



# Custodial Account Agreement: Traditional/SEP IRA

(Under section 408(a) of the Internal Revenue Code)

Form 5305-A (Rev. April 2017)

Department of the Treasury Internal Revenue Service

Form 5305-A is a model custodial account agreement that meets the requirements of section 408(a). However, only Articles I through VII have been reviewed by the IRS. The Depositor whose name and signature appears in the accompanying Application is establishing an Individual Retirement Account ("IRA") under Internal Revenue Code Section 408(a) to provide for his or her retirement and for the support of his or her beneficiaries after death.

The Custodian has given the Depositor the disclosure statement attached hereto, as required under Regulation Section 1.408-6.

**CUSTODIAN: PACIFIC PREMIER BANK, THROUGH ITS DIVISION, PACIFIC PREMIER TRUST**

**THE DEPOSITOR AND THE CUSTODIAN MAKE THE FOLLOWING AGREEMENT:**

## ARTICLE 1

Except in the case of a rollover contribution described in Section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), an employer contribution to a simplified employee pension plan as described in Section 408(k) or a re-characterized contribution described in 408A(d)(6), the Custodian will accept only cash contributions up to \$5,500 per year for 2013 through 2017. For individuals who have reached the age of 50 by the end of the year, the contribution limit is increased to \$6,500 per year for 2013 through 2017. For tax years after 2017, these limits will be increased to reflect a cost-of-living adjustment, if any.

## ARTICLE 2

The Depositor's interest in the balance in the Custodial Account is non-forfeitable.

## ARTICLE 3

**3.1** No part of the Custodial Account funds may be invested in life insurance contracts, nor may the assets of the Custodial Account be commingled with other property except in a common trust fund (within the meaning of Section 408(a)(5)).

**3.2** No part of the Custodial Account funds may be invested in collectibles (within the meaning of Section 408(m)) except as otherwise permitted by Section 408(m)(3), which provides an exception for certain gold, silver, and platinum coins, coins issued under the laws of any state, and certain bullion.

## ARTICLE 4

**4.1** Notwithstanding any provision of this agreement to the contrary, the distribution of the Depositor's interest in the Custodial Account shall be made in accordance with the following requirements and shall otherwise comply with Section 408(a)(6) and the regulations thereunder, the provisions of which are herein incorporated by reference.

**4.2** The Depositor's entire interest in the Custodial Account must be, or begin to be, distributed not later than the Depositor's required beginning date, April 1 following the calendar year in which the

Depositor reaches age 70½. By that date, the Depositor may elect, in a manner acceptable to the Custodian, to have the balance in the Custodial Account distributed in:

- (a) A single sum, or
- (b) Payments over a period not longer than the life of the Depositor or the joint lives of the Depositor and his or her designated Beneficiary.

**4.3** If the Depositor dies before his or her entire interest is distributed to him or her, the remaining interest will be distributed as follows:

- (a) If the Depositor dies on or after the required beginning date, and:
  - (i) The designated Beneficiary is the Depositor's surviving Spouse, the remaining interest will be distributed over the surviving Spouse's life expectancy, as determined each year until such Spouse's death, or over the period in paragraph (a)(iii), if longer. Any interest remaining after the Spouse's death will be distributed over such Spouse's remaining life expectancy as determined in the year of the Spouse's death and reduced by 1 for each subsequent year, or, if distributions are being made over the period in paragraph (a)(iii), over such period.
  - (ii) The designated Beneficiary is not the Depositor's surviving Spouse, the remaining interest will be distributed over the beneficiary's remaining life expectancy as determined in the year following the death of the Depositor and reduced by 1 for each subsequent year, or over the period in paragraph (a)(iii) if longer.
  - (iii) There is no designated Beneficiary, the remaining interest will be distributed over the remaining life expectancy of the Depositor as determined in the year of the Depositor's death and reduced by 1 for each subsequent year.
- (b) If the Depositor dies before the required beginning date, the remaining interest will be distributed in accordance with

NON-DEPOSIT INVESTMENT PRODUCTS ARE NOT INSURED BY THE FDIC; ARE NOT DEPOSITS OR OTHER OBLIGATIONS OF, OR GUARANTEED BY, THE BANK OR ANY OF ITS DIVISIONS; AND ARE SUBJECT TO INVESTMENT RISKS, INCLUDING POSSIBLE LOSS OF THE PRINCIPAL AMOUNT INVESTED.

paragraph (i) below or, if elected or there is no designated Beneficiary, in accordance with paragraph (ii) below:

