

## COVERDELL EDUCATION SAVINGS ACCOUNT

Form 5305-EA (Revised March 2002) under Section 530 of the Internal Revenue Code

The Depositor whose name appears on the Adoption Agreement is establishing a Coverdell Education Savings Account under Section 530 for the benefit of the Designated Beneficiary whose name appears on the Adoption Agreement exclusively to pay for the qualified elementary, secondary, and higher education expenses, within the meaning of Section 530(b)(2), of such Designated Beneficiary.

The Depositor has assigned the Account the sum indicated on the Adoption Agreement.

The Depositor and the Custodian make the following Agreement:

### ARTICLE I

The Custodian may accept additional cash contributions provided the Designated Beneficiary has not attained the age of 18 as of the date such contributions are made. Contributions by an individual contributor may be made for the tax year of the Designated Beneficiary by the due date of the beneficiary's tax return for that year (excluding extensions). Total contributions that are not rollover contributions described in Section 530(d)(5) are limited to \$2,000 for the tax year. In the case of an individual contributor, the \$2,000 limitation of any year is phased out between modified adjusted gross income (MAGI) of \$95,000 and \$110,000. For married individuals filing jointly, the phase-out occurs between modified AGI of \$190,000 and \$220,000. MAGI is defined in Section 530(c)(2).

### ARTICLE II

No part of the Account funds may be invested in life insurance contracts, nor may the assets of the Account be commingled with other property, except in a common trust fund or a common investment fund (within the meaning of Section 530(b)(1)(D)).

### ARTICLE III

1. Any balance to the credit of the Designated Beneficiary on the date on which such Designated Beneficiary attains the age of 30 shall be distributed to the Designated Beneficiary within 30 days of such date.
2. Any balance to the credit of the Designated Beneficiary shall be distributed within 30 days of his or her death unless the designated death beneficiary is a family member of the Designated Beneficiary and is under the age of 30 on the date of death. In such case, that family member shall become the Designated Beneficiary as of the date of death.

### ARTICLE IV

The Depositor shall have the power to direct the Custodian regarding the investment of the amount listed on the Adoption Agreement assigned to the Account (including the earnings thereon) in the investment choices offered by the Custodian. The Responsible Individual, however, shall have the power to redirect the Custodian regarding the investment of such amounts, as well as the power to direct the Custodian regarding the investment of all additional contributions (including earnings thereon) to the Account. In the event that the Responsible Individual does not direct the Custodian regarding the investment of additional contributions (including earnings thereon), the initial investment direction of the Depositor also will govern all additional contributions made to the Account until such time as the Responsible Individual otherwise directs the Custodian. Unless

otherwise provided in this Agreement, the Responsible Individual also shall have the power to direct the Custodian regarding the administration, management, and distribution of the Account.

## ARTICLE V

The Responsible Individual named by the Depositor shall be a parent or guardian of the Designated Beneficiary. The Account shall have only one Responsible Individual at any time. If the Responsible Individual becomes incapacitated or dies while the Designated Beneficiary is a minor under state law, the successor Responsible Individual shall be the person named to succeed in that capacity by the preceding Responsible Individual in a witnessed writing or, if no successor is so named, the successor Responsible Individual shall be the Designated Beneficiary's other parent or successor guardian. Unless otherwise directed by checking the option on the Adoption Agreement at the time that the Designated Beneficiary attains the age of majority under state law, the Designated Beneficiary becomes the Responsible Individual.

## ARTICLE VI

If so indicated in the Adoption Agreement, the Responsible Individual may change the beneficiary designation under this Agreement to another member of the Designated Beneficiary's family described in Section 529(e)(2) in accordance with the Custodian's procedures.

## ARTICLE VII

1. The Depositor agrees to provide the Custodian with the information necessary for the Custodian to prepare any reports required by Section 530(h).
2. The Custodian agrees to submit to the Internal Revenue Service (IRS) and the Responsible Individual the reports prescribed by the IRS.

## ARTICLE VIII

Notwithstanding any other articles, which may be added or incorporated, the provisions of Articles I through III will be controlling. Any additional articles that are not consistent with Section 530 and related regulations will be invalid.

## ARTICLE IX

This Agreement will be amended as necessary to comply with the provisions of the Code and related regulations. Other amendments may be made with the consent of the Depositor and the Custodian whose signatures appear on the Adoption Agreement.

