Pension Committee”) recommending that several new advisors be appointed to the Plans;

WHEREAS, the Pension Committee has recommended that Empower Retirement be appointed as the new record-keeper for the DC Plan and the 457 Plan effective as of April 28, 2021 or as soon as practical thereafter;

WHEREAS, the Pension Committee has further recommended that Great-West Trust Company, LLC, be appointed as the trustee for the DC Plan and the 457 Plan effective as of April 28, 2021 or the date of the execution of the agreements, if later;

WHEREAS, the Pension Committee has also recommended that Hooker & Holcombe Investment Advisors, Inc. be retained the new consultant and actuary for the Pension Plan effective as of April 28, 2021 or as soon as practical thereafter;

WHEREAS, the Pension Committee has recommended that Charles Schwab Trust Bank, be selected as the custodian of the Pension Plan effective as of April 28, 2021 or the date of the execution of the agreements, if later;

WHEREAS, a Trust Agreement (Trust) under Internal Revenue Code (Code) section 501(a) for the Pension Plan has been prepared for Board approval for the purpose of holding the Pension Plan assets for the exclusive benefit of participants and their beneficiaries;

WHEREAS, the CEO, Director of Human Resources and Chief Financial Officer have been proposed as the Trustees of the Trust to the Pension Plan effective as of April 28, 2021 or the date of the execution of the agreements, if later; and

WHEREAS, the Pension Committee has recommended that Hooker & Holcombe Investment Advisors, Inc. be further retained as the new investment advisor providing discretionary 3(38) investment advisory services for the Plans effective as of April 28, 2021.

**NOW, THEREFORE, BE IT RESOLVED, ORDERED AND DIRECTED THAT:**

1. Empower Retirement is approved and appointed as the new record-keeper for the DC Plan and the 457 Plan effective as of April 28, 2021 or as soon as practical thereafter and all future

DC Plan contributions and 457 Plan deferrals will be directed to Empower Retirement for purposes of record-keeping.

2. Great-West Trust Company, LLC is approved and appointed as the trustee for the DC Plan and the 457 Plan effective as of April 28, 2021 or the date of the execution of the agreements, if later, and all future DC Plan contributions and 457 Plan deferrals will be directed to Great-West Trust Company, LLC.
3. Hooker & Holcombe Investment Advisors, Inc. is approved and appointed as the new consultant and actuary for the Pension Plan effective as of April 28, 2021 or as soon as practical thereafter.
4. Charles Schwab Trust Bank is approved and appointed as the custodian of the Pension Plan effective as of April 28, 2021 or the date of the execution of the agreements, if later.
5. The Trust Agreement for the Pension Plan is hereby approved and the Chair of the Board is hereby directed to sign on behalf of the District.
6. The CEO, Director of Human Resources and Chief Financial Officer are hereby appointed as the Trustees of the Pension Plan effective as of April 28, 2021 or the date of the execution of the agreements, if later.
7. Hooker & Holcombe Investment Advisors, Inc. is approved and appointed as the new investment advisor providing discretionary 3(38) investment advisory services for the Plans effective as of April 28, 2021.
8. The fee agreements for Empower Retirement, Hooker & Holcombe Investment Advisors, Inc., and Charles Schwab Trust Bank are hereby approved.
9. Upon completion of the necessary agreements between and among the District, Empower Retirement, Great-West Trust Company, LLC, Hooker & Holcombe Investment Advisors, Inc., Charles Schwab Trust Bank and the Trust Agreement for the Retirement Plan, in the same or similar format as currently presented to the Board, and the execution of such agreements by the President of the Board of Directors, the Chief Executive Officer of the District or such other officer of the District to whom such duties have been delegated, the agreements shall be placed on the Consent Agenda of a meeting of the Board of Directors for consent and ratification.
10. The Chief Executive Officer of the District is instructed and authorized to work with Empower Retirement and benefits legal counsel to prepare and execute restatements of the DC Plan and the 457 Plan using the Empower Retirement prototype plan documents, which restatements must be prepared in accordance with the terms of the current documents in effect for the DC Plan and the 457 Plan, and the agreements shall be placed on the Consent Agenda of a meeting of the Board of Directors for consent and ratification.
11. The Chief Executive Officer of the District is authorized and directed to work with the District's Pension Committee, its general legal counsel, its benefits legal counsel, and District administration to execute any and all agreements, amendments and documents and to take any and all other actions deemed necessary or appropriate to effectuate the intent of this Resolution.

This Resolution is adopted on April 28, 2021 by vote of the Board of Directors.

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NIHD Board President

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NIHD Board Secretary

**TRUST AGREEMENT**  
**FOR THE**  
**NORTHERN INYO COUNTY LOCAL HOSPITAL DISTRICT**  
**RETIREMENT PLAN**

THIS TRUST AGREEMENT is made and entered into by and between NORTHERN INYO HEALTHCARE DISTRICT (“Employer”) and the trustees shown on the signature page hereto (collectively referred to as “Trustee”). This Trust Agreement shall be effective as of the date shown on the signature page hereto.

RECITALS

1. Employer has previously adopted the NORTHERN INYO COUNTY LOCAL HOSPITAL DISTRICT RETIREMENT PLAN (the “Plan”) effective as of March 1, 1975, intended to qualify under section 401(a) of the Internal Revenue Code as it may be amended from time to time, and under federal or state statutes of similar purport.

2. The Plan provides that the assets of the Plan must be held pursuant to an insurance contract or trust agreement.

3. The Plan assets are currently held pursuant a Contract with an insurance company, New York Life.

4. Employer wishes to terminate the Contract with New York Life and desires instead to adopt this Trust Agreement in order to establish a Trust to hold the assets of the Plan.

5. Funds and other assets are from time to time contributed to the Trustee to be maintained in trust for the exclusive benefit of the eligible employees of the Employer and their Beneficiaries under the terms of the Plan.

NOW, THEREFORE, it is agreed by and between Employer and Trustee, as follows:

ARTICLE I  
GENERAL

1.2 Trust. The Employer hereby establishes with the Trustee, pursuant to the Plan, the TRUST AGREEMENT FOR THE NORTHERN INYO COUNTY LOCAL HOSPITAL DISTRICT RETIREMENT PLAN (the “Trust” or “Trust Agreement”).

1.3 Exempt Trust. The Trust is intended to qualify as an exempt trust pursuant to Code sections 401(a) and 501(a), and shall be construed accordingly.

1.4 Exclusive Benefit. The principal of the Trust, and any earnings thereon, shall be held separate and apart from other funds of the Employer and shall be used exclusively for the Participants and their Beneficiaries. No person shall have any rights or interests in the

Trust except as expressly provided herein or in the Plan. Except as specifically provided in this Trust Agreement or in the Plan, or as otherwise specifically permitted by law, it shall be impossible, at any time prior to the satisfaction of all liabilities with respect to the Participants and their Beneficiaries, for any part of the Trust to be used for, or diverted to, purposes other than for the exclusive benefit of the Participants and their Beneficiaries.

1.5 Interpretation. Words, terms or phrases that are defined in either the Plan or this Trust Agreement are similarly defined for purposes of the other document unless the meaning thereof is otherwise qualified by the context of the language in such words, terms or phrases as used. If any provision is susceptible of more than one interpretation, such interpretation shall be given thereto as is consistent with the Trust being a tax-exempt trust under the Code and the Plan being a funded plan that is governed by the provisions of Code section 401(a). If any provision of this Trust Agreement is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions, and this Trust Agreement shall be construed and enforced as if such provisions had not been included.

## ARTICLE II DEFINITIONS

2.1 Additional Definitions. In addition to the terms defined in the Plan, the following words and phrases, when used herein, shall have the following meanings:

(a) Custodian. A financial institution such as a bank or brokerage firm, which holds the assets of the Plan.

(b) Fund or Trust Fund. “Fund” or “Trust Fund” shall mean all monies, securities and assets held by the Trustee for the benefit of Participants and Beneficiaries.

(c) Manager. “Investment Manager” shall mean a person or organization acting as a fiduciary (other than a trustee with respect to investments of the Trust Fund).

## ARTICLE III ADMINISTRATION OF TRUST FUND

3.1 Establishment of Trust. The Trust shall be administered as a Trust of such funds as shall from time to time be deposited with the Trustee, by or on behalf of Participants, and their Beneficiaries, in the Plan, together with any income generated by the Trust Fund.

The Trustee hereby accepts the Trust created hereunder and agrees to accept payments and contributions made to the Trust and to hold, manage, and administer the Trust pursuant to the terms of this Trust Agreement. The Trustee shall be responsible for the investment and reinvestment of the Trust Fund and the Administrator hereby delegates to the Trustee, except as otherwise provided herein, the exclusive authority and discretion to manage and control the assets of the Trust.

3.2 Plan Administrator. The Employer, or its designee, shall be the Administrator, with authority to control and manage the operation and administration of the Plan.

3.3 Allocation and Delegation of Fiduciary Duties. The Administrator may allocate its fiduciary duties among its members or may delegate its responsibilities to persons who are not named fiduciaries with respect to the specific responsibility delegated. Such allocation shall be reviewed periodically by the Administrator and shall be terminable upon such notice as the Administrator, in its sole discretion, deems reasonable and prudent under the circumstances.

3.4 Trustee. The Trustee shall have the authority to receive, hold, invest, administer and distribute the Trust Fund as provided in the Plan and as directed by the Administrator. The Administrator shall administer the Plan in accordance with Section IX of the Plan and the Trustee shall not be responsible for administering the Plan but shall only be responsible for administering the Trust Fund as provided in this Trust Agreement and in Section IX of the Plan.

3.5 Pooling of Assets. The assets of the Trust Fund may be combined or pooled with the assets of other trusts maintained by Employer under the provisions of any qualified employee benefit plan and the Trustee may commingle investments and carry joint accounts on behalf of the funds; provided that undivided shares or interests in such investments or accounts or in any pooled assets shall be allocated to each trust in accordance with its respective interest. In addition, the Trustee shall keep separate accounting records for each fund.

3.6 Custodian. The Board of Directors of the Employer may appoint a Custodian to hold the assets of the Plan.

#### ARTICLE IV INVESTMENT POWERS

4.1 Investment of Trust. The Trustee shall invest and reinvest the principal and income of the Trust Funds in such bonds, securities, real or personal property, or other forms of investment as the Trustee determines appropriate, except as limited as follows:

(a) The Trustee shall not engage in any transactions prohibited by Section 4975(c) of the Code, except as provided in Section 4975(d) of the Internal Revenue Code.

(b) The Trustee shall not acquire any assets in which it would maintain the indicia of ownership outside the jurisdiction of the District Court of the United States, except as otherwise permitted by regulations of the Secretary of Labor of the United States.

4.2 Diversification. Except as provided in the Transfer of Investment Authority article, the Trustee shall diversify the investments of the Trust so as to minimize the risk of large losses unless it is clearly prudent not to do so.

4.3 Multiple Trustees.

(a) When two or more persons serve as Trustee, they are specifically authorized, by a written agreement between themselves, to allocate specific responsibilities,

obligations or duties among themselves. An original copy of such written agreement is to be delivered to the Plan Administrator and retained with the other Plan documents.

(b) The signature of at least two (2) Trustees shall be required to carry out any act approved by the Trustees and shall be sufficient evidence that such act is made in accordance with the provisions of this Trust

#### ARTICLE V TRANSFER OF INVESTMENT AUTHORITY

5.1 Transfer to Employer or Investment Manager. The Employer may remove from the Trustee and transfer to the Employer or to an Investment Manager the authority and duty to manage, acquire or dispose of all or a portion of the Trust assets. In addition, if such authority has been transferred to the Employer, it may appoint an Investment Manager to manage, acquire or dispose of all or a portion of the Trust assets.

(a) Transfer to Employer. If the authority to manage, acquire or dispose of trust assets is transferred to the Employer, the Trustee shall follow the written directions of the Employer with respect to the management, acquisition or disposal of trust assets. The Employer may employ such persons or organizations to render advice or perform other services with respect to its responsibilities as it determines to be necessary or appropriate. Such persons or organizations shall not be authorized to direct the Trustee as to investments, and shall have no discretionary authority over the assets of the Trust unless appointed as an Investment Manager.

(b) Investment Manager. If an Investment Manager is appointed by the Board of Directors of the Employer, the Trustee shall follow the written directions of the Investment Manager with respect to the management, acquisition or disposal of trust assets.

5.2 Compliance with Investment Instructions. The Trustee shall implement instructions under Section 5.1 as soon as administratively practical, provided it may decline to carry out any instructions which it deems inappropriate by virtue of applicable law. In addition, the Trustee may decline to carry out instructions which would result in a prohibited transaction, as defined in Code Section 4975; or would generate income that would be taxable to the Plan.