- (i) The remaining interest will be distributed in accordance with paragraphs (a)(i) and (a)(ii) above (but not over the period in paragraph (a)(iii), even if longer), starting by the end of the calendar year following the year of the Depositor's death. If, however, the designated Beneficiary is the Depositor's surviving Spouse, then this distribution is not required to begin before the end of the calendar year in which the Depositor would have reached age 70½. But, in such case, if the Depositor's surviving Spouse dies before distributions are required to begin, then the remaining interest will be distributed in accordance with paragraph (a)(ii) above (but not over the period in paragraph (a)(iii), even if longer), over such Spouse's designated Beneficiary's life expectancy, or in accordance with paragraph (ii) below if there is no such Designated beneficiary.
- (ii) The remaining interest will be distributed by the end of the calendar year containing the fifth anniversary of the Depositor's death.

**4.4** If the Depositor dies before his or her entire interest has been distributed and if the designated Beneficiary is not the Depositor's surviving Spouse, no additional contributions may be accepted in the account.

**4.5** The minimum amount that must be distributed each year, beginning with the year containing the Depositor's required beginning date, is known as the "required minimum distribution" and is determined as follows:

- (a) The required minimum distribution under paragraph 2(b) for any year, beginning with the year the Depositor reaches age 70½, is the Depositor's account value at the close of business on December 31 of the preceding year divided by the distribution period in the IRS Uniform Lifetime Table in Regulations Section 1.401(a)(9)-9. However, if the Depositor's designated Beneficiary is his or her surviving Spouse, the required minimum distribution for a year shall not be more than the Depositor's account value at the close of business on December 31 of the preceding year divided by the number in the joint and last survivor table in Regulations Section 1.401(a)(9)-9. The required minimum distribution for a year under this Section is determined using the Depositor's (or, if applicable, the Depositor and Spouse's) attained age (or ages) in the year.
- (b) The required minimum distribution under paragraphs 3(a) and 3(b)(i) for a year, beginning with the year following the year of the Depositor's death (or the year the Depositor would have reached age 70½, if applicable under paragraph 3(b)(i)), is the account value at the close of business on December 31 of the preceding year divided by the life expectancy (in the single life table in Regulations Section 1.401(a)(9)-9) of the individual specified in such paragraphs 3(a) and 3(b)(i).
- (c) The required minimum distribution for the year the Depositor reaches age 70½ can be made as late as April 1 of the following year. The required minimum distribution for any other year must be made by the end of such year.

**4.6** The owner of two or more traditional IRAs may satisfy the minimum distribution requirements described above by taking from one traditional IRA the amount required to satisfy the requirement for another in accordance with the regulations under Section 408(a)(6).

## ARTICLE 5

**5.1** The Depositor agrees to provide the Custodian with all information necessary to prepare any reports required by Section 408(i) and Regulations sections 1.408-5 and 1.408-6.

**5.2** The Custodian agrees to submit to the Internal Revenue Service (IRS) and Depositor the reports prescribed by the IRS.

## ARTICLE 6

Notwithstanding any other articles which may be added or incorporated, the provisions of ARTICLES 1–3 and this sentence will be controlling. Any additional articles inconsistent with section 408(a) and the related regulations will be invalid.

## ARTICLE 7

This agreement will be amended as necessary to comply with the provisions of the Code and the related regulations. Other amendments may be made with the consent of the persons whose signatures appear below.

## ARTICLE 8

Capitalized terms used herein and not defined in the body of the Agreement shall have the meanings set forth in this Article 8. References to Sections 401, 402, 403, 406, 408 and 457 mean Internal Revenue Code Sections 401, 402, 403, 406, 408 and 457.

### 8.1 Definitions

- (a) **Account** means all property of every kind held or acquired by the Custodian under this Agreement.
- (b) **Beneficiary** means the person or persons designated in accordance with paragraph 3.
- (c) **Code** means the Internal Revenue Code of 1986, as amended.
- (d) **Custodian** refers to the bank or financial institution named on the IRA Application that is qualified to act as IRA custodian pursuant to Internal Revenue Code Section 408.
- (e) **Depositor** means the individual who executes the IRA Application and establishes the IRA.
- (f) **Financial Representative** means an individual or entity authorized to provide transaction instructions to the Custodian for the Account and to direct the Custodian to perform transactions for the Account.
- (g) **Participant** means the Depositor, and after the Depositor's death, the Beneficiary.
- (h) **Spouse** refers to the individual lawfully married to the Depositor, if the marriage would be recognized by any state, possession, or territory of the United States.