## ARTICLE X

### 1. Definitions

- (a) "Adoption Agreement" shall mean the Agreement or Application signed by the Depositor adopting the Plan and establishing an Account on behalf of the Designated Beneficiary.
- (b) "Account" shall mean this Coverdell Education Savings Account or Education Savings Account established in accordance with this Agreement.
- (c) "Code" shall mean the Internal Revenue Code of 1986, as amended from time to time.
- (d) "Custodian" shall mean Pershing LLC.
- (e) "Depositor" shall mean the person who establishes this Account.
- (f) "Designated Beneficiary" shall mean the person on whose behalf this Account has been established or any successor appointed in accordance with Article X, Section 6 of the Plan.
- (g) "Plan" shall mean this Pershing LLC Education Savings Account Plan, as it may be amended from time to time, in accordance with Article IX of the Plan.

- (h) "Responsible Individual" shall mean the person designated in accordance with Article X, Section 5 of the Plan who shall be responsible for directing the Custodian regarding the management and administration of this Account.

### 2. Notices and Change of Address

- (a) Any required notice regarding this Education Savings Account will be considered effective when mailed by the Custodian to the last address of the intended recipient which is on the records of the Custodian. Any notice to be given to the Custodian will be effective when actually received by the Custodian. The Responsible Individual will notify the Custodian of any change of address.
- (b) *Representations and Responsibilities.* The Depositor and Responsible Individual represent and warrant to the Custodian that any information they have given or will give to the Custodian with respect to this Agreement is complete and accurate. Further, the Depositor and Responsible Individual promise that any direction given by either of them to the Custodian, or any action they take will be proper under this Agreement. The Custodian will not be responsible for the Depositor's or Responsible Individual's actions or failures to act. Likewise, the Depositor or the Responsible Individual shall not be responsible for the Custodian's actions or failure to act; provided however, that the Custodian's duties and responsibilities under this Agreement are limited to those specifically stated in the Agreement and no other or further duties or responsibilities shall be implied.

### 3. Investment of Contributions

- (a) *Direction by Responsible Individual.* In accordance with Article IV of this Agreement, the Depositor shall have the power to direct the Custodian with respect to the investment of the initial contribution to this Account and the Responsible Individual shall direct the Custodian with respect to the investment of all subsequent contributions and all account earnings. Such direction shall be limited to publicly traded securities, covered call options, mutual funds, money market instruments, and other investments, to the extent that they are obtainable through and subject to the custody of the Custodian in its regular course of business, and subject to such other limitations as may be agreed to by the Responsible Individual and Introducing Broker-Dealer. In the absence of such directions, the Custodian shall have no investment responsibility. All transactions directed by the Depositor or the Responsible Individual shall be subject to the rules, regulations, customs, and usages of the exchange, market, or clearing house where executed, and to all applicable federal and state laws and regulations, and to internal policies of the Custodian. The Custodian reserves the right not to accept assets intended for deposit to the Account and may at any time require liquidation of any asset held in the Account if the Custodian determines that such asset is no longer in accordance with the Custodian's administrative or operational requirements.
- (b) *Delegation of Investment Responsibility.* The Responsible Individual may delegate the investment responsibility for all of the Account to an agent or attorney in fact acceptable to the Custodian by notifying the Custodian in writing on a form acceptable to the Custodian of the delegation of such investment responsibility and the name of the person or persons to whom such responsibility is delegated. The Custodian shall follow the directions of such agent or attorney in fact and shall be under no duty to review or question any direction, action, or failure to direct or act of such agent or attorney in fact. The Responsible Individual may revoke the authority of any agent or attorney in fact at any time by notifying the Custodian in writing of such revocation and the Custodian shall not be liable in any way for transactions initiated prior to receipt of such notice.
- (c) *Uninvested Cash.* The Responsible Individual shall direct the Custodian as to the investment of all cash which is not currently invested in assets described in Article X, Section 3(a) of the Plan, and the Responsible Individual or his or her legal representative shall direct the Custodian with respect to the investment of cash pending distribution. In the absence of such direction, the Custodian shall have no investment responsibility.

#### 4. Withdrawals

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All requests for withdrawal shall be in writing on a form provided by or acceptable to the Custodian. Any withdrawals shall be subject to all applicable tax and other laws and regulations, including possible early withdrawal penalties and withholding requirements. The only source of benefit for the Designated Beneficiary of the Account under this Education Savings Account shall be the Education Savings Account.