#### ARTICLE VI SPECIFIC POWERS OF TRUSTEE

The Trustee shall have the full power and authority with respect to any and all assets at any time received or held in Trust, to do all such acts, take all such proceedings, and exercise all such rights and privileges as could be done, taken, or exercised by the absolute owner thereof, necessary to hold and administer the Trust Funds, including, but without in any way limiting the generality of the foregoing, the following powers and authority:

(a) To sell and exchange with any person any and all assets which from time to time comprise the Trust, at either public or private sale, at such time or times and on such terms and conditions as to credit or otherwise, as the Trustee, in its discretion, may deem appropriate;

(b) To invest and reinvest all or any part of the Trust in such manner as it shall deem advisable, including stocks, bonds, notes, option contracts, listed or unlisted, covered or uncovered, puts and calls, securities, or obligations of any kind, real property wherever situated, annuities, and such other property and investments as the Trustee deems advisable with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(c) To vote by proxy or otherwise to represent securities and in that connection to delegate such of its discretionary powers as it deems appropriate; to consent as stockholder to any corporate acts it shall deem proper; to participate in any plans or arrangements for the protection or promotion of the interest of stockholders; to pay such sums of money as it deems expedient for the protection of its interests as stockholder; and to retain assets received in lieu of or because of any securities held;

(d) To extend the time for payment of or hold past due any obligations held or any installment thereof; to consent to the modification thereof or waive any defaults thereunder; to compromise, arbitrate, or otherwise adjust claims in favor of or against the Trust; to foreclose upon any security in such manner as it deems proper; to pay such sums of money as it deems expedient for the insurance, protection, maintenance, and repair of property or to redeem property for nonpayment of taxes or any liens; and to lease for such time as the Trustee deems proper, whether within or beyond the termination of the Trust;

(e) To cause investments to be registered in its name as Trustee or in that of its nominee, or to retain investments unregistered and in a form permitting transfer delivery;

(f) To borrow money for any Trust purpose upon such terms and conditions as it deems proper and to obligate the Trust for repayment, and to encumber the Trust or any of its property;

(g) To keep such portions of the Trust in cash or on deposit in a demand account as the Trustee, from time to time, may deem to be in the best interest of the Trust, without liability for interest thereon, or hold money on deposit in interest bearing bank savings accounts or money market funds;

(h) To make any agreement with an Insurance Company that the Trustee deems necessary to carry out the purposes of this Trust, and to pay all premiums on annuity contracts held hereunder, to agree with an Insurance Company for the conversion of any part or all of the Trust into annuities for the benefit of Participants or their Beneficiaries upon any distribution of benefits; and to agree with an Insurance Company for the investment of any part or all of the Trust, beyond its investment in annuity contracts, and to deposit with such insurance company all amounts so agreed upon;

(i) To settle, compromise or submit to arbitration any claims, debts or damages due or owing to or from the Trust, to commence or defend suits or legal or administrative proceedings, to foreclose any obligation by legal proceedings or otherwise, and to represent the Trust in all legal and administrative proceedings, arbitrations and negotiations. The Trustee shall not exercise any of the powers conferred upon it by this Section (i) without first giving notice of

the action proposed to be taken to the Plan Administrator and obtaining prior written approval of such action from the Plan Administrator;

(j) To consult with or employ legal counsel of its own selection (who may, but need not be, counsel to the Employer or the Trustee), agents, or independent contractors (to whom it may delegate such ministerial and limited discretionary duties as it deems fit). The reasonable compensation and fees of such persons shall be chargeable as an expense of the Trust; and

(k) To do all such acts, take all such proceedings and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustee may deem necessary or appropriate to invest, reinvest and administer the Trust and to carry out the purposes of this Trust.

## ARTICLE VII FIDUCIARY STANDARDS AND INDEMNIFICATION

7.1 Fiduciary Standards. The Trustee and all other fiduciaries shall discharge their duties with respect to the Trust solely in the interest of the Participants of the Plan. These duties shall be discharged for the exclusive purpose of providing benefits to the Participants and their Beneficiaries. All fiduciaries shall discharge their duties in accordance with the documents and instruments governing the Plan and Trust; provided, however, that the duties and responsibilities of the Trustee are limited to those expressly imposed upon the Trustee by this Trust Agreement.

7.2 Indemnification of Trustee. The Employer shall indemnify and hold harmless the Trustee from and against any and all liabilities, claims, demands, costs and expenses, including attorney's fees, arising out of an alleged breach in the performance of its fiduciary duties under this Trust Agreement and under the laws of the state of California, other than such liabilities, claims, demands, costs and expenses as may result from gross negligence or willful misconduct. The Employer shall have the right, but not the obligation, to conduct the defense of such persons in any proceeding to which this Section applies. In lieu of the foregoing, the Employer may satisfy its obligations under this Section through the purchase of a policy or policies of insurance providing equivalent protection; however, no insurer shall have any rights against the Employer arising out of this Section.

## ARTICLE VIII DISTRIBUTIONS

The Trustee shall from time to time make distributions from the Trust Fund in accordance with the written directions of the Administrator. These payments may be made either directly to the person designated by the Administrator or to the Administrator for transmittal to the Participant or Beneficiary. The Trustee shall not be responsible in any way for the application of such payments, provided that the Trustee complies with the written instructions of the Administrator.

ARTICLE IX  
ACCOUNTING

9.1 Record-Keeping. The Trustee shall maintain accurate and detailed records and accounts of all investments, receipts, disbursements, and other transactions hereunder, and such records shall be available at all reasonable times to inspection by the Administrator or any other person designated by the Administrator.

The Trustee, at the direction of the Administrator, shall submit to the Administrator any valuations, reports, or other information as the Employer may reasonably require. In the absence of fraud or bad faith, the valuation of the Trust by the Trustee shall be conclusive.

9.2 Annual Account. Within a reasonable period following the close of each Plan Year (or following the close of such period as may be agreed upon by the Trustee and the Administrator), the Trustee shall file with the Administrator a written account setting forth a description of all securities and other property purchased and sold, all receipts, disbursements, and other transactions effected by it during such period, and listing the securities and other property held by it at the end of such period.

The Administrator may approve such account by written notice of approval delivered to the Trustee. Upon receipt of a written approval of the account, such account shall be final and binding, and shall be a full discharge of the Trustee's liability and responsibility to the Employer with respect to the matters set forth in such account.

ARTICLE X  
CHANGE OR ADDITION OF TRUSTEE

10.1 Resignation or Removal. Any Trustee may resign or be removed by Employer at any time upon the giving of thirty (30) days' written notice, unless such notice is waived by the Trustee. Upon such resignation or removal, the Employer, by written designation, shall, if the former Trustee was a sole Trustee, and may, if the former Trustee was one of two or more Trustees, appoint a successor Trustee who shall have the same powers and duties as those conferred upon the former Trustee. Upon acceptance of such appointment by the successor Trustee, the Trustee shall transfer all Trust Funds and property to such successor.

10.2 Accounting. Within sixty (60) days after such transfer, the resigning or removed sole Trustee shall render to the Administrator an account in the form and manner prescribed for the annual account. The Administrator may approve such account by written notice of approval delivered to the Trustee. Upon receipt of a written approval of the account, such account shall be final and binding, and shall be a full discharge of the Trustee's liability and responsibility to the Administrator with respect to the matters set forth in such account.

10.3 Co-Trustee. The Employer at any time may, by written designation, appoint one (1) or more additional Trustees who shall have the same powers and duties as those conferred upon the Trustee hereunder.

ARTICLE XI  
FEES AND EXPENSES

11.1 Compensation. The Employer shall pay to Trustee annually the expenses incurred in administering the Trust and such compensation for its services as Trustee as may be agreed upon from time to time. Such amounts shall be paid from the Trust Fund unless paid by the Employer.

11.2 Taxes. All taxes of any kind assessed upon, or in respect of, the Trust Fund shall be paid from the Trust Fund.

ARTICLE XII  
AMENDMENT AND TERMINATION

12.1 Amendments. This Trust Agreement, other than Section 12.2, may be amended at any time by written agreement of Employer and Trustee; provided, however, that such amendment shall not operate to:

- (a) Revest the Trust or any part thereof in Employer; or
- (b) Reduce the amount then held for the benefit of any Participant in the Plan.

12.2 Termination. Employer intends that this Trust be permanently administered for the benefit of the Participants and this Trust is accordingly irrevocable, but Employer reserves the right to terminate the Trust by giving written notice to Trustee, and, upon such termination, the Trust shall be distributed as provided by law by the Trustee when directed by the Employer.

ARTICLE XIII  
GENERAL PROVISIONS

13.1 Governing Law. This Trust will be administered in the State of California, and its validity, construction, and all rights hereunder shall be governed by the laws of the State of California. If any provisions of this Trust Agreement shall be invalid or unenforceable, the remaining provisions shall continue to be fully effective.

13.2 Diversion of Assets. No portion of the assets in the Trust shall revert to or become the property of the Employer or be diverted to purposes other than for the exclusive benefit of any Participant in the Plan or his or her beneficiaries, except as provided under Plan termination provisions described in the Plan.

13.3 Spendthrift. No Participant shall have any right to assign, transfer, hypothecate, encumber, commute, or anticipate his or her interest in any benefits under this Trust, and such benefits shall not in any way be subject to any legal process of levy or execution upon, or attachment or garnishment proceedings, against the same for the payment of any claim against any such person. This prohibition against assignment or alienation of benefits shall not apply to the creation, assignment, or recognition or a right to any benefit pursuant to a qualified domestic relations order, as defined in Section 414(p) of the Code, as amended.

IN WITNESS WHEREOF, the parties have caused this Trust Agreement to be executed as of \_\_\_\_\_ 2021.

**EMPLOYER:**

NORTHERN INYO COUNTY LOCAL  
HOSPITAL DISTRICT

By: \_\_\_\_\_  
Chair of the Board of Directors

**TRUSTEE:**

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Director of Human Resources

\_\_\_\_\_  
Chief Financial Officer

APPROVED AS TO FORM AND CONTENT:

BEST BEST & KRIEGER LLP

By: \_\_\_\_\_  
Attorneys for Employer



## ADMINISTRATIVE SERVICES AGREEMENT

This Administrative Services Agreement ("Agreement") sets forth the general terms and conditions under which Empower Retirement, LLC ("Empower") will provide administrative services to the undersigned Plan Sponsor with respect to Plan Sponsor's defined contribution plan (the "Plan" or "Plans") established pursuant to Code section 401(a), 401(k) or 457(b) (as applicable).

### 1. Definitions

"Agreement" includes this base Administrative Services Agreement as well as the attached Schedule of Services and a separately executed fee schedule or fee proposal ("Fee Schedule").

"Business Day" means any day, and only for as many hours as, the New York Stock Exchange is open.

"Code" means the Internal Revenue Code of 1986, as amended from time to time.

"Empower" and "Empower Retirement" refer to Empower Retirement, LLC and its affiliates with respect to products and services offered in the retirement markets, including but not limited to recordkeeping and communication services.

"Plan Sponsor" and "Employer" refer to the undersigned Employer, the Plan Sponsor, Plan Administrator, named fiduciaries, and other delegates of the Employer (other than Empower), as dictated by the context.

### 2. Services Provided by Empower

**2.1. Services.** Empower will provide the services set forth in this Agreement (collectively the "Services"). In the performance of the Services, Empower will act as a non-discretionary service provider directed by the Plan Sponsor in compliance with applicable laws and regulations. The parties agree that the purchase and sale of securities for the Plan, except for employer stock and unaffiliated self-directed brokerage, will be effected through GWFS Equities, Inc., a broker/dealer affiliate of Empower.

**2.2. Non-Fiduciary Status.** Plan Sponsor acknowledges that the Services are ministerial and are not intended to involve the exercise of any discretion that would cause Empower to be a fiduciary or Plan Administrator as defined under the Code, the Investment Advisors Act of 1940, or state law, as applicable. Nothing in this Agreement or otherwise shall result in Empower having any discretionary authority or responsibility for the administration of the Plan, including management of the Plan or disposition of Plan assets. Empower shall not render, or have any authority or responsibility to render, investment advice for a fee or other compensation, direct or indirect, with respect to any Plan assets.

**2.3. No Tax or Legal Advice.** Nothing in this Agreement is intended to constitute legal or tax advice from Empower to Plan Sponsor, or to any other party. Plan Sponsor understands that Empower has not given and may not give legal advice. All issues should be reviewed and discussed with Plan Sponsor's legal counsel and/or tax adviser.

### 3. Responsibilities of Plan Sponsor

Plan Sponsor acknowledges that Empower cannot effectively perform the Services without Plan Sponsor's cooperation. Accordingly, Plan Sponsor acknowledges and agrees that it will fulfill the following duties and obligations.



**3.1. Plan Administrator.** Plan Sponsor, a designated employee or committee, or a third party retained by Plan Sponsor or named in the Plan (other than Empower or one of its affiliates) will be the “plan administrator” and “named fiduciary” as defined by applicable law.

**3.2. Provision of Information.** Plan Sponsor or its designee, including any third parties retained by or on behalf of the Plan or Plan Sponsor, will provide all information necessary for Empower to perform the Services in a manner and format that does not require manual intervention or manipulation by Empower. Plan Sponsor acknowledges and agrees that Empower shall not bear any responsibility for any penalties or other costs incurred as a result of Plan Sponsor’s failure to provide such information in a timely manner. Plan Sponsor further acknowledges and agrees that Empower may charge an additional fee if any necessary information is not provided on a timely basis, or in an electronic format usable by Empower without any manual intervention or manipulation. Plan Sponsor agrees that Empower shall be entitled to fully-reasonably rely upon the accuracy and completeness of information Plan Sponsor submits and that Empower shall have no duty or responsibility to verify such information, except that Empower will notify the Plan Sponsor (or Plan Administrator) should it identify inconsistencies or omissions in information received that are clearly erroneous. If, as a result of incorrect or incomplete information furnished by Plan Sponsor, it becomes necessary to repeat any calculation or service, complete any new forms or revise any completed forms, Empower reserves the right to charge an additional fee. Each party agrees to bear its own interconnect transmission costs and is solely responsible for its own acts and omissions relating to transmitting, receiving, storing and handling documents and information, including the maintenance of all equipment, software and testing necessary to effectively, reliably and securely send and receive such documents and information.