## 8.2 Distributions and Transfers

- (a) **Participant's Right to Withdraw.** A Participant shall have the right to withdraw all or any part of his or her Account at any time upon written notice to the Custodian using a form acceptable to the Custodian. The Custodian shall make distributions in cash or property, at the value reported by the Custodian at the time of such distribution. The Custodian shall be under no duty or obligation to inquire as to the propriety of any distribution instruction.
- (b) **Required Minimum Distributions.** Participant is solely responsible for ensuring that the required minimum distribution requirements of Section 401(a)(9) and Article 4 above are met. If the Participant does not choose any of the distribution methods under Article 4 of this Agreement by April 1st following the calendar year in which the Participant reaches age 70½ (or age 72 if the Participant was born on or after July 1, 1949), distribution shall be determined based on the distribution period in the Uniform Lifetime Table in Treasury Regulation 1.401(a)(9)-9. No payment will be made unless the Participant provides a written distribution request in a form acceptable to the Custodian. Upon receipt by the Custodian of such a distribution request, the Participant may switch to a joint life expectancy in determining the required minimum distribution if the Participant's Spouse was the sole Beneficiary as of January 1st of the distribution calendar year and such Spouse is more than 10 years younger than the Participant. If the Participant does not direct the Custodian to make distributions from the Custodial Account by the time that such distributions are required to commence in accordance with Article 4, the Custodian shall assume that the Participant is meeting the minimum distribution requirements from another individual retirement arrangement maintained by the Participant and the Custodian shall be fully protected in so doing.
- (c) **Transfer of Assets to and From This Account.** The Custodian is authorized to receive and add to the Custodial Account the assets of another IRA or an IRA annuity (described in Section 408) that are transferred to this Account and which the Participant has determined are eligible for such transfer. The Participant may direct the Custodian in writing to transfer all or any portion of the Participant's Account to another IRA established by or on behalf of the Participant, so long as the trustee/custodian of that IRA has accepted such assets in writing. Any amounts received or transferred by the Custodian under this paragraph shall be accompanied by such records and other documents as the Custodian deems necessary to establish the nature, value and extent of the assets and of the various interests therein. The Custodian reserves the right not to accept any transfer or direct rollover. The Custodian shall have no responsibility for determining whether any transfer described here complies with the requirements for a tax-free transfer or whether the custodian, other than the Custodian, or trustee of any IRA involved in such transfer is qualified to serve as such, or of any tax consequences or loss resulting from any attempted or completed transfer. The Custodian's transfer to, or acceptance of, a transfer under this paragraph shall in no way constitute, or be deemed to be or relied upon as, any such determination, and the Custodian shall have no

liability for any tax consequence or loss resulting from any such attempted or completed transfer.

- (d) **Transfer of Account Because of Divorce.** In the event the Participant and the Spouse obtain a separation instrument, a final decree of divorce or dissolution of their marriage, the Participant may direct the Custodian, in accordance with the Custodian's procedures, to transfer the appropriate portion of the assets in the Participant's Account to the former Spouse's IRA. It will be the Participant's, and not the Custodian's, responsibility to ensure that the transfer instructions are in accordance with the terms of the decree of divorce, separation or dissolution of marriage.

## 8.3 Beneficiaries

- (a) **Beneficiary Designation.** The Participant may from time to time designate, in writing, any person or persons (including a trust), contingently or successively, to whom the Custodian shall pay the Participant's Account in event of the Participant's death. If the Spouse has a community property interest in the Account, the Spouse may have to consent to the designation of a Beneficiary. The Custodian shall prescribe the form for the written designation of Beneficiary. Upon receipt of such form, the designation shall take immediate effect; it being understood that the submission of such form revokes all prior designations filed by the Participant.

If a former Spouse is the most-recently named Beneficiary (named while still married), the designation will be deemed revoked upon divorce, unless the former Spouse is redesignated after divorce.

- (b) **No Beneficiary Designation.** If the Participant fails to designate any Beneficiary in accordance with this Article 8 or if all designated Beneficiaries predecease the Participant, the Custodian shall distribute the balance of the Participant's IRA in accordance with Article 4 to the Participant's surviving Spouse or if no surviving Spouse, to the Participant's estate.