#### 5. Responsible Individual

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- (a) *Responsibilities.* The Responsible Individual has the general responsibility of managing the Account and instructing the Custodian as to any transaction in connection with the Account. In addition to those duties described in other sections of this Agreement, the Responsible Individual shall be responsible for determining whether any contribution to the Account is allowable and within the limits set forth in the Code and whether any individual named as Designated Beneficiary is eligible to be a beneficiary.
- (b) *Designation of Responsible Individual.* The Responsible Individual shall be the person so designated on the Adoption Agreement. In accordance with Article V of this Agreement, the Responsible Individual shall be a parent or guardian of the Designated Beneficiary. In the event of the death or legal incapacity of the Responsible Individual, the individual designated on the Adoption Agreement to serve as successor shall have the rights and responsibilities of the Responsible Individual.

#### 6. Procedure for Changing a Beneficiary

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If, pursuant to the Adoption Agreement and Article VI of this Plan, the Responsible Individual is permitted to change the Designated Beneficiary, any change in Designated Beneficiary can only be made on a form prescribed by the Custodian and it will only be effective when it is filed with the Custodian during the lifetime or within 30 days after the death of the previous Designated Beneficiary. Each beneficiary designation filed with the Custodian by the Responsible Individual will cancel all previous ones. The consent of a Designated Beneficiary shall not be required to revoke a beneficiary designation. Further, if pursuant to the Adoption Agreement and Article VI of the Plan, the Responsible Individual is permitted to change the Designated Beneficiary, then notwithstanding Article III, Section 2 of the Plan, the Responsible Individual may designate a new Designated Beneficiary no later than 30 days after the death of the previous Designated Beneficiary. Any new Designated Beneficiary must be a member of the family (as defined in Section 529(e)(2) of the Code) of the previous Designated Beneficiary.

#### 7. Transfer

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Funds held on behalf of a Designated Beneficiary in another Education Savings Account, and such other transfers as tax law and related regulations or pronouncements may permit, may be transferred to the Custodian and held in an Account for the benefit of the Designated Beneficiary under the Plan. Upon the request of the Responsible Individual in writing on a form acceptable to the Custodian, the Custodian shall transfer funds held in the Account to another Education Savings Account established on behalf of the Designated Beneficiary with another approved and qualified custodian.

#### 8. Powers, Duties, and Obligations of Custodian

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- (a) *No Investment Discretion.* The Custodian shall have no discretion to direct any investments of an Account, and is merely authorized to acquire and hold the particular investments specified by the Depositor or the Responsible Individual. The Custodian will not act as investment advisor or counselor to a Designated Beneficiary, Depositor, or Responsible Individual and will not advise any of the foregoing or offer any opinion or judgment on any matter pertaining to the nature, value, potential value, or suitability of any investment or potential investment for the Account.
- (b) *Administrative Powers.* The Custodian may hold any securities acquired hereunder in the name of the Custodian without qualification or description or in the name of any nominee. Pursuant to the direction of the Depositor or the Responsible Individual, the Custodian shall have the following powers and authority with respect to the administration of each Account.