**3.3. Remitting Contributions and Allocation Instructions.** Plan Sponsor agrees that it is solely responsible for collecting and remitting all initial and recurring contributions and loan repayments to Empower electronically via Empower’s plan sponsor website, or another mutually agreed-upon manner within the time prescribed by applicable law. Plan Sponsor acknowledges that Empower is not responsible for monitoring the amount and/or timeliness of such contributions and loan repayments. In the event that a Plan participant (“Participant”) does not elect investment options, Plan Sponsor directs Empower to invest the contribution in the default investment option under the Plan at the time the contribution is received. Plan Sponsor acknowledges that Empower reserves the right to either reject contributions remitted via ACH without proper proceeds or to assess an additional processing charge, and that in such event Empower further reserves the right to reject all future ACH contribution remittances from Plan Sponsor. With respect to Plan- or Plan Sponsor-initiated distributions or rollovers, Plan Sponsor hereby instructs and authorizes Empower to rely upon the information on Empower’s recordkeeping system for purposes of tax reporting and withholding, and to treat payees with U.S. addresses as U.S. persons and payees with foreign addresses as foreign persons. Plan Sponsor certifies that such information is accurate and compliant with the Foreign Account Tax Compliance Act (FATCA) and the Code, and that required documentation supporting such information has been collected by Plan Sponsor.

**3.4. Plan Document and Compliance Responsibilities.** Plan Sponsor has the responsibility to ensure that the Plan documents are accurate and complete and that the Plan is being operated in accordance with its terms and applicable law. Plan Sponsor shall provide Empower with a signed copy of the Plan document and all amendments to the Plan document within thirty (30) days after such document and/or amendment is adopted. Plan Sponsor acknowledges that it is responsible for reviewing the accuracy and completeness of all Plan document services performed by Empower, if any. Plan Sponsor is solely responsible for ensuring that a Plan is qualified under the Code.

**Commented [U1]:** If the Plan documents will be provided by Empower, add the following at the end of this paragraph: Empower will provide assistance to the Plan Sponsor (or Plan Administrator) in incorporating Plan operational changes into the Plan documents provided by Empower.

**3.5. Disclosures.** Plan Sponsor agrees to use its best efforts to comply with all of its notice and disclosure responsibilities under applicable law.



**3.6. Investment Options.** Plan Sponsor [or its designated investment manager](#) is responsible for the selection of all investment options made available under the Plan ("Investment Options") based on Plan Sponsor's independent evaluation, or that of its registered investment advisor, consultant, broker or other agent, as applicable. Plan Sponsor must notify Empower in writing of the Investment Options intended to be serviced by Empower and such Investment Option services are only provided as agreed upon by Empower and may be subject to certain limitations or conditions. Plan Sponsor acknowledges that the Plan's transition to Empower may be delayed if there is a change in the investment option selections.

As part of the Services provided by Empower, the Plan's assets may be invested in a group annuity contract and/or array of funds offered by Great-West, its affiliates or other investment providers (the "Investment Program"). Empower may add, delete and/or replace available investment options offered under the Investment Program with at least sixty (60) days written notice to Plan Sponsor or the Plan fiduciary. This notice will explain the fund change, communicate the timeline and effective date of the fund change, provide information on fees received by Empower or an affiliate from a fund company, and explain Plan Sponsor's or the Plan fiduciary's right to opt out of the change. Plan Sponsor or the Plan fiduciary will be deemed to have approved such change unless Plan Sponsor's or Plan fiduciary's written objection is received by Empower within the sixty (60) day notice period. If Plan Sponsor or the Plan fiduciary objects to the fund change, Empower may terminate this Agreement, but will continue to provide services for at least sixty (60) days after the effective date of the fund change.

If allowed within the Investment Program, Plan Sponsor may request an addition, deletion, and/or replacement with respect to investment options available in the Plan. Plan Sponsor must provide Empower with notice of the intended change sixty (60) days prior to the intended date of the fund lineup modification. Empower must confirm, in writing, its ability to administer any requested fund additions, deletions and/or replacements prior to these changes being implemented. Once Empower receives notice of such fund change request, Empower will assess the Plan's pricing and the selected fund company's administrative requirements. Empower reserves the right to decline a fund change request if Empower is unable to administer the fund requested. Additionally, Empower reserves the right to reevaluate and modify the Fee Schedule as part of the request, and the Plan Sponsor acknowledges that such a request could impact the fees paid by the Plan or Plan Sponsor. The Plan Sponsor shall provide sufficient notice of the Plan's desired fund change to provide Empower with the opportunity to conduct the necessary review and to ensure that Plan participants can be provided with notification of fund changes at least thirty (30) days prior to the effective date of the change. If applicable, Plan Sponsor agrees to cooperate with Empower to create and deliver all necessary participant communications, and acknowledges that there may be an additional cost for such communications.

If Plan Sponsor offers Plan Investment Options that are recordkept outside of this Agreement ("Outside Assets"), Plan Sponsor hereby instructs Empower to restrict any and all transfers between the Outside Assets and the Plan assets recordkept under this Agreement. If Plan Sponsor has selected a Great-West annuity product, Plan Sponsor agrees that any provision(s) of the group annuity contract to the contrary are inoperable with respect to the Plan.

Plan Sponsor acknowledges that Empower or its affiliates may receive fees from mutual fund families or other Investment Option sponsors or their affiliates for providing certain administrative or other services thereto ("Fund Service Fees") [and will fully disclose such fees at least annually](#). Plan Sponsor may request additional information regarding such fees at any time. If the provider of an Investment Option causes an Investment Option to become unavailable, Empower will notify Plan Sponsor as soon as practicable after the Investment Option Sponsor notifies Empower. If any employer securities are included as an Investment Option or are otherwise contributed under the Plan, (i) Plan Sponsor shall be responsible for any Securities and Exchange Commission (the "SEC") or state registration, prospectus delivery or Form 11 -K annual reporting requirements; and (ii) Empower shall not be responsible for the enforcement of or



compliance



with any SEC or Employer regulations or policies related to insider trading in Employer securities or the reporting of such trading. Plan Sponsor acknowledges that the SEC requires mutual fund companies to establish procedures to prevent market timing and excessive trading. Plan Sponsor agrees to adhere to the terms and conditions of such procedures included with this Agreement, as amended from time to time.

**3.7. Payment of Plan Expenses.** Plan Sponsor may direct Empower in writing to deduct Plan expenses from the Plan to the extent Plan Sponsor has determined that deduction is specifically allowed by the Plan document and applicable law, and to remit to the party designated by the Plan Sponsor.

**3.8. Direction by Plan Sponsor.** In performing the Services, Empower is acting at the direction of the Plan Sponsor or other named fiduciary of the Plan. Plan Sponsor agrees to provide direction in a manner reasonably requested by Empower, and Empower may [reasonably](#) rely upon any such direction, whether provided electronically or in writing, by a person that Empower reasonably believes to be authorized to act on behalf of the Plan Sponsor or other named fiduciary. Plan Sponsor agrees that all services and procedures to be followed by Empower as set forth in any service profile, summary plan description (if applicable), plan administrative guide, administrative form or other similar document will constitute direction by the Plan Sponsor to Empower, unless Plan Sponsor indicates otherwise [and Empower agrees to disclose all such non-Plan information that it relies on](#). Plan Sponsor specifically intends that Empower will have no discretionary authority with respect to such "deemed" approved transactions, and that Empower's responsibility is limited solely to confirming it has been provided in good order and in accordance with the procedure.

**3.9. Electronic Delivery.** Empower will deliver plan-related documents to Participants under this Agreement in an electronic manner, to the extent available, including the following:

**3.9.1.** Quarterly benefit statements will be posted to the participant website after quarter end. Participants will receive an annual notice advising them of the availability of the quarterly statement on the participant website and the right to receive a paper copy of the statement.

**3.9.2.** Plan notices to be delivered by Empower will be delivered via email to the Participant's work utilized email address as provided to Empower by the Plan Sponsor or, if the Participant has affirmatively elected on the participant website, to the email address provided by the Participant or, if neither, via regular mail.

By providing Empower with a Participant's work utilized email address, the Plan Sponsor confirms that delivery of plan-related documents to such work utilized email address satisfies the Department of Labor's regulations (§2520.104b-1) regarding electronic delivery of plan-related documents. Participants may elect on the participant website or by contacting an Empower customer services representative to receive quarterly statements and plan notices via regular mail at any time.

**3.10. Review of Reports.** Plan Sponsor and Participants are responsible for reviewing and monitoring reports made available by Empower (whether provided electronically, by posting on an Empower website, or otherwise) regarding Plan activity, transactions and investments to verify that the investments indicated in the reports properly reflect the investment directions provided by the Plan Sponsor or the investment elections made by Participants, as applicable. Empower's performance of its obligations under this Agreement shall be conclusively presumed to be accurate unless Plan Sponsor or a Participant provides Empower with proper notice of discrepancies.



**3.11. Error Correction.** If Empower makes an Investment Option transaction error, and it is brought to Empower's attention in a timely manner, Empower will, at its own expense, retroactively correct the error by putting the Participant back in the financial position where the Participant would have been had the error not occurred. In the case of other Empower errors, Empower will, within a reasonable time after being notified of or discovering such error, notify the Plan Sponsor and, as authorized by Plan Sponsor, take commercially reasonable steps consistent with Internal Revenue Service, Department of Labor and other agency guidelines, where applicable, to correct such error. Empower will have no liability for an error or mistake caused by acts or omissions of the Plan Sponsor, Participants or any other third party unless Empower's acts or omissions have contributed to such error or mistake. If a correction is made at Empower's expense and results in a net loss, Empower will bear the loss. However, if the correction results in an unintended net gain, Empower will retain the gain as compensation for services provided to the Plan and to defray costs of servicing the Plan including offsetting net losses as described above.

**3.12. Requirement to Appoint a Trustee.** Plan Sponsor is responsible for determining whether to appoint a trustee to provide trust services to the Plan and for selecting the trustee. If Plan Sponsor chooses to fund the Plan exclusively through a Great-West group annuity contract, if available, the annuity contract may be used in lieu of a separate trust agreement, and Plan Sponsor will be considered the deemed trustee. If a trust agreement is used, Plan Sponsor agrees to have the trustee execute such agreement and all other documents required to establish and operate the trust.

Any trustee or custodian selected by Plan Sponsor for the Plan must be able to interface with Empower's recordkeeping system in a "passive" role and all assets must be transferred to the omnibus custodial bank account. Plan Sponsor agrees to require the trustee or custodian to provide to Empower all information in the possession of the trustee or custodian that is necessary for the performance of Empower's duties under this Agreement.

If Plan Sponsor chooses to retain Great-West Trust Company, LLC ("Great-West") to serve as a Plan trustee or custodian, Plan Sponsor agrees to execute any and all documents required to establish the trust or custodial account. If Plan Sponsor, another entity or named employees serve as trustee of the Plan and Great-West does not serve as a trustee, Plan Sponsor agrees to enter into a custodial agreement or other applicable agreement with Great-West for the receipt of contributions.

Plan Sponsor acknowledges that any change to the trustee and/or custodial setup or relationships during implementation may delay the Effective Date.

#### **4. Fees & Charges**

**4.1. Fees.** Plan Sponsor agrees to pay Empower for the Services in accordance with the Fee Schedule, excluding any applicable sales, use, excise, services, consumption and other taxes or duties as described in Section 4.2 below. To the extent not paid by the Plan, Plan Sponsor agrees to pay Empower for services provided to the Plan. To the extent fees are not guaranteed in the Fee Schedule, Empower reserves the right to change its fees upon ninety (90) days' advance written notice to Plan Sponsor. Plan Sponsor directs Empower to debit from the Plan the amount of fees payable to any outside third parties retained by Plan Sponsor to provide plan administration, investment advisory, or other services ("Plan Service Providers"), as detailed in the Fee Schedule, and to remit the fees directly to the Plan Service Provider.

**4.2. Taxes.** Unless Plan Sponsor provides Empower with a valid and applicable exemption certificate, Plan Sponsor will reimburse Empower for sales, use, excise, services, consumption and other taxes or duties that Empower is required to collect from the Plan Sponsor and which are assessed on the



purchase, license and/or supply of Services. Plan Sponsor and Empower shall each bear sole responsibility for all taxes, assessments and other real property related levies on its owned or leased real property, personal property (including software), franchise and privilege taxes on its business, and taxes based on its net income or gross receipts. If applicable, Plan Sponsor and Empower shall reasonably cooperate to more accurately determine each party's tax liability and to minimize such liability to the extent legally permissible.

## 5. Confidential Information

**5.1.** In order to perform the Services, both parties may have access to certain information of the other party, including, without limitation, trade secrets, commercial and competitively sensitive information of the party related to business methods or practices, and proprietary software or websites of the party ("Confidential Information"). For the purpose of clarity, any software or website owned, licensed or made available by Empower ("Empower Software") is Confidential Information of Empower. The parties mutually agree to hold all Confidential Information of the other party in confidence and not to disclose any Confidential Information of the other party to anyone except the parties' affiliates, suppliers, and respective personnel in connection with the performance or receipt of Services hereunder or as directed or approved by the other party or its agents. Confidential Information does not include: information that is otherwise in the public domain through no action of the non-disclosing party; information that is acquired by a party from a person other than the other party or its agents without any obligation of confidentiality; or information that is independently developed by a party without reference to the Confidential Information of the other party.

**5.2.** In the event a party is required to make a legally required disclosure of the other party's Confidential Information, such party shall notify the other party of the disclosure as soon as reasonably practicable, and shall cooperate with any efforts by such party to obtain protective treatment of such Confidential Information to the extent permitted by law. The foregoing shall not apply to broad-based regulatory examinations associated with a party's general business or operations, to disclosures made in conjunction with a law enforcement investigation, or where notice is prohibited by law.