## 8.4 Investments

- (a) **Participant Investment Responsibility.** Subject to the appointment of a Financial Representative, as defined in the Terms and Conditions, the Participant has the sole authority, responsibility and discretion, fully and completely, to select and to direct the investment of all assets in his or her Account. All investment directions shall be given in a form that complies with reasonable requirements and procedures imposed by the Custodian. Upon the death of the Participant, each Beneficiary assumes all rights, responsibilities and liabilities for investment of the Account that is passed to that Beneficiary. Throughout this paragraph 4, whenever "Participant" is used, "Beneficiary" shall be substituted, as appropriate, if the Participant has died.

The Participant shall be responsible for ensuring that any documents relating to any investment are signed, recorded, genuine, legally enforceable and/or sufficient to give rise to a legal interest, including but not limited to title or a security interest. The Participant represents that if any investment in this Account is a security under applicable federal or state securities law, such investment has been registered or is exempt from registration under federal and state securities

laws; and the Participant releases and waives all claims against the Custodian and its agents for their role in carrying out the Participant's instructions with respect to such investment.

In addition, the Participant shall be solely and fully responsible for ensuring proper payment of any taxes, tax penalties and other liabilities, and compliance with the Participant's reporting obligations, in connection with contributions to, disbursement from, or investments or transaction with respect to the Account, and for the consequences of such payment (or nonpayment) or of any noncompliance with applicable reporting requirements.

The Participant or the Participant's authorized agent shall direct the Custodian with regard to the investment of any cash in the Account. In the absence of specific direction from the Participant to invest cash in the Account, the Custodian will be deemed to have been directed by the Participant to deposit all uninvested cash with an FDIC-insured depository institution (which may include Pacific Premier Bank).

- (b) **Permitted Investments.** Investments may be made in instruments and investment vehicles that are permitted by the Custodian and are compatible with its administrative and operational requirements. The Custodian, at its discretion, reserves the right not to hold any investment or investment type. The Custodian reserves the right not to honor any investment instruction if adequate information has not been provided or if the Custodian cannot meet special administrative requirements of the investment.
- (c) **Investment Powers.** The Custodian shall not commingle the Trust with any other property it holds except in a common trust fund or common investment fund.
- (d) **Taxes, Legal Costs and Legal Actions.** The Custodian may charge against and pay from the Custodial Account all taxes of any nature levied, assessed, or imposed upon the Custodial Account, and pay all reasonable expenses and attorney's fees which may be necessarily incurred by the Custodian with respect to the foregoing matter.

If Participant elects to bring a claim or file a lawsuit against a third-party using Custodian's name in Custodian's nominal capacity, Participant agrees to comply with Custodian's reasonable instructions for filing said claim or lawsuit, including but not limited to, signing an Appointment of Agent document for the benefit of Custodian.

The Custodian may charge the Participant, and/or the Custodial Account, and shall be reimbursed by the Participant or the Custodial Account, for any reasonable expense incurred by the Custodian in connection with any account services or activities that the Custodian determines are necessary or advisable, or which are expressly directed by the Participant, and which are not included in the services provided by the Custodian for its normal fees. The Custodian will only pay expenses relating to the external administration of a specific investment held in the Custodial Account, such as property tax or association fees, from cash available in the Custodial Account and will not advance such expenses on behalf of the Participant if cash is unavailable.

Examples of the foregoing include, but are not limited to, attorney's fees and other legal costs and expenses (including, without limitation, filing and other court fees; arbitration; mediation; investigation; expert witness; and court reporter fees and similar expenses): 1) in defense of, or otherwise on behalf of, the Custodial Account or the Participant's interest therein in any arbitration, litigation, investigation, or request by a governmental or regulatory agency, involving or relating to the Custodial Account or any of its assets or transactions; or 2) in defense of the Custodian, if the Custodian is named together with the Participant or the Custodial Account in any proceeding involving the Participant or the Custodial Account. The Custodian may establish a reasonable reserve from the assets of the Custodial Account with which to pay its compensation or expenses for administration.

## 8.5 Termination by Participant

The Participant shall have the right, at any time, to terminate this IRA. The IRA shall terminate upon the first to occur of the following:

- (a) The date determined by the Participant's written notice given to the Custodian at least 60 days prior to termination;
- (b) Upon the written request of the Participant to terminate the IRA after the Custodian has distributed all assets in the Participant's Account; or
- (c) On the date the Participant's IRA ceases to be an individual retirement account within the meaning of Code Section 408(a). As soon as administratively practicable after this date, the Custodian shall distribute all of the assets in the Custodial Account in a single sum payment to the Participant subject to Section 6. The IRA will not be considered terminated if the Custodian has not authorized the removal of assets from the IRA.