- i. To invest and reinvest the assets of the Account without any duty to diversify and without regard to whether such investment is authorized by the laws of any jurisdiction for fiduciary investments.
- ii. To exercise or sell options, conversion privileges, or rights to subscribe for additional securities and to make payments therefor.
- iii. To consent to or participate in dissolutions, reorganizations, consolidations, mergers, sales, leases, mortgages, transfers, or other changes affecting securities held by the Custodian.
- iv. To make, execute, and deliver as Custodian any and all contracts, waivers, releases, or other instruments in writing necessary or proper for the exercise of any of the foregoing powers.
- v. To grant options to purchase securities held by the Custodian or to repurchase options previously granted with respect to securities held by the Custodian.
- (c) *Shareholder Rights.* The Custodian shall exercise any rights of a shareholder (including voting rights) with respect to any securities held in the Account only in accordance with the instructions of the Responsible Individual pursuant to any applicable rules of the Securities and Exchange Commission and the national exchanges of which the Custodian is a member.
- (d) *Records and Reports.* The Custodian shall keep accurate records of all contributions, receipts, investments, distributions, disbursements, and all other transactions of the Account. Within 120 days (or such other deadline imposed by applicable law) after the close of each calendar year (or after a distribution or transfer of the Account or upon the Custodian's resignation or removal) the Custodian shall file with the Responsible Individual a written report (which may consist of copies of the Custodian's regularly issued account statements) reflecting all transactions affecting the Account for the period in question and including a statement of the assets in the Account and their fair market values. Unless the Responsible Individual files a written statement of exceptions or objections to the report with the Custodian within 60 days after mailing the report, the Responsible Individual shall be deemed to have approved such report and the Custodian shall be released from all liability to anyone (including the Designated Beneficiary or any Depositor) with respect to all matters set forth in the report. No person other than the Responsible Individual or the Designated Beneficiary may request records and reports.
- (e) *Right to Request Judicial Assistance.* The Custodian shall have the right at any time to apply to a court of competent jurisdiction for judicial settlement of its Accounts or for determination of any questions of construction which may arise or for instructions. The only necessary party defendant to any such action shall be the Responsible Individual, but the Custodian may join any other person or persons as a party defendant. The cost, including attorney's fees, of any such proceeding shall be charged as an administrative expense under Article X, Section 11 of the Plan.
- (f) *Scope of Custodian's Duties.* The Custodian shall only have the duties which are specifically set forth in this Plan. The Custodian shall have no duty to ascertain whether contributions or distributions comply with the Plan or the Code. The Custodian shall not make any investments or dispose of any investments held in an Account, except upon the direction of the Responsible Individual or the Depositor or in accordance with Article X, Section 3(a) and Article X, Section 12(d) of the Plan. The Custodian shall not question any such directions of the Depositor or the Responsible Individual, review any securities or other property held in an Account, or make suggestions to the Depositor or the Responsible Individual with respect to the investment, retention, or disposition of any assets held in an Account.
- (g) *Scope of Custodian's Liability.* The Custodian shall not be liable for any loss of any kind which may result from any action taken by it in accordance with the directions of the Depositor or the Responsible Individual or his or her designated agent or attorney in fact or from any failure to act because of the absence of any such directions. The Custodian shall not be responsible for determining whether any contribution or rollover contribution satisfies the requirements of the Code. The Custodian shall not be liable for any taxes (or interest thereon) or penalties incurred by the Depositor, Responsible Individual, or Designated Beneficiary in connection with any Account or in connection with any contribution to or distribution from

the Account. The Custodian is entitled to act upon any instrument, certificate, or form it believes is genuine and believes is signed or presented by the proper person or persons, and the Custodian need not investigate or inquire as to any statement contained in such document but may accept it as true and accurate. The Responsible Individual shall duly indemnify and hold harmless the Custodian from any liability which may arise hereunder except liability arising from the gross negligence or willful misconduct of the Custodian.

#### 9. Resignation or Removal of Custodian

- (a) **Resignation.** The Custodian may resign as Custodian hereunder as to any Account by mailing or actually delivering written notice to the Responsible Individual 30 days prior to the resignation. Upon its resignation the Custodian may, but shall not be required to, appoint a corporation or other organization as the successor custodian under this Agreement. Each Responsible Individual, after the receipt of the resignation, shall have 30 days to appoint an alternative successor custodian. If no alternate is chosen, the Responsible Individual will be deemed to have accepted the Custodian's appointed successor custodian. Upon acceptance of appointment by the successor, the Custodian shall assign, transfer, and deliver to the successor all assets held in the Account to which such resignation or removal relates. The Custodian is authorized, however, to reserve such amounts as it deems advisable to provide for the payment of expenses and fees then due or to be incurred in connection with the settlement of its Account, and any balance remaining after the settlement of its Account shall be paid to the successor custodian or trustee. If the Custodian does not choose to appoint a successor, the Responsible Individual has 30 days after receiving notification of the Custodian's resignation to appoint a qualifying successor custodian. If the Responsible Individual does not appoint a successor custodian within this time period, the Custodian shall have the right to terminate the Account and distribute the assets directly to the Responsible Individual.
- (b) **Removal.** The Responsible Individual shall substitute another custodian in place of the Custodian upon notification by the Internal Revenue Service that such substitution is required because the Custodian has failed to comply with the requirement of Treasury Regulation Section 1.408-2(e), or is not keeping such records, or making such returns, or rendering such statements as are required by that regulation.
- (c) **Liabilities.** The Custodian shall not be liable for the acts or omissions of its successor.