## 6. Privacy & Data Security

**6.1.** Empower and Plan Sponsor agree to maintain and hold in confidence all Nonpublic Personal Information received in connection with the performance of Services under this Agreement ("NPI"). Empower and Plan Sponsor agree that their collection, use and disclosure of any and all NPI is and will be at all times conducted in compliance with all applicable data protection and/or privacy laws, rules and/or regulations. NPI includes personally identifiable financial information as defined by Title V of the Gramm-Leach-Bliley Act. Plan Sponsor authorizes Empower to disclose NPI to its affiliates, service providers, and Plan Service Providers.

**6.2.** The parties will use best efforts to secure NPI through the use of appropriate physical and logical security measures, and will take all commercially reasonable organizational and technical steps to protect against unlawful and unauthorized processing of NPI. For purposes of this section, NPI includes user credentials, passwords, and other authentication data that enables Plan Sponsor, its authorized agents, or Participants to access Empower Software. The parties will promptly notify the other in the event of (i) any breach of the party's security measures that results in unauthorized access to NPI; (ii) the consequences of the breach; and (iii) the corrective action taken to remedy the breach.

**6.3.** Upon request, Empower will provide Plan Sponsor or its designated agent with information (which may include NPI) received from or in relation to Participants in connection with the performance of services under this Agreement including recorded phone calls and written and electronic



correspondence. To the extent Plan Sponsor requests such information, Plan Sponsor agrees to indemnify Empower and to waive, absolve and forfeit any claims against Empower for providing such information to the Plan Sponsor or its designated agent.

6.4. For purposes of Rule 14(b)-1 and Rule 14(b)-2 of the Securities Exchange Act of 1934, as amended from time to time, Plan Sponsor authorizes Empower, and/or its affiliates and services providers, to provide the name, address and share position of the Plan with respect to any class of securities registered under the Investment Company Act of 1940 when requested by such SEC registrant for purposes of shareholder meetings. The above-referenced rules prohibit the requesting SEC registrant from using the Plan’s name and address for any purpose other than corporate communications of the type contemplated under the rules.

**7. Business Continuity & Disaster Recovery**

7.1. Empower will maintain business continuity and disaster recovery procedures to address the security, integrity and availability of the technology, operational, financial, human and other resources required to provide the Services. Such procedures shall be designed to enable Empower to continue to perform mission-critical Services in the event of a natural disaster or other interruption of normal business operations. Further, Empower agrees to review and test such disaster recovery procedures at least once annually.

7.2. GWFS Equities, Inc.’s current Business Continuity Plans Notice is attached to this Agreement. By executing this Agreement, Plan Sponsor acknowledges receipt of this Notice.

**8. Records & Audit**

8.1. **Record Retention.** Empower shall retain all records in its custody and control that are pertinent to performance under this Agreement in accordance with its record retention policy and as required by applicable law. Subject to the foregoing, each party agrees to return or destroy the other party’s Confidential Information and NPI once it is no longer required for the purpose of performing or receiving the Services, provided that the parties are not obligated to destroy copies of Confidential Information or NPI that must be retained for audit, legal or regulatory purposes, or is stored in non-readily accessible electronic format, such as on archival systems.

8.2. **SSAE 16.** Each year upon the request of Plan Sponsor, Empower will provide Plan Sponsor with a copy of the review performed by Empower’s external auditors under the “Statement of Standards for Attestation Engagements Number 16 Reporting on Controls at a Service Organization of the American Institute of Certified Public Accountants (SSAE16) SOC 1, or any new or replacement standard or protocol established by the American Institute of Certified Public Accountants.

**9. Intellectual Property Rights**

9.1. **Plan Sponsor Materials.** As between the parties hereto, excluding the Empower Materials (as defined below), Plan Sponsor shall own all trademarks, trade names, logos, trade dress, and other Confidential Information provided or made accessible by Plan Sponsor to Empower in providing the Services (collectively, the “Plan Sponsor Materials”). Plan Sponsor Materials do not include data and information in the form maintained by Empower or supplied to Plan Sponsor by Empower. Plan Sponsor grants to Empower a nonexclusive, nontransferable and non-sublicensable license to use Plan Sponsor Materials in connection with its provision of the Services. Plan Sponsor grants Empower a limited,

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revocable right and license to use Plan Sponsor's trade name, logo or trademark, general Plan design information, and aggregated data that does not contain NPI in materials created by Empower and for the purpose of promotion, advertisement or prospecting for new clients, including, without limitation, media releases, requests for proposals, case studies, and sales and marketing material.

Commented [U2]: We recommend that these provisions be removed.

**9.2. Empower Materials.** As between the parties hereto, Empower and its affiliates shall own all materials, documentation, user guides, forms, templates, business methods, trademarks, trade names, logos, websites, Empower Software, technology, computer codes, domain names, text, graphics, photographs, artwork, interfaces, and other information or material provided by Empower or its affiliates hereunder (collectively, the "Empower Materials"). Empower grants to Plan Sponsor and Participants (as applicable) a nonexclusive, non-transferable and non-sublicensable license to use the Empower Materials during the term of the Agreement solely for purposes of using Empower's Services hereunder and subject to the terms and conditions set forth in this Agreement and any terms of use associated with Empower Software. All rights with respect to the Empower Materials not specifically granted hereunder are reserved by Empower.

**10. Liability & Indemnification**

**10.1.** Empower agrees to indemnify the Plan Sponsor from and against any and all expenses, costs, reasonable attorneys' fees, settlements, fines, judgments, damages, liabilities, penalties or court awards asserted by a third party (collectively, "Damages") to the extent resulting from Empower's breach of this Agreement, negligence, or willful misconduct. Notwithstanding anything to the contrary herein, Empower shall not be liable to Plan Sponsor for any Damages resulting from: 1) any acts or omissions undertaken at the direction of the Plan Sponsor or any authorized agent thereof; 2) any direction [in good order](#) of any third party retained by Plan Sponsor to provide services relating to the Plan, including but not limited to prior service providers, investment advisors, or any authorized agent thereof; or 3) any performance of the Services that is in strict compliance with the terms of this Agreement.

Plan Sponsor acknowledges that Empower and its directors, officers, employees and authorized representatives are not responsible for the investment performance of any Investment Options under the Plan.

**10.2. Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUE OR PROFIT) EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**10.3. Insurance.** Empower will, at its own cost and expense, procure and maintain in full force and effect throughout the term of this Agreement insurance coverage that is reasonably appropriate to the Services provided under this Agreement. The requirements in this section are not intended to, and will not in any way, limit or qualify the liabilities and obligations of Empower under this Agreement.

**11. Dispute Resolution**

The parties shall engage in reasonable and good faith discussions to resolve any dispute arising out of or relating to this Agreement. If the parties are unable to agree between themselves, the parties will submit the dispute to non-binding mediation conducted by a private mediator agree to by both parties. If the parties cannot agree on a mediator, the mediator may be selected by a nationally recognized,



independent arbitration or mediation organization to which the parties mutually agree. The costs of mediation shall be borne equally by the parties, and each party shall pay its own expenses. If the parties are unable to resolve the dispute through non-binding mediation, either party may initiate litigation; provided, however, that if one party requests mediation and the other party rejects the proposal or refuses to participate, the requesting party may initiate litigation before the expiration of the above period.

**12. Termination**

**12.1. Effective Date.** This Agreement will be effective as of the Effective Date specified in the Signature Page and will continue in effect for the initial term, if any, specified in the Fee Schedule and will continue thereafter until terminated in accordance with the termination provisions of this Agreement .

**12.2. Termination.** This Agreement may be terminated by either party, in whole or in part, by delivering sixty (60) days advance written notice to the other party. Plan Sponsor directs Empower to deduct any and all outstanding expenses and fees owed to Empower from the Plan's trust on the termination date, unless paid by Plan Sponsor. Plan Sponsor agrees to amend the Plan, if necessary, to provide for the payment of expenses from the Plan consistent with the foregoing. Upon termination of this Agreement, Empower will cease to provide the Services. Plan Sponsor acknowledges that after the termination of this Agreement, Plan Sponsor will be responsible for performing all actions required to be taken with respect to the Plan including, but not limited to: processing of contributions, loans and distributions, and the distribution of forms to Participants. On and after the actual date of termination of this Agreement, Empower shall have no further obligations hereunder except as set forth in this subsection. Notwithstanding the foregoing, upon a written request by Plan Sponsor, Empower will provide Plan Sponsor, or a designated successor service provider, with Plan data and other information residing on Empower's recordkeeping system in Empower's standard format or another mutually agreeable format. Any request for Empower to provide information other than in its standard format shall be at Empower's sole discretion, and Plan Sponsor agrees to pay all fees, costs and expenses associated with such a request.

**12.3. Plan Termination.** If the Plan terminates, Empower may utilize any procedures promulgated by the U.S. Department of Labor or other applicable regulatory agencies for abandoned or orphaned plans, including the facilitation of distributions to payees and any other required plan termination requirements.

**13. Miscellaneous**

**13.1. Affiliates & Agents.** Plan Sponsor acknowledges and agrees that Empower may utilize the services of affiliates, agents, vendors and suppliers selected by Empower. Empower's use of any such party will not relieve Empower of its obligations hereunder, and Empower shall at all times remain liable for the performance of the Services hereunder.

**13.2. Relationship of the Parties.** The relationship between the parties is that of independent contractors. Neither Empower nor its personnel shall be considered employees of Plan Sponsor for any purpose. None of the provisions of this Agreement shall be construed to create an agency, partnership or joint venture relationship between the parties or the partners, officers, members or employees of the other party by virtue of either this Agreement or actions taken pursuant to this Agreement.

**13.3. No Third Party Beneficiaries.** This Agreement is solely for the benefit of the parties hereto and their affiliates and is not intended to confer any rights or remedies upon any other person.



13.4. **Assignment.** This Agreement shall be binding upon and inure to the benefit of each of the parties, their affiliates, successors and permitted assigns; provided, however, that neither party may assign its rights or obligations hereunder without the other party's prior written consent. Notwithstanding the foregoing, a party may assign this Agreement in connection with: (i) the sale of substantially all of its assets or the assets of any business unit to an entity that assumes the assignor's obligations under this Agreement; (ii) a merger, acquisition or divestiture; and/or (iii) a transfer to a parent or affiliate, in each case without the other party's consent.

13.5. **Entire Agreement.** This Agreement, including all Exhibits, Schedules, notices and attachments, constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior drafts, agreements, negotiations and proposals, written or verbal, relating to the Services. Except as otherwise provided herein, this Agreement may be modified only by an Amendment signed by authorized representatives of each party. Notwithstanding the foregoing, Empower may unilaterally amend the Agreement in order to comply with applicable laws, to add or enhance the Services, or to update the method of providing the Services, by providing written notice to Plan Sponsor at least 30-120 days in advance of the effective date of such change and explaining Plan Sponsor's right (if any) to opt out of the change. Service elections or modifications that alter the terms of the Schedule of Services or the Fee Schedule may be reflected in a new version of such document, which will be produced by Empower and made available to Employer, and which shall replace all prior versions of such document(s). Any Empower notices or policies that are attached to or referenced in this Agreement may be modified by Empower at any time. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of such provision or any other provision hereof and no waiver shall be effective unless made in writing.

13.6. **Governing Law; Waiver of Jury Trial.** This Agreement shall be construed and enforced in accordance with and governed by the laws of the state of the Plan Sponsor's residence, without regard to conflict of law principles, and any claim arising under or related to this Agreement shall be subject to the exclusive jurisdiction of the federal and state courts located in the Plan Sponsor's state of residence. Both parties agree to waive any right to have a jury participate in the resolution of any dispute or claim arising out of, connected with, related to or incidental to this Agreement to the fullest extent permitted by law. Plan Sponsor agrees that to the extent it can assert sovereign immunity under applicable law, it waives such sovereign immunity to the extent necessary to permit Empower to enforce the terms and conditions of this Agreement under the dispute resolution mechanism specified herein. Plan Sponsor further agrees to not assert sovereign immunity as a defense to any claim or action that Empower may bring relating to this Agreement.

13.7. **Unclaimed Property.** With respect to any unclaimed property, Empower's standard policy is to follow state unclaimed property regulations and escheat assets in those accounts to the Plan or Participant's state of residence based on Empower's records. By executing this Agreement, Plan Sponsor acknowledges and agrees that this standard policy will be applied to any unclaimed property associated with the Plan. However, Plan Sponsor may direct Empower, in writing, to treat the Plan's unclaimed property in a different manner. If Plan Sponsor directs Empower to dispose of such assets in any manner that differs from or is inconsistent with Empower's standard policy, Plan Sponsor understands and agrees that it is solely responsible for (i) determining whether any assets in those accounts are payable to any State or other jurisdiction under applicable escheat or unclaimed property laws; and (ii) issuing proper directions to Empower and the Trustee (as applicable) as to disposition of such assets.



**13.8. Website Services.** Empower will, as part of the Services, host, maintain and make certain information available to Plan Sponsor and Participants on a website or websites (the "Website Services"). Plan Sponsor will not use or permit any use of the Website Services (i) in any unlawful or illegal manner; (ii) in any way that could impair the Website Services or any other party's use thereof; or (iii) to distribute, sell, resell, license or transfer any of Plan Sponsor's rights to access or use the Website Services or make the Website Services available to any third party . Any user credentials, including user identification and passwords, established by Plan Sponsor and its delegates or any Participant (each a "User ID") is issued to a specific user and may not be shared or used by any individual other than that user. Plan Sponsor will be responsible for the compliance by its users with the applicable terms of this Section. Empower may terminate the User ID, or portions thereof, for any user involved in a breach of this Section. Plan Sponsor acknowledges that transmissions through the internet are inherently unsecure, that virus protection software, firewalls and other security measures are not foolproof, and that the Website Services and their content are not invulnerable to fraud or hacking. In addition, Plan Sponsor acknowledges that Empower shall from time to time perform scheduled or emergency repairs, maintenance, and disaster recovery testing on the websites, and that such activity, or other circumstances beyond Empower's reasonable control, may cause the Website Services to be unavailable or delayed. Plan Sponsor agrees that Empower shall not be liable for any such delays or downtime in the Website Services, or for any virus or malicious access to the Website Services by third parties, provided that Empower has implemented and maintained security features with respect to the Website Services that are consistent with this Agreement and commercially reasonable industry standards.

