

# COVERDELL ESA CUSTODIAL ACCOUNT AGREEMENT

Form 5305-EA under section 530 of the Internal Revenue Code.

FORM (Rev. October 2010)

The depositor whose name appears on the application is establishing a Coverdell Education Savings Account under section 530 for the benefit of the designated beneficiary whose name appears on the application 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 custodial account the sum indicated on the application.

The depositor and Provident Trust Group, LLC ("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 for any year is phased out between modified adjusted gross income (AGI) of \$95,000 and \$110,000. For married individuals filing jointly, the phase-out occurs between modified AGI of \$190,000 and \$220,000. Modified AGI is defined in section 530(c)(2).

## ARTICLE II

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 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 he or she attains age 30 shall be distributed to him or her 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 application assigned to the custodial account (including 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 custodial 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 custodial 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 custodial 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 application, at the time that the designated beneficiary