#### 10. Amendment and Termination of the Plan

- (a) **Amendment or Termination.** The Custodian may amend or terminate this Plan at any time consistent with the provisions of applicable law without obtaining the consent of any Depositor, Responsible Individual, or Designated Beneficiary. No amendment of the Plan, however, shall deprive the Designated Beneficiary of any benefit to which he or she was entitled under the Plan from contributions made prior to the amendment unless the amendment is necessary to conform the Plan to the current or future requirements of the Code or other applicable law, regulation, or ruling, in which case the Custodian is expressly authorized to make amendments that are necessary for such purposes retroactively to the later of the effective date of the Plan or the effective date of any future legal requirements. A Responsible Individual may change an election or designation made with respect to the Adoption Agreement, provided such change is made in writing.
- (b) **Distribution on Termination.** If the Plan is terminated for any reason, the balance held in each Account for the benefit of a Designated Beneficiary shall be distributed by the Custodian to a successor custodian or trustee, in accordance with Article X, Section 9 of the Plan.

#### 11. Fees, Expenses, and Indebtedness

- (a) **Payment of Fees and Expenses.** The Custodian's annual maintenance, termination, and other administration fees shall be charged by the Custodian for its services hereunder in accordance with the current fee schedule of the Custodian that is in effect from time to time. Any administrative expenses, including fees for legal and/or accounting services, incurred by the Custodian at the request of or necessitated by the actions of the Responsible Individual or

Designated Beneficiary, including but not by way of limitation, the direction of investment of Account assets in an investment that causes the Account to realize unrelated business taxable income within the meaning of Section 512 of the Code, that are over and above the services set forth in the Custodian's fee schedule, shall be paid by the Responsible Individual. Fees and expenses shall be automatically charged to the Account unless the Responsible Individual chooses to pay such fees and expenses directly to the Custodian in a timely manner before the Account has been so charged. The Custodian reserves the right to liquidate any assets of the Account to collect any fees for which payment may at any time be past due. In the event of account termination by the Responsible Individual or the Custodian for any reason, the Custodian shall be entitled to receive the full termination fee, along with the full, nonprorated current year maintenance fee, regardless of the date during the year of the termination of the Account. Fees charged against the Account shall not be reimbursed to the Account. Specific fee details are provided in the current fee schedule available from the Custodian or from the financial organization that has introduced the Account to the Custodian.

- (b) **Taxes.** Any income, transfer, or other taxes of any kind whatsoever that may be levied or assessed upon any Account or that the Custodian may otherwise be charged with the responsibility of collecting shall be paid from the assets of the Account involved.
- (c) **Brokerage Commissions.** The Account will be charged brokerage commissions for the transactions in the Account in accordance with the Custodian's usual practice.
- (d) **Indebtedness.** The Responsible Individual shall pay any debit balance or other obligation owed to the Custodian on demand.

#### 12. Miscellaneous

- (a) **Prohibited Transactions.** No Depositor, Responsible Individual, or Designated Beneficiary shall be entitled to use the Account, or any portion thereof, as security for a loan, nor shall the Custodian or any other person or organization engage in any prohibited transaction, within the meaning of Code Section 4975, with respect to the Account.
- (b) **Prohibition Against Assignment of Benefits.** Except to the extent otherwise required by law, none of the benefits, payments, or proceeds held in an Account on behalf of any Designated Beneficiary shall be subject to the claims of any creditor of such Designated Beneficiary, any Depositor, or Responsible Individual, nor shall any such party have any right to anticipate, sell, pledge, option, encumber, or assign any of the benefits, payments, or proceeds to which he or she is or may be entitled under the Plan.
- (c) **Applicable Law.** The Plan is intended to qualify as an Education Savings Account Plan under Code Section 530. The Plan shall be governed by and interpreted under the laws of the state of New York, except to the extent such laws are superseded by applicable federal law. If any provision of the Plan is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions, and the Plan shall be construed and administered as if such provision had not been included.
- (d) **Liquidation of Assets.** If the Custodian must liquidate assets in order to make distributions, transfer assets, or pay fees, expenses, or taxes assessed against the Account, and the Responsible Individual fails to instruct the Custodian as to the liquidation of such assets, assets will be liquidated in the following order to the extent held in the Account: (1) any shares of a money market fund or money market type fund, (2) securities, (3) other assets.