**13.9. Force Majeure.** Neither Empower nor Plan Sponsor shall be liable to the other for any and all losses, damages, costs, charges, counsel fees, payments, expenses or liability due to delay or interruption in performing its obligations hereunder, and without the fault or negligence of such party, due to causes or conditions beyond its control, including, without limitation, labor disputes, riots, war and war-like operations including acts of terrorism, epidemics, explosions, sabotage, acts of God, civil disturbance, governmental restriction, transportation problems, failure of power or other utilities including p hones, internet disruptions, fire or other casualty, natural disasters, or disruptions in orderly trading on any relevant exchange or market, or any other cause that is beyond the reasonable control of either party

**13.10. Severability.** The provisions of this Agreement are severable, and if for any reason a clause, sentence, paragraph or provision of this Agreement is determined to be invalid by a court or federal or state agency, board or commission having jurisdiction over the subject matter thereof, such invalidity will not affect other provisions of this Agreement that can be given effect without the invalid provision.

**13.11. Notices.** All formal notices required by this Agreement will be in writing and shall be sent to Empower as set forth below and to the most current Plan Sponsor and trustee address on file with Empower. All notices sent shall be effective upon receipt.

Notice To Empower:  
 Empower Retirement, LLC  
 Empower Retirement Division  
 8515 East Orchard Road  
 Greenwood Village, CO 80111

With a copy to:  
 Empower Retirement, LLC  
 8515 East Orchard Road

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Greenwood Village, CO 80111  
Attn: General Counsel

**13.12. Headings; Defined Terms; Counterparts.** Section headings used in this Agreement are intended for reference purposes only and shall not affect the interpretation of this Agreement. Unless the context requires otherwise, capitalized terms defined in this Agreement have the meanings set forth herein for all purposes of this Agreement including any Schedules or Exhibits. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. The parties' execution and delivery of this Agreement by facsimile, email, or electronic copies shall have the same force and effect as execution and delivery of an original.

**13.13. Survival.** The provisions of the following sections shall survive the termination of this Agreement: Fees & Charges; Confidential Information; Privacy & Data Security; Record Retention; Intellectual Property Rights; Indemnification; Limitation of Liability; Dispute Resolution; Governing Law; Waiver of Jury Trial; Unclaimed Property; Website Services; Survival; Severability; No Third-Party Beneficiaries; and any other section that would by its context be reasonably expected to survive termination.

**13.14. Signatures/Corporate Authenticity.** Plan Sponsor has been provided a signature page ("Signature Page") that applies to this Agreement as well as to certain other documents, which are listed thereon. By signing the Signature Page, the parties certify that they have read and understood this Agreement, that they agree to be bound by its terms, and that they have the authority to sign it. This Agreement is not binding on either party until signed by both parties.

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**BUSINESS CONTINUITY PLAN NOTICE**

GWFS Equities, Inc., a subsidiary of Great-West Life & Annuity Insurance Company and affiliate of Empower Retirement, LLC and Great-West Life & Annuity Insurance Company of New York\* ("the Company"), maintains a comprehensive business continuity plan designed to respond reasonably and effectively to events that lead to significant business disruption, such as natural disasters, power outages, or other events of varying scope. This plan defines critical functions and systems, alternate work locations, vital books and records, and staff resources, and provides for the continuation of business operations with minimal impact, depending on the severity and scope of the disruption. The plan is reviewed and tested no less than once annually to ensure that the information in the plan is kept current and that documented recovery and continuity strategies adequately support its business operations. Of utmost importance to the plan is the ability for customers to maintain access to securities accounts and assets in those accounts.

In the event that one of the Call Centers or back office operation facilities becomes unavailable for any reason, calls would be re-routed to one of the firm's alternative call center or operations facilities.

In the event of a significant business disruption to the primary office and/or data center, access to customer accounts will be provided via the Company's Web site and voice response system, operated from an alternative data center. Customer Service will continue to be provided by re-routing telephone calls to a Call Center located in one or more alternative sites located outside of the region.

While no contingency plan can eliminate the risk of business interruption, or prevent temporary delays with account access, the firm's continuity plan is intended to mitigate all reasonable risk and resume critical business operations within 24 hours or the next business day, whichever is later.

\* Record keeping and administrative services are provided by Empower Retirement, LLC, or one of its subsidiaries or affiliates. Securities offered in your account may be offered through another broker/dealer firm other than GWFS Equities, Inc., a wholly owned subsidiary of Great-West Life & Annuity Insurance Company. Please contact your investment provider for more information if needed.

This disclosure is subject to modification at any time. The most current version of this disclosure can be found on the Web site or can be obtained by requesting a written copy by mail.

BCP – GWFS Customer Notice (Ed. Jan. 2020)

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## Procedures for Complying with Fund Company

### Market Timing and Excessive Trading

The prospectuses, policies and/or procedures of certain fund companies require retirement plan providers offering their fund(s) to agree to restrict market timing and/or excessive trading (“prohibited trading”) in their funds. The following procedures describe how we, as your recordkeeper, will comply with fund company instructions designed to prevent or minimize prohibited trading.

Various fund companies instruct intermediaries to perform standardized trade monitoring while others perform their own periodic monitoring and request trading reports when they suspect that an individual is engaging in prohibited trading. If an individual's trading activity is determined to constitute prohibited trading, as defined by the applicable fund company, the individual will be notified that a trading restriction will be implemented if prohibited trading does not cease. (Some funds may require that trading restrictions be implemented immediately without warning, in which case notice of the restriction will be provided to the individual and plan, if applicable). If the individual continues to engage in prohibited trading, the individual will be restricted from making transfers into the identified fund(s) for a specified time period, as determined by the applicable fund company. Individuals are always permitted to make transfers out of the identified fund(s) to other available investment options. When the fund company's restriction period has been met, the individual will automatically be allowed to resume transfers into the identified fund(s).

Additionally, if prohibited trading persists, the fund company may reject all trades initiated by the plan, including trades of individuals who have not engaged in prohibited trading.

Note: certain plan sponsors have or may elect to implement plan level restrictions to prevent or minimize individual prohibited trading. To the extent that such procedures are effective, we may not receive requests for information from the fund companies or requests to implement the restrictions described above.

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**Schedule of Services**

**Services provided by Empower**

- A. **Recordkeeping Services - Core Services.** The following services are core recordkeeping and communication services available to all plans.

***Implementation Services:***

**Empower will provide the following conversion services prior to the receipt of assets:**

- Gathering initial plan information;
- Coordinating conversion assets from a prior service provider;
- Reconciling plan assets;
- Loading records onto the recordkeeping system; and
- Assisting Employer’s payroll office or payroll vendor to process the next scheduled payroll to Empower on or after the implementation period.

***Implementation Period:***

**Merging Plan:**

An existing Employer Plan that is converting to Empower will be subject to an implementation period to facilitate the movement of Participant, Alternate Payee and Beneficiary records and Plan assets from the prior record keeper and/or trustee to Empower.

***Blackout Notice Services:***

**Initial Blackout Notices:**

Empower will assist in the preparation of the initial transition blackout notice and will provide the blackout notice to the Plan Sponsor for distribution to Participants, Alternate Payees and Beneficiaries, as requested by the Plan Sponsor. A “Blackout Period” is defined as any period of more than three consecutive Business Days during which the Participant, Beneficiaries and Alternate Payees are prohibited or restricted from exercising certain otherwise available rights, such as directing investment of their accounts, obtaining loans or making distributions. During the implementation period, Plan Sponsor’s prior record keeper’s improper reporting or incomplete transferred records may impact the black-out period end date. Such an impact may cause an extension of the blackout period, resulting in a second notice. Empower may agree to provide this additional blackout notice if the parties agree in writing.

**Future Blackout Notices:**

If mutually agreed to in writing, Empower may provide blackout notices to the Plan Sponsor for distribution to Participants, Alternate Payees and Beneficiaries for fund or other ongoing plan changes that result in a period of more than three (3) consecutive Business Days where the Participant, Alternate Payee and Beneficiary are restricted from exercising certain otherwise available rights such as directing investments of their accounts, obtaining loans or taking distributions.

***Establishment of Accounts:***

**1. Participant Accounts:**

- a. Participant accounts shall be established and maintained for each Employer- approved new enrollee and each employee or former employee with a balance in the plan (“Participant”). Each Participant’s account record shall consist of the



Participant's name, Social Security number ("SSN"), mailing address, date of birth, and any such other information as required from time to time for provision of services to the Plan.

- b. On and after the receipt of assets, Empower shall maintain a record of each Participant's investment option allocation and transaction received in good order to the recordkeeping system, including:
  - (i) Current and historical investment allocations and percentages for each available investment option.
  - (ii) Current account balances of each Participant in each available investment option and money source.
  - (iii) An accounting of each transaction made to each available investment option and money source.
- c. Empower shall provide each Participant with access to his or her account and investment information via a Web site, the voice response unit ("VRU") and the Client Service Center toll-free telephone number. Participants may use these services to change allocations of future deferrals and/or initiate transfers between and among investment options available under the Plan(s).
- d. Empower shall make available to each Participant a quarterly account statement in Empower's standard format.

Additionally, confirmation will be provided of every completed change requested by a Participant. Participants will also have access to their account activity via the VRU and the Web site.

- e. If applicable, Empower will include vesting information on Participant statements, provided that Plan Sponsor provides Empower with all vesting information required under applicable law.

**2. Alternate Payee Accounts**

If the Plan accepts Qualified Domestic Relations Orders ("QDROs"), Plan Sponsor hereby instructs Empower to complete an administrative review of all Employer-approved QDROs submitted on or after the Effective Date of this Agreement to ensure that Empower can determine the amount of the Alternate Payee's award, mailing address and SSN. If elected by the Alternate Payee in good order and in a manner satisfactory to Empower, an Alternate Payee account will be established pursuant to the terms of the QDRO, the Plan requirements in effect on the date of account establishment.

**3. Beneficiary Accounts**

If elected by the Beneficiary(ies) in good order and in a manner satisfactory to Empower, Empower will establish a Beneficiary account pursuant to the terms of the Plan requirements in effect on the date of establishment.

**Contribution Processing:**

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Contributions sent directly via the PSC and processed with ACH funding by 12:00 Midnight Mountain Time (2:00 am Eastern Time) will be allocated effective the next Business Day (at that Business Day's unit value). Empower may allow other contribution methods which may require different timing. Empower will provide additional information upon request.

In the event that a Participant has not affirmatively elected an investment allocation, Plan Sponsor instructs Empower to allocate to a default fund(s) chosen by the Plan Sponsor.

***Distributions and Forfeitures:***

Empower will create and maintain a record of any distribution, including the distribution reason, from the Plan made with respect to each Payee. If applicable, Empower will provide a Code §402(f) Notice of Special Tax Rules on Distributions to the Payee at the time of distribution. Unless otherwise agreed to in writing, Empower is not responsible for issuing any other Participant, Alternate Payee or Beneficiary notice required by the Code, as applicable. Distributions will be made within two (2) Business Days if Empower receives instructions in good order.

**1. Participant Distributions**

Empower will make distributions to Participants pursuant to the Plan Sponsor's and Participant's distribution requests received in good order.

**2. Alternate Payee Distributions**

Upon receipt by Empower of an Alternate Payee's distribution request in good order and in a manner satisfactory to Empower and completion of a QDRO administrative review discussed above, Empower shall process a distribution pursuant to the terms of the QDRO, the Plan and the Code, as applicable and in effect on the date of the distribution. Plan Sponsor instructs Empower to determine the amount due to the Alternate Payee based solely on the account records on Empower's recordkeeping system.

**3. Beneficiary Distributions**

Plan Sponsor instructs Empower to pay the claimant listed on the Death Benefit Claim form signed by the Plan Sponsor unless there is a conflict between the designation on file with Empower and the claimant listed on the Death Benefit Claim form. In the event of a conflict, the Plan Sponsor will determine which Beneficiary designation will control.

**4. Forfeiture Processing**

If applicable, Empower will calculate forfeiture amounts based upon the Participant's vesting and will place the forfeiture amounts in a separate Plan account as instructed by the Plan Sponsor.

**5. Participant Termination Services**

If the services described in this subsection is made available to the Plan Sponsor by Empower, and if the Plan provides for de minimis Participant accounts to be distributed after termination, then the Plan Sponsor instructs Empower to distribute communication material to the terminated Participant informing them of their distribution options. Such information includes communicating to the Participant that if he/she does not take a distribution of the



account that it will be automatically rolled over into the Plan Sponsor-elected de minimis IRA. Plan Sponsor also instructs Empower to automatically roll any monies remaining in the Plan after a certain period of time following these communications to the rollover provider selected by the Plan Sponsor.

Plan Sponsor permits Empower to send out communication material to terminated participants informing them of their distribution options.

**Transfers:**

Participant, Alternate Payee and Beneficiary -initiated transfers will be processed and effective the Business Day they are received at Empower's home office, if received before the close of the New York Stock Exchange (typically 4:00 p.m. Eastern Time or such earlier time as may have to be implemented to comply with any applicable future law, rule or regulation). If transfers are received at Empower's home office after the close of the New York Stock Exchange, transfers will be processed and be effective the next Business Day (or such earlier time as may have to be implemented to comply with any applicable future law, rule or regulation).