## 8.6 Resignation or Removal of Custodian

- (a) The Custodian may resign at any time with or without cause upon written notice to the Participant. Resignation will take effect 30 days after the date the notice is sent, unless a successor trustee/custodian is duly appointed by the Participant or the Custodian before that date.
- (b) The Custodian may be removed at any time with or without cause upon 60 days' written notice to the Custodian. Such effective date may be changed upon written mutual agreement. To be effective, the Participant's notice of removal of the Custodian must include notice of the appointment of a successor trustee/custodian and a written acceptance of such appointment by the successor trustee/custodian.
- (c) If, by the effective date, of either the Custodian's resignation or removal or such longer time as the Custodian may agree to, neither the Custodian nor the Participant has appointed a successor trustee/custodian which has duly accepted such appointment, the Custodian shall terminate the IRA, which shall be effective by distributing all assets in the Participant's Account in a single sum in cash or in kind subject to the Custodian's right to reserve funds as provided below. In the event of any distribution in kind, the Custodian and the Participant shall execute, acknowledge and deliver all documents and written instruments necessary to transfer and convey the right, title and interest in the assets of the Custodial Account to the Participant.

(d) Upon the resignation or removal of the Custodian, the Custodian shall be entitled to deduct from the Custodial Account such reasonable amount as it deems necessary to provide for expenses in the settlement of its account, the amount of compensation due to it, and any taxes or other sums chargeable against the Custodial Account for which it may be liable. If the Custodial Account is not sufficient for such purposes, the Custodian shall have the right to a settlement of its account, which, at the option of the Custodian, may be by judicial settlement in an action the Custodian institutes in a court of competent jurisdiction; or by a settlement agreement between the Custodian and the Participant. Upon settlement under this Section, all right, title and interest of the Custodian in the assets of the Custodial Account shall vest in the successor trustee/custodian. At that time, all future liability of the Custodian shall terminate under the IRA; provided, however, the Custodian shall execute, acknowledge and deliver all documents and written instruments necessary to transfer and convey the right, title and interest in the assets of the Custodial Account to the successor trustee/custodian.

**8.7 Successor Trustee/Custodian.** In the event the Custodian merges, reorganizes, is acquired or changes its name, the surviving entity will become the Trustee or Custodian of the IRA provided that it is authorized to serve in that capacity pursuant to the Code.

#### **8.8 General Provisions**

(a) **Fees and Expenses of the Custodian.** The Participant and/or the Account shall pay the Custodian fees and expenses for its services under this Plan in accordance with the Custodian's current Fee Schedule applicable to the Plan and as otherwise set forth in this Agreement. The Custodian may receive a service fee from third parties such as broker-dealer, mutual fund or other investment sponsor, including Rule 12b-1 and revenue sharing fees, for administrative and other services that the Custodian performs incident to the establishment and maintenance of records for any account and the Participant acknowledges and agrees to the Custodian's receipt of such amounts. If the Participant dies before distribution of his or her entire Account, the Beneficiary shall assume responsibility for all fees and expenses associated with this Account, and shall be covered by this provision 8(a) as if the Beneficiary was the Participant.

(b) **Billing and Fee Collection.** In consideration for services under this IRA Custodial Account Agreement, the Custodian shall be paid the fees specified on the applicable Fee Schedule, the provisions of which are incorporated into this Custodial Account Agreement, and as otherwise set forth in this Agreement. Such fees, which may include, but are not limited to, account establishment, account maintenance, account termination and other account administrative fees, will be billed and collected as identified in the applicable Fee Schedule.

(c) **Amendments.** Notwithstanding the provisions of Article 7, the Custodian may amend this Agreement, whether prospectively or retroactively, at any time, without the Participant's consent, provided that no amendment that may materially and adversely affect the Participant shall be effective until the expiration of a thirty (30) day period following delivery of written notice (which may be an electronic notice) of the amendment by the Custodian to the Participant.

(d) **Delegation.** The Custodian may designate or employ any person or persons to carry out any powers or responsibilities of the Custodian or for the purposes of performing administrative or other custodial-related services. The limitations on the duties of the Custodian under this Custodial Agreement or otherwise shall also apply to all such persons.

(e) **Governing Law.** Except to the extent governed by or subject to the requirements of the Code or other applicable federal law, or preempted by federal law, this Agreement shall be governed by and construed and administered under the laws of the State of California, without giving effect to any state's choice of law provisions.