#### ARTICLE XI

1. ARBITRATION IS FINAL AND BINDING ON THE PARTIES.
2. THE PARTIES ARE WAIVING THEIR RIGHT TO SEEK REMEDIES IN COURT, INCLUDING THE RIGHT TO JURY TRIAL.
3. PREARBITRATION DISCOVERY IS GENERALLY MORE LIMITED THAN AND DIFFERENT FROM COURT PROCEEDINGS.

4. THE ARBITRATORS' AWARD IS NOT REQUIRED TO INCLUDE FACTUAL FINDINGS OR LEGAL REASONING AND ANY PARTY'S RIGHT TO APPEAL OR TO SEEK MODIFICATION OF RULINGS BY THE ARBITRATORS IS STRICTLY LIMITED.
5. THE PANEL OF ARBITRATORS WILL TYPICALLY INCLUDE A MINORITY OF ARBITRATORS WHO WERE OR ARE AFFILIATED WITH THE SECURITIES INDUSTRY.
6. AGREEMENT TO ARBITRATE CONTROVERSIES.

THE PARTIES AGREE TO ARBITRATE ANY CONTROVERSY BETWEEN OR AMONG THE RESPONSIBLE INDIVIDUAL, PERSHING, AND THE INTRODUCING FIRM OR ANY OF THEM ARISING OUT OF OR RELATING IN ANY WAY TO THE RESPONSIBLE INDIVIDUAL'S ACCOUNT, INCLUDING BUT NOT LIMITED TO (I) TRANSACTIONS OF ANY KIND MADE ON BEHALF OF THE RESPONSIBLE INDIVIDUAL BY, THROUGH, OR WITH PERSHING AND THE INTRODUCING FIRM OR ANY AGENT OF ANY OF THEM; OR (II) THE PERFORMANCE, CONSTRUCTION, OR BREACH OF THIS AGREEMENT OR ANY OTHER AGREEMENT BETWEEN THE RESPONSIBLE INDIVIDUAL AND PERSHING AND/OR THE INTRODUCING FIRM. SUCH ARBITRATION SHALL BE CONDUCTED AT THE NEW YORK STOCK EXCHANGE, INC., OR ANY OTHER NATIONAL SECURITIES EXCHANGE ON WHICH A TRANSACTION GIVING RISE TO THE CLAIM TOOK PLACE (AND ONLY BEFORE SUCH EXCHANGE) OR THE NASD REGULATION INC., AS THE UNDERSIGNED MAY ELECT AND IN ACCORDANCE WITH THE ARBITRATION RULES THEN IN EFFECT OF THE SELECTED ORGANIZATION WHERE THE ARBITRATION IS BROUGHT. ARBITRATION MUST BE COMMENCED BY SERVICE UPON THE OTHER PARTY OF A WRITTEN DEMAND FOR ARBITRATION OR A WRITTEN NOTICE OF INTENTION TO ARBITRATE, THEREIN ELECTING THE ARBITRATION TRIBUNAL. THE RESPONSIBLE INDIVIDUAL UNDERSTANDS THAT JUDGEMENT UPON ANY AWARD RENDERED BY THE ARBITRATORS MAY BE ENTERED IN ANY COURT HAVING JURISDICTION.

NO PERSON SHALL BRING A PUTATIVE OR CERTIFIED CLASS ACTION TO ARBITRATION, NOR SEEK TO ENFORCE ANY PREDISPUTE ARBITRATION AGREEMENT AGAINST ANY PERSON WHO HAS INITIATED IN COURT A PUTATIVE CLASS ACTION; OR WHO IS A MEMBER OF A PUTATIVE CLASS WHO HAS NOT OPTED OUT OF THE CLASS WITH RESPECT TO CLAIMS ENCOMPASSED BY THE PUTATIVE CLASS ACTION UNTIL: (I) THE CLASS CERTIFICATION IS DENIED; OR (II) THE CLASS ACTION IS DECERTIFIED; OR (III) THE CLIENT IS EXCLUDED FROM THE CLASS BY THE COURT. SUCH FORBEARANCE TO ENFORCE AN AGREEMENT TO ARBITRATE SHALL NOT CONSTITUTE A WAIVER OF ANY RIGHTS UNDER THIS AGREEMENT EXCEPT TO THE EXTENT STATED HEREIN.