**Tax Reporting of Distributions:**

1. Plan Sponsor appoints Empower as its agent to perform income tax withholding and reporting for all Payee distributions and agrees to provide all necessary information needed by Empower to perform these services.
2. Empower shall deposit the income tax withheld with the Internal Revenue Service ("IRS") and other appropriate governmental entities, as applicable, on or before the applicable due dates for such remittances.
3. Empower will complete necessary tax reporting forms for Pay-ee distributions, file the tax reporting forms with the IRS and send copies to the Payee.

**Plan Loans:**

Empower will process Participant account reduction loans pursuant to the Plan's loan policy and Empower's loan procedures, as amended from time to time. Plan Sponsor agrees to provide an authorization for all Participant loan requests.

**Ongoing Plan Resources:**

1. Empower will provide the Plan Sponsor access to Plan information and electronic approval capabilities via the PSC.
2. Empower will provide the Plan Sponsor access to a Plan Services Representative for assistance with plan questions.
3. Empower shall provide periodic Employer Plan Reports in Empower's standard format.

**Participant Rollover Contributions:**

Plan Sponsor directs Empower to process Participant rollover contributions received in good order pursuant to the Participant's direction in accordance with procedures provided by Empower to the Plan Sponsor and without any further Plan Sponsor approval or authorization.



**Communication and Education (subject to applicable law):**

1. Standard forms, notices and other information necessary for the service provided to the Plan will be provided to Plan Sponsor and to Participants via the PSC and/or through enrollment meetings.
2. Empower will provide investment education and communication materials, which may include education and planning tools, newsletters, brochures, or other materials.

**Participant Fiduciary Services**

Empower may offer investment advice and act as a fiduciary under ERISA to Participants on certain Plan transactions such as point-in-time advice on designated investment alternatives and investment advisory services available under the Plan and distribution and rollover options which may include services and products offered by Empower and its affiliates. When Empower acts as a fiduciary, it will do so in the best interest of the Participants as required under ERISA with respect to any investment advice provided to Participants. Empower will provide such advice pursuant to exemptions for investment advice under ERISA and applicable DOL guidance.

**B. Elective Services.** The following elective services are available upon Plan Sponsor meeting certain requirements. Additional fees may apply.

**1. Eligibility Determination**

Plan Sponsor can instruct Empower to calculate Participant eligibility based on Plan Sponsor's instructions as to the Plan's eligibility requirements. Plan Sponsor instructs Empower to reject the enrollment of any Participant determined to be ineligible. For each ineligible determination, Plan Sponsor instructs Empower to notify the Participant to contact the Plan Sponsor if he or she wishes to appeal the determination.

**2. Online Enrollment**

Plan Sponsor can instruct and authorize Empower to allow online Participant enrollment. Plan Sponsor instructs Empower to issue a Personal Identification Number ("PIN") to every eligible employee, allowing enrollment in the Plan through the Web site and VRU.

**3. Automatic Enrollment**

Empower can perform automatic enrollment and deferral increase services, and create and mail initial and annual automatic enrollment notices, as elected by Plan Sponsor in good order and in a form acceptable to Empower.

**Commented [U4]:** Not allowed in CA unless in accordance with MOU

**4. Deferral Processing**

Plan Sponsor can instruct and authorize Empower to provide for deferral processing by the Plan Sponsor via the Web site. Participants may access the Web site to input the required payroll deferral amount/percentage information. Plan Sponsor acknowledges that the Deferral Processing service described in this Section shall only be available as long as Empower is the sole record keeper for the Plan.

If Plan Sponsor uses Empower's Automatic Enrollment services, Deferral Processing does not require separate election.



**5. Vesting Services**

Plan Sponsor needs to provide Empower all information necessary to perform vesting services. Employer hereby instructs and authorizes Empower to:

- a. Maintain each Participant’s vesting percentage on Empower’s recordkeeping system;
- b. Display the Participant’s vested account balance on the quarterly statements; and
- c. Calculate and process withdrawals and/or loans according to the vested percentage.

**6. Loan Approval**

Plan Sponsor can instruct and authorize Empower to process, without further Plan Sponsor approval, Participant loan requests submitted in a manner acceptable to Empower. If the Plan is subject to spousal consent requirements, loans may only be initiated by paper forms and not online or by VRU. Plan Sponsor agrees to specifically authorize each principal residence loan request.

**Commented [U5]:** If loans are offered under any of the plans, please determine NIH’s involvement in approving loan applications.

**7. Distribution Processing**

Plan Sponsor can instruct and authorize Empower to process, without further Plan Sponsor approval, requests for distributions in good order and in a manner acceptable to Empower. If Plan Sponsor does not provide the Participant’s termination date or other required information, Plan Sponsor instructs Empower to route the request to Plan Sponsor for approval before processing the distribution.

**8. In-Service Distributions at Age 59½ (for 401(k) and 401(a) Plans Only)**

Plan Sponsor can instruct and authorize Empower to process, without further Plan Sponsor approval, Participant age 59½ in-service distribution requests received in good order and in a manner acceptable to Empower. If the Participant’s birth date information has not been provided, or if there is a discrepancy between the birth date on the system and the birth date on the form, Empower is instructed to rely on the birth date specified by the Participant on the form.

**Commented [U6]:** If this is authorized, please confirm that the plan allow in-service distributions at age 59 ½.

**9. Voluntary In-Service De Minimus De Minimis Distributions (for Governmental 457(b) Plans Only)**

Plan Sponsor can instruct and authorize Empower to process, without further Plan Sponsor approval, Participant initiated De Minimus distribution requests received in good order and in a manner acceptable to Empower. If vesting is applicable and the Participant’s birth date information has not been provided, or if there is a discrepancy between the birth date on the system and the birth date on the form, Empower is instructed to rely on the birth date specified by the Participant form.

**10. Automated Mandatory Distributions (De Minimis)**

Empower can perform automated mandatory distributions of small account balances, as elected by Plan Sponsor in good order and in a form acceptable to Empower.

**11. Beneficiary Record Keeping**

If Empower is and remains the sole record keeper for the Plan during the term of this Agreement, Plan Sponsor can instruct and authorize Empower to accept, maintain and file,



without Plan Sponsor's signature, Beneficiary Designation forms received by Empower in good order and in a manner acceptable to Empower. Upon request, Plan Sponsor agrees to provide Empower with any and all Beneficiary information filed with the Plan by the Participant prior to the Effective Date of this Agreement.

If the spousal consent rules apply, Plan Sponsor shall provide Empower with instructions as to the portion of the Participant account for which a Beneficiary may be designated without spousal consent under the Plan. Plan Sponsor instructs Empower to rely on the marital status specified by the Participant on the Beneficiary Designation form and to obtain spousal consent, when applicable.

**12. Investment Advisory-Related Services**

If the Plan Sponsor meets the relevant underwriting and other requirements, Advised Assets Group, LLC ("AAG"), a federally registered investment adviser and wholly owned subsidiary of Empower, may offer fund performance data and/or similar services regarding the investment options in the Plan through the Plan's recordkeeping and administrative relationship with Empower.

AAG, may separately offer Empower Retirement Advisory Services (Online Investment Guidance, Online Investment Advice and Managed Account service) to the Participants in the Plan through the Plan's recordkeeping and administrative relationship with Empower. Plan Sponsor may instruct AAG to make Empower Retirement Advisory Services available to Plan Participants in accordance with the terms and conditions of the Empower Retirement Advisory Services Agreement between AAG and Plan Sponsor.

Commented [U7]: If you wish to provide, please confirm with your investment provider, Hooker & Holcombe

**Special Investment Options:**

**1. Self-Directed Brokerage Accounts**

Plan Sponsor can choose to offer a self-directed brokerage option ("SDB"). Plan Sponsor agrees to complete and execute all documents required to activate the SDB.

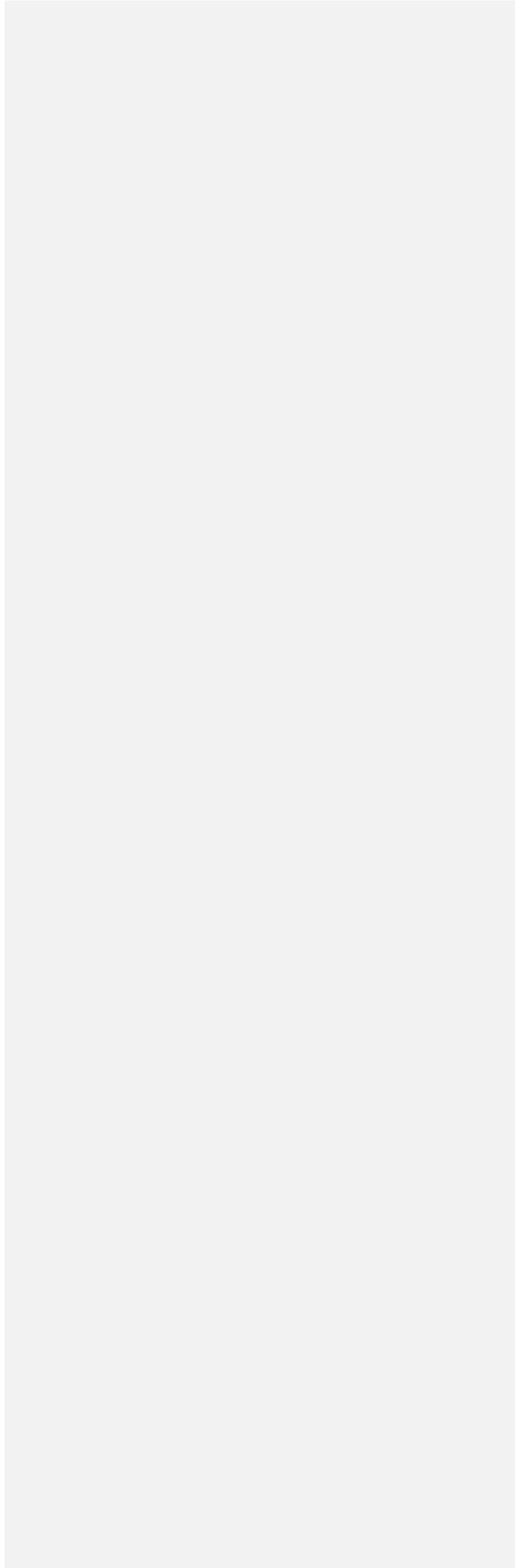
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**2. Life Insurance**

If, at the time of conversion, the Plan has existing life insurance policies, limited services may be available as described in Empower's life insurance guidelines and policies, as updated from time to time. If Empower determines that such services will be offered, Empower will remit insurance premiums to the applicable life insurance provider pursuant to Plan Sponsor's instructions as to the timing and manner of premium remittance. Plan Sponsor may be required to retain a third-party administrator to perform certain compliance and other services. Life insurance cannot be added to an existing Plan. Additional fees may apply.

**C. Plan Document Services**

Empower will offer a volume submitter plan document, a standard summary plan description and plan document amendments required by changes in applicable laws and regulations. If Plan Sponsor declines to use Empower's volume submitter plan document, it acknowledges that Empower will not be responsible for providing plan document updates or other plan document services as described in the Agreement.



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**GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY  
RECORDKEEPING SERVICES AGREEMENT ADDENDUM FOR  
457(b) PLAN ENHANCED PLAN SERVICES**

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This Addendum to the Recordkeeping Service Agreement entered into between Empower and Employer describes certain services under which Empower will process Participant requests without obtaining additional Employer signatures or other specific approvals. In doing so, Empower will not exercise any fiduciary authority or make any discretionary determinations. Rather, this Addendum will act as a one-time instruction and approval by Employer for Empower to process all Participant requests that meet the stated criteria. In addition, Employer, and not Empower, is responsible for reviewing the Plan document to ensure compatibility with the services described in this Addendum.

In order to receive the services detailed in this Addendum, Employer must utilize the P SC and must provide all necessary information via an electronic payroll file. Employer must also provide any additional information or instructions as required by, and in a form acceptable to, Empower. In addition, in most cases, Empower must be the sole recordkeeper for the Plan. Services that involve the processing of distributions to Participants are not available if the Plan includes QJSA/QPSA provisions. If at any time Employer does not meet these general requirements, or does not meet the specific requirements of any service described in this Addendum, Empower will not be required to continue to provide such service.

Employer may elect one or more services by checking the corresponding boxes on the Enhanced Plan Services Election Form. Some services may have a corresponding fee; for further information, please refer to your Fee Schedule.

**1. Eligibility Determination Enrollment**

Employer hereby instructs Empower to calculate Participant eligibility based on Employer's instructions as to the Plan's eligibility requirements and on the Participant information provided by Employer. Employer instructs Empower to reject the enrollment of any Participant determined to be ineligible. For each ineligible determination, Employer instructs Empower to notify the Participant to contact Employer if he or she wishes to appeal the determination. Employer agrees to notify Empower at least thirty (30) days prior to any change in the Plan's eligibility requirements. Empower may discontinue this service if the Plan's new eligibility requirements are incompatible with Empower's requirements.

**2. Online Enrollment**

Employer hereby instructs and authorizes Empower to allow online enrollment. Once the electronic payroll file is transmitted, Employer instructs Empower to issue a Personal Identification Number to every eligible employee, allowing enrollment in the Plan through the website.

**3. Beneficiary Recordkeeping**

Employer affirms that the Plan allows web-initiated beneficiary designations. Employer hereby instructs and authorizes Empower to accept, maintain and file, without Employer's further approval, beneficiary designations received by Empower in good order and in a manner acceptable to Empower. Upon request, Employer agrees to provide Empower with any and all beneficiary information filed with the Plan by Participants prior to the Effective Date.



Employer shall provide Empower with instructions regarding any Plan requirements as to spousal consent for beneficiary designations. If there are any such requirements, Employer instructs Empower to rely on the marital status specified by the Participant on the beneficiary designation form, and to obtain spousal consent, when applicable. If a beneficiary designation requires spousal consent, such designation may be made only by paper form.

Unless Employer qualifies for and has elected the Beneficiary Confirmation for Death Benefit Claims service described below, Employer agrees to review and sign each death benefit claim form. In the event Employer submits a signed death benefit claim form for a claimant other than the beneficiary on file with Empower, if any, Empower will return the form to Employer for further instructions.

#### **4. Deferral Recordkeeping**

Employer hereby instructs and authorizes Empower to allow Participants to update their deferral elections via the website and voice response unit. Employer must provide initial deferral amounts for all Participants. Empower will forward updated deferral information to Employer according to the schedule elected by Employer.

#### **5. Loans**

Employer agrees that all loans shall be account reduction loans repaid by payroll deduction and shall be consistent with the loan policy and the procedures established by Empower from time to time. Employer instructs and authorizes Empower to process, without further Employer approval, Participant loan requests submitted through a form acceptable to Empower or through the Participant website. Principal residence loan requests must be submitted on a paper form with supporting documentation. In order to receive this service, Employer must also utilize Empower's Vesting service, if the Plan has a vesting schedule. If the Plan requires spousal consent for loans, the request must be submitted on a paper form.

#### **6. Vesting**

Employer instructs and authorizes Empower to:

1. Maintain each Participant's vesting percentage on Empower's recordkeeping system;
2. Display the Participant's vested account balance on the quarterly statements; and
3. Calculate and process withdrawals and/or loans according to the vested percentage on Empower's system.

The Plan's vesting schedule must be a standard graded or cliff schedule. If the Plan uses actual hours for calculating vesting, Employer must provide a "Years of Service" file to Empower, and must take all precautions not to duplicate hours on Empower's recordkeeping system.

#### **7. Distribution Processing for Severance of Employment or Retirement**

Employer hereby instructs and authorizes Empower to process, without Employer's further approval, Participant requests for distribution due to severance of employment for any reason other than death or disability, provided such requests are received in good order and in a manner acceptable to Empower.

In order to receive this service, Employer must also utilize Empower's Vesting service, if the Plan has a vesting schedule. If Employer has not provided a Participant's termination date or other required information, Employer instructs Empower to route the request to Employer for approval before processing the distribution. For spousal consent purposes, Employer



instructs Empower to rely on the marital status specified by the Participant in the request form.

**8. Voluntary In-Service DeMinimusDe Minimis Distributions (for Governmental 457(b) Plans Only)**

Employer hereby instructs and authorizes Empower to process, without Employer's further approval, Participant requests for voluntary in-service De\_MinimusMinimis distributions, provided such requests are received in good order and in a manner acceptable to Empower.

In order to receive this service, Employer must also utilize Empower's Vesting service, if the Plan has a vesting schedule. If Employer has not provided the required information, Employer instructs Empower to route the request to Employer for approval before processing the distribution. For spousal consent purposes, Employer instructs Empower to rely on the marital status specified by the Participant in the request form.

**9. Required Minimum Distributions**

Empower will provide a notice and distribution form to each Participant attaining age 70 ½ or older in the current calendar year who has not taken a distribution for the current calendar year. The notice informs the Participant that required minimum distributions must begin no later than April 1 of the calendar year following the later of age 70 ½ or retirement. Empower will not initiate such distributions, but will only process such distributions upon receipt of a Participant or Employer request in good order. Each year, Empower will provide a report to Employer listing Participants who are age 70 ½ or older and whether each has taken a distribution for the calendar year. In order to receive this service, Employer must also utilize Empower's Vesting service, if the Plan has a vesting schedule.

**10. Beneficiary Confirmation for Death Benefit Claims**

Employer hereby instructs and authorizes Empower to process, without Employer's further approval, death benefit claim forms received in good order from beneficiaries under the Plan. Empower is instructed to determine a Participant's beneficiary pursuant to the most recent beneficiary designation available to Empower. If a Participant has not designated a beneficiary, or if no designated beneficiary survives the Participant, Employer instructs Empower to forward the claim to Employer to determine the beneficiary before processing the distribution.

Death benefit claim forms submitted without complete information or without a certified copy of the deceased Participant's death certificate or other required documentation will not be processed, and the claimant will be notified of the deficiency. Processing will continue once Empower receives all required information and documentation in good order. Claimants determined not to be beneficiaries will be notified that their claims have been rejected.

Employer shall make determinations with respect to any competing or other questionable death benefit claims.

In order to receive this service, Employer must also utilize Empower's beneficiary recordkeeping and vesting tracking services, if applicable.

**11. Distributions Due to Unforeseeable Emergencies (for Governmental 457(b) Plans with \$50.0 Million Assets Only)**

Employer hereby instructs and authorizes Empower to process, without Employer's further approval, all Participant requests, received in good order and in a manner acceptable to



Empower, for distributions due to unforeseeable emergency resulting in a severe financial hardship to the Participant or Beneficiary that cannot be alleviated by any other means



available to the Participant. Empower shall only process such requests if they meet the safe harbor defined in the Treasury Regulations, as described below. Employer further instructs Empower to rely on any and all representations made by a Participant in a request. The following situations shall qualify for a distribution under this section:

1. An illness or accident of the Participant or Beneficiary, the Participant's or Beneficiary's spouse, or the Participant's or Beneficiary's dependent (as defined in Code §152, and for taxable years beginning on or after January 1, 2005, without regard to §152(b)(1), (b)(2) and (d)(1)(B));
2. Loss of the Participant's or Beneficiary's property due to casualty;
3. The following extraordinary and unforeseeable circumstances, if they arise as a result of events beyond the control of the Participant or Beneficiary:
  - (1) The imminent foreclosure of or eviction from the Participant's or Beneficiary's primary residence;
  - (2) The need to pay for medical expenses, including nonrefundable deductibles, as well as the cost of prescription drug medication; and
  - (3) The need to pay for the funeral expenses of a spouse or a dependent (as defined in Code §152, and for taxable years beginning on or after January 1, 2005, without regard to §152(b)(1), (b)(2) and (d)(1)(B)) of Participant or Beneficiary.

Except in extraordinary circumstances, the following are examples of situations that shall NOT qualify for a distribution under this section:

1. Purchase of real estate;
2. Payment of college tuition;
3. Unpaid rent or mortgage payments, except in the event of imminent foreclosure or eviction;
4. Unpaid utility bills;
5. Loan repayments;
6. Personal bankruptcy (except when resulting directly and solely from illness, casualty loss or other similar extraordinary and unforeseeable circumstances beyond the Participant's or Beneficiary's control);
7. Payment of taxes, interest or penalties; or
8. Marital separation or divorce.

Employer will make determinations with respect to any unforeseeable emergency distribution request that does not clearly fall within the guidelines set forth above. In the event of any changes to applicable law, including the safe harbor defined in the Treasury Regulations, Empower may revise this authorization and instruction from time to time and without further notice to Employer. This authorization and instruction shall remain in effect until revoked by either party.

In order to receive this service, Employer must also utilize Empower's beneficiary recordkeeping and deferral recordkeeping services.

For each Participant receiving an unforeseeable emergency distribution, PI an Sponsor instructs Empower to notify Employer to suspend elective deferrals for the period required by the Plan, if any. Empower is instructed to deny any request where the unforeseeable emergency event occurred prior to the Effective Date, or more than one year prior to the date the request is received. Empower may contact Employer for direction when unusual situations arise. For each request that is denied or that cannot be processed due to its failure to satisfy an unforeseeable emergency event, Employer instructs Empower to



notify the Participant to contact Employer if the Participant wishes to appeal the determination.

## 12. Incoming Rollovers

Employer instructs and authorizes Empower to accept, without further Employer approval, Participant requests, from active employees of Employer, for incoming rollovers to the Plan that are received in good order and in a form acceptable to Empower. Employer instructs Empower to rely on a Participant's certification, without further investigation or action by Empower, that funds being rolled into the Plan constitute an eligible rollover distribution from an eligible retirement plan within the meaning of Code §402. If other than a direct rollover, the Participant must certify that the rollover is being made to the Plan within sixty (60) days of the date the Participant received the distribution from the prior eligible retirement plan. Employer hereby represents that the Plan accepts incoming rollovers from terminated as well as active employees.

Employer instructs Empower to reject any rollover request received without proper documentation and to return any rollover amounts accompanying such request.

Employer also instructs and authorizes Empower to accept Participant requests for incoming plan-to-plan transfers, if allowed under the Plan, under the same criteria as for rollovers, as described above.

## 13. Qualified Domestic Relations Orders (QDROs)

Employer's approved model form of QDRO for the Plan is attached to this Agreement. Employer hereby instructs and authorizes Empower to treat as qualified each QDRO received by Empower in good order using the model QDRO form, or a form that is similar in all material respects to the model QDRO form. Employer instructs Empower to process the QDRO, without Employer's further approval, by establishing a separate account for the Alternate Payee or making a lump sum distribution to the Alternate Payee. Employer instructs Empower to send a copy of each QDRO confirmation or rejection letter to Employer.

Employer further instructs Empower to process, without Employer's further approval, all requests, received in good order and in a manner acceptable to Empower, for distributions from Alternate Payee accounts established before or after the Effective Date. Employer instructs Empower to calculate any Alternate Payee's QDRO amount based solely on the Participant's account records on Empower's recordkeeping system, and to reject any QDRO that specifies a valuation date prior to the Effective Date.

If the Plan includes a Self Directed Brokerage (SDB) account and the Alternate Payee's awarded share exceeds the value of the Participant's core investment account(s) under the Plan, Empower shall notify the Participant in writing to liquidate and transfer the necessary remaining sum from the SDB into the core investment options, to enable the processing of the QDRO. If the Participant fails to transfer the necessary amount within fifteen (15) Business Days of the date of the notification, and if the necessary amount is available in the SDB money market, Employer instructs Empower to transfer such amount into the Designated Investment Option. If there are insufficient available funds in the SDB money market, Employer instructs Empower to notify the SDB provider to liquidate all of the Participant's SDB investments and to transfer the entire amount into the Designated Investment Option.

If the ~~the~~ Plan has existing life insurance and in the event that the sum of all other Participant assets is insufficient to satisfy a QDRO, Employer instructs Empower to instruct



any existing life insurance provider under the Plan to surrender all or a portion of the Participant's life insurance policy and to transfer the proceeds to Empower for deposit into the Participant's account for subsequent QDRO processing. The amount of the surrender shall be no more than the amount necessary to satisfy the QDRO.

Employer agrees to make determinations with respect to orders received that are not materially similar to the model QDRO form for reasons other than inclusion of a valuation date that precedes the Effective Date.

**By signing the Agreements/Signature Adoption Page, Employer agrees to all of the above provisions for the services elected by Employer on the Enhanced Plan Services Election Form.**



**Employer's approved model form of Qualified Domestic Relations Order ("QDRO") For IRC 457(b) Plans**

This is a Model Qualified Domestic Relations Order ("Model QDRO") that has been preapproved by Empower for use by the Plan for outsourced Qualified Domestic Relations Order ("QDRO") services. Although this Model QDRO conforms with Federal QDRO requirements, it may need to be revised for state and/or local law and/or the specific requirements of the Plan itself. Further, the format of the Qualified Domestic Relations Order may vary depending upon the rules of the court in which the Participant obtains the Domestic Relations Order. For these reasons, this Model QDRO should be used only by the Plan after consultation with the Plan's counsel. Any revisions to the Model QDRO must be submitted to Empower for approval for use with our outsourced QDRO services. Nothing contained in this Model QDRO shall be construed as tax or legal advice.

It is recommended that a proposed version of this order be submitted to Empower with the body of the order filled in prior to entry of this order for purposes of your obtaining Empower's preapproval of the proposed order.

Proposed and entered orders should be remitted to the Plan Recordkeeper as follows:

Great-West Retirement Services®  
P.O. Box 173764  
Denver, CO 80217-3764  
Fax # (866) 745-5766

.....COURT, CITY OF ....., COUNTY OF .....

STATE OF .....

IN RE THE MARRIAGE OF:

.....

No. ....

Petitioner, )  
and )  
Respondent )

QUALIFIED DOMESTIC RELATIONS ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, based on the findings set forth below,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

- 1. **Parties:** The parties hereto were husband and wife, and a divorce action is in this Court at the above number. This Court has personal jurisdiction over the parties. The parties were married on \_\_\_\_\_ and divorced on \_\_\_\_\_.
- 2. **Participant Information:** The name, last known address, social security number and date of birth of the plan "Participant" are:



- a. Name: \_\_\_\_\_
- b. SSN: \_\_\_\_\_
- c. Address: \_\_\_\_\_
- d. Date of Birth: \_\_\_\_\_

3. **Alternate Payee Information:** The name, last known address, social security number and date of birth of the "Alternate Payee" are:

- a. Name: \_\_\_\_\_
- b. SSN: \_\_\_\_\_
- c. Address: \_\_\_\_\_
- d. Date of Birth: \_\_\_\_\_

The Alternate Payee is the Participant's former spouse. The Alternate Payee shall have the duty to notify the Plan Administrator and/or Recordkeeper of any changes in mailing address subsequent to the entry of this Order.

4. **Plan Name.** The name of the Plan to which this Order applies is the \_\_\_\_\_ Plan, (hereafter referred to as "Plan").

Any changes in the Plan Administrator, Employer, or name of the Plan shall not affect Alternate Payee's rights as stipulated under this Order.

5. **Effect of this Order as a Qualified Domestic Relations Order:** This Order creates and recognizes the existence of an Alternate Payee's right to receive a portion of the Participant's benefits payable under an employer-sponsored defined contribution plan that is qualified under Section 401 of the Internal Revenue Code (the "Code"). It is intended to constitute a Qualified Domestic Relations Order ("QDRO") under Section 414(p) of the Code.