## COVERDELL EDUCATION SAVINGS ACCOUNT DISCLOSURE STATEMENT

This Coverdell Education Savings Account Agreement (Education Savings Account) is hereby amended and restated effective January 1, 2002, as follows:

Individuals may contribute up to \$2,000 per year in an Education Savings Account for a child under age 18. Parents, grandparents, other family members, friends, and a child himself or herself may contribute to the child's Education Savings Account, provided that the total contributions for the child during the taxable year do not exceed the maximum \$2,000 limit.

Contributions in the Account grow tax free until withdrawn. The child will not owe tax on any withdrawal from the Account if used for the child's qualified education expenses. If the child does not require the use of these funds, the account balance can be rolled over to an Education Savings Account of certain family members, who may use it for their own higher education. Amounts withdrawn from an Education Savings Account that exceed the child's qualified education expenses in a taxable year are generally subject to income tax and to an additional tax of 10%. Starting in 2002, the Hope Scholarship Credit or the Lifetime Learning Credit may be claimed for a student's expenses in a taxable year in which the student takes a tax free withdrawal from an Education Savings Account, as long as the withdrawal is not used for the same educational expenses for which a credit was claimed.

### FREQUENTLY ASKED QUESTIONS

**Q:** *What is the maximum contribution amount for Education Savings Accounts?*

**A:** The maximum aggregate contribution to any Education Savings Account is \$2,000 per year.

**Q:** *What is the modified adjusted gross income (MAGI) limitation for married taxpayers?*

**A:** Married taxpayers filing joint returns may make the maximum \$2,000 contribution per designated beneficiary when their joint MAGI is \$190,000 or less. The \$2,000 limit is reduced and gradually phased out for joint filers when their combined MAGI is between \$190,000 and \$220,000. When their combined MAGI is \$220,000 or more, married individuals filing joint returns may not fund an Education Savings Account.

**Q:** *What is the deadline for making a contribution to an Education Savings Account?*

**A:** The deadline for making contributions to an Education Savings Account is the contributor's tax return due date, not including any extensions.

**Q:** *What happens if contributions to an Education Savings Account are more than the allowable limit?*

**A:** If a designated beneficiary receives contributions that exceed the allowable limit, the excess contribution must be removed in order to avoid any penalties. To avoid a 6% excess contribution penalty, the excess contribution plus earnings must be removed from the Education Savings Account before the first day of the sixth month following the taxable year (for instance, May 31).

**Q:** *In addition to post-secondary education expenses, what types of expenses may the Education Savings Account funds be used for?*

**A:** Education Savings Account funds may be used for elementary and secondary school education expenses. This includes expenses at any school that provides education as determined under state law (public, private, or parochial schools). Such expenses may include tuition fees, academic tutoring, special needs services, books, supplies, equipment, room and board expenses, uniforms, transportation, educational computer technology or equipment, and Internet access.

**Q:** *What is the age limitation for contributions to and/or distributions from an Education Savings Account?*

**A:** Provided that you meet the modified adjusted gross income limits, you can make annual contributions until the child's 18th birthday. Earnings and distributions from an Education Savings Account are tax and penalty free, provided the funds are used for qualified elementary, secondary, or higher education expenses and the amount of the withdrawal does not exceed the child's education expenses for that year. Earnings withdrawn for any other purpose will be subject to income tax and may incur a 10% penalty tax. If a child reaches the age of 30 without using all of the money in the account, you can retain the tax-free status of the unused funds by rolling the balance into an account for another qualified family member. Otherwise, the money will be distributed to the child, and taxes and penalties may apply. However, the law waives age limitations regarding contributions and distributions for children with special needs. In that case, the funds will no longer be required to be distributed when the child turns 30, and the age 30 limitation will not apply to rollover contributions to that child's Education Savings Account.

**Q:** *Are there any limitations to the taxation of Education Savings Account distributions in relation to other credits that the designated beneficiary may receive?*

**A:** A designated beneficiary may claim a Hope or Lifetime Learning Credit in the same taxable year that a tax-free distribution from an Education Savings Account is claimed, as long as the distribution(s) does not cover the same expenses claimed for the Hope or Lifetime Learning Credit.

In addition, you may make contributions to an Education Savings Account and a qualified tuition program in the same year on behalf of the same designated beneficiary without penalty.

**Q:** *Can a business contribute to an Education Savings Account?*

**A:** Yes. An "entity" (for instance, a corporation or tax exempt organization) may contribute to an Education Savings Account, and unlike the case of individuals who contribute, there are no income limitations for that entity.