6. **Pursuant to State Domestic Relations Law:** This Order is entered pursuant to the authority granted in the applicable domestic relations laws of \_\_\_\_\_.

7. **Provisions of Marital Property Rights:** This Order relates to the provision of marital property rights as a result of the Order of Divorce between the Participant and the Alternate Payee.

8. **Amount of Alternate Payee's Benefit:** This Order assigns to the Alternate Payee an amount equal to [choose either option 8A1 or 8A2 below]:

8A1 \$ \_\_\_\_\_ of the Participant's Total Vested Account Balance under the Plan as of the date this Order is processed.

OR

8A2 \$ \_\_\_\_\_ (dollars and cents) or \_\_\_\_\_% (percent)] of the Participant's Total Vested Account Balance accumulated under the Plan as of \_\_\_\_\_ (or the closest valuation date thereto). The Alternate Payee's benefit herein awarded shall be credited with any investment income (or losses) attributable thereon from the aforesaid valuation date (or the closest valuation date thereto), until the date of transfer of the Alternate Payee's share to the Alternate Payee.

(Note to drafting attorney: The Plan's current recordkeeper is not able to determine the value of the Participant's account balance and any investment earnings and/or losses prior to \_\_\_\_\_. The parties will need to arrive at a dollar figure or



percentage of benefits payable to the Alternate Payee as of a date that is no earlier than \_\_\_\_\_. The Plan's current recordkeeper can determine the account value and calculate any earnings and/or losses from \_\_\_\_\_ through the date assets are transferred or distributed to the Alternate Payee. Keep in mind that if you must adjust the valuation date forward and a percentage is awarded to the Alternate Payee in this section, you should consider whether to adjust the Alternate Payee's awarded percentage to account for any additional contributions (and any gains/losses accruing thereon) made by or for the Participant to the account after the originally intended valuation date.)

Such Total Account Balance shall be determined after the account is reduced by the outstanding balance of the Participant's account reduction loan(s), if any, as of the valuation date specified above, such that the Account Balance shall not include the outstanding balance of any account reduction loan(s) as of the valuation date. The obligation to repay any Participant Plan loan(s) from and after the date of this Order remains solely with the Participant. Such Total Vested Account Balance shall include all amounts maintained under all of the various accounts and/or sub-accounts established on behalf of the Participant, including rollover and transfer contributions.

The Alternate Payee's portion of the benefits described above shall be allocated on a pro rata basis first from all of the core accounts and/or core investment options maintained under the Plan on behalf of the Participant other than life insurance or Self-Directed Brokerage ("SDB"), if any. The Plan shall redeem amounts from a life insurance contract, if any, issued for the Participant under the Plan only to the extent necessary to obtain the amount that this order awards to the Alternate Payee. If there are any SDB investments, and if the balance in the core investments is insufficient to satisfy the judgment, Participant must initiate a transfer of the amount needed to satisfy the judgment from the SDB into the core investments. If participant fails to initiate such a transfer, or if the transfer is insufficient to satisfy the judgment, one hundred percent (100%) of the SDB Money Market Fund will be transferred to the core investments. If the balance is still insufficient to satisfy the judgment, the entire SDB account may be liquidated and transferred to the core investments.

Unless the Alternate Payee elects an immediate lump sum distribution by the Plan at the time this Order is submitted to, and approved by, the Plan, such benefits shall also be segregated and separately maintained in a nonforfeitable Account(s) established on behalf of the Alternate Payee. This Account(s) will initially be established proportionately in the same core investment options as the Participant account. Alternate Payee may make subsequent investment selections as and when permitted under the terms of the Plan. Alternate Payee's account shall experience gains and or losses according to the investment experience of the investment options in which Alternate Payee's share is invested.

- 9. **Commencement Date and Form of Payment to Alternate Payee:** If the Alternate Payee so elects on an appropriate form, the benefits shall be paid to the Alternate Payee as soon as administratively feasible following the date this Order is approved as a QDRO by the Plan. Benefits will be payable to the Alternate Payee in any form or permissible option otherwise available to participants under the terms of the Plan, except a joint and survivor annuity. The Alternate Payee will be responsible for paying any applicable withdrawal charges imposed under any investment account(s) with respect to his or her share under the plan.
- 10. **Alternate Payee's Rights and Privileges:** On and after the date that this Order is deemed to be a QDRO, but before the Alternate Payee receives a total distribution under the Plan, the Alternate Payee shall be entitled to all of the rights and election privileges that are afforded to Plan beneficiaries, including, but not limited to, the rules regarding the



right to designate a beneficiary for death benefit purposes and the right to direct Plan investments, only to the extent permitted under the provisions of the Plan.

11. **Death of Alternate Payee:** In the event of the Alternate Payee's death prior to receiving the full amount of benefits assigned under this Order and under the benefit option chosen by the Alternate Payee, such Alternate Payee's beneficiary(ies), as designated on the appropriate form provided to the Plan or, in the absence of a beneficiary designation, the remainder of any unpaid benefits under the terms of this Order shall be paid in accordance with the terms of the Plan.
12. **Death of Participant:** Should the Participant predecease the Alternate Payee, such Participant's death shall in no way affect the Alternate Payee's right to the portion of the benefits as stipulated herein.
13. **Savings Clause:** This Order is not intended, and shall not be construed in such a manner as to require the Plan:
  - a. to provide any type or form of benefits or any option not otherwise provided under the Plan;
  - b. to provide increased benefits to the Alternate Payee;
  - c. to pay any benefits to the Alternate Payee which are required to be paid to another alternate payee under another order previously determined to be a QDRO; or
  - d. to make any payment or take any action which is inconsistent with any federal or state law, rule, regulation or applicable judicial decision.
14. **Certification of Necessary Information:** All payments made pursuant to this Order shall be conditioned on the certification by the Alternate Payee and the Participant to the Plan of such information as the Plan may reasonably require from such parties.
15. **Continued Qualified Status of Order:** It is the intention of the parties that this QDRO continue to qualify as a QDRO, as it may be amended from time to time.
16. **Tax Treatment of Distributions Made Under This Order:** For purposes Sections 402(a)(1) and 72 of the Code, or any successor Code section, any Alternate Payee who is the spouse or former spouse of the Participant shall be treated as the distributee of any distribution or payments made to the Alternate Payee under the terms of this Order, and as such, will be required to pay the appropriate federal income taxes on such distribution.
17. **Parties Responsibilities in Event of Error:** In the event that the Plan inadvertently pays the Participant any benefits that are assigned to the Alternate Payee pursuant to the terms of this Order, the Participant shall immediately reimburse the Alternate Payee to the extent that the Participant has received such benefit payments by paying such amounts directly to the Alternate Payee within ten (10) days of receipt.

In the event that the Plan inadvertently pays the Alternate Payee any benefits that are to remain the sole property of the Participant pursuant to the terms of this Order, if the Participant has experienced a distributable event under the terms of the Plan, the Alternate Payee shall immediately reimburse the Participant to the extent that the Alternate Payee has received such benefit payments by paying such amounts directly to the Participant within ten (10) days of receipt. If the Participant has not experienced a distributable event under the terms of the Plan, the Alternate Payee shall immediately return such overpayment to the Plan within ten (10) days of receipt.



- 18. **Effect of Plan Termination:** In the event of a Plan termination, the Alternate Payee shall be entitled to receive his or her portion of the Participant's benefits as stipulated herein in accordance with the Plan's termination provisions for participants and beneficiaries.
- 19. **Continued Jurisdiction:** The Court retains jurisdiction over this matter to amend this Order to establish or maintain its status as a qualified domestic relations order, as amended and the original intent of the parties as stipulated herein. The Court shall also retain jurisdiction to enter such further orders as are necessary to enforce the assignment of benefits to the Alternate Payee as set forth herein.
- 20. **Fee:** A processing fee of \$250.00 shall be charged one-half (\$125.00) against the Alternate Payee's share/account and one-half (\$125.00) against the Participant's remaining account. In the event that the Alternate Payee is awarded 100% of the Participant's account balance as of the date this Order is processed pursuant to this Order, the entire processing fee shall be charged to the Alternate Payee's account/share. If there are not sufficient funds in either party's account to pay that party's respective share of the fee, the difference shall be charged to the other party.

BY THE COURT:

.....  
JUDGE

.....  
Petitioner

.....  
Respondent

**GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY  
RECORDKEEPING SERVICES AGREEMENT ADDENDUM FOR  
EMPOWER PARTICIPANT EXPERIENCE**

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This Addendum to the Recordkeeping Service Agreement (“Agreement”) entered into between Great-West and Employer describes certain Plan and investment education and communications materials and services, including education and planning tools through the internet and electronic delivery of plan materials. This Addendum amends or modifies anything in the Agreement to the contrary .

1. Great-West will provide Participants, with certain exceptions, access to retirement income projections through the Empower website. The Empower website will provide Participants with a tool to estimate monthly retirement income and goals based on a number of factors including the Participant’s Plan assets, Plan contribution rates, and compensation data.

Great-West will provide Participants, with certain exceptions, access to Great-West’s Health Cost Estimator on the Empower website. The Health Cost Estimator will provide Participants with estimated monthly health care expenses based on retirement age and certain personal health condition information provided to Great-West by Participants. All health care costs and projections will be provided by an unrelated third party vendor. Employer agrees that the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) does not apply to any personal health condition information provided to Great-West by Participants. Employer also acknowledges that such health condition information is owned by the Participant and not by Employer, and that Great-West will not disclose to Employer any health condition information provided to Great-West by Participants without the Participant’s consent. Great-West agrees that, except as provided in the preceding sentence, it will otherwise treat such health condition information as Nonpublic Personal Information (“NPI”) to be held in confidence under the terms of the Agreement. Employer further agrees not to use any information it obtains through the Health Cost Estimator other than for Plan purposes.

Employer represents that all of the enrollment, education, investment and planning information, materials, and tools provided by Great-West under this Addendum are appropriate for use by the Plan, and agrees that all are intended to be investment education as described in ERISA Regulation 2509.96-1 and are not investment, tax or health care advice. Employer further acknowledges that the retirement income projections and the Health Cost Estimator are subject, without limitation, to the risks and limits disclosed on the Participant website, and should not be relied on as the primary basis for medical, insurance, investment, financial, retirement or tax planning decisions.

2. Great-West will deliver plan documents and notices to participants in an electronic manner to the extent applicable as follows:
  - a. Quarterly statements will be posted to the participant website after quarter end. Participants will receive an annual notice advising them of the availability of the quarterly statement on the participant website and the right to receive a paper copy of the statement.
  - b. Plan notices to be delivered by Great-West will be delivered via email to the participant’s email address as provided to Great-West by the Employer or, if the participant has affirmatively elected on the participant website, to the email address provided by the participant or, if neither, via regular mail.

By providing Great-West with a participant’s email address, the Employer confirms that the participant has the effective ability to access notices delivered to such email address at work.

Participants may elect on the participant website or by contacting the Client Service Center to receive quarterly statements and plan notices via regular mail at any time.

3. Empower has partnered with an outside service provider to offer Participants the opportunity to enroll in the Empower Savings and Bill Manager, a cash -flow management solution, as part of Empower’s participant experience. The Empower Savin-g and Bill Manager allows employees and

Participants to link any bills they want to have paid through the service, create a savings account for emergency savings or other short term savings goals, and automate a debt pay -down strategy. The remainder of any allocated amounts will stay in the user's pre-existing linked bank account. Users have full access to the funds in the savings accounts established within the service, and the user may withdraw or move those funds at any time.

Empower Retirement has integrated the service provider's offering into the Participant web experience through a dedicated link and single sign -on capabilities. Empower will share information with the service provider as necessary to streamline the user experience and to communicate with employees and Participants about the po-tential benefits of the service

The cost for employees and Participants that enroll in the service is \$6 per month

By signing the Agreements/Signature Adoption Page, Employer agrees to all of the above provisions.

**RECORDKEEPING SERVICES AGREEMENT ADDENDUM FOR  
EMPOWER MY FINANCIAL PATH**

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Empower’s financial wellness program (My Financial Path) offers Participants tools and services to review their overall financial wellness and may include information on financial products and services made available by Empower or third party providers. (More information on the applicable financial products and services is available upon request.)

My Financial Path includes a “Next Step Evaluator” tool that allows Participants to complete a personalized online assessment, the output of which provides Participants with ideas on next steps they can take to address certain financial concerns they identified when completing the assessment. Additional educational resources will be available to Participants to learn more about financial topics of interest, including a learning center with educational content on certain financial wellness topics. Empower or its affiliates may make retirement education consultants available to Participants to provide financial wellness consultations. ~~Retirement education consultants may contact Participants to consult on My Financial Path tools and services and may discuss certain Empower financial products and services during the consultation.~~ Retirement education consultants will not proactively contact Participants to discuss other Empower products or services. Such information will only be provided at the request of the Participant. Consultations involve topics such as (but not limited to): budgeting, saving, student debt, debt prioritization, life insurance, managing investments and consolidating assets.

There is no additional cost to the Plan Sponsor or its Participants for the Next Step Evaluator and the additional educational resources offered by Empower. Participants may pay fees if they choose certain products available through My Financial Path (see the product fee schedule(s), if applicable for more detail). Empower may receive fees and other payments from the My Financial Path products offered by Empower and third parties that are selected by Participants. See the Plan’s Fee Disclosure Report for more detail (a copy of the Plan’s most recent Fee Disclosure Report is available on the Plan Sponsor Website). Empower will provide at least annually, a non-personalized accounting of revenue received from the sale of financial products to Participants initiated through conversations related to the Plan.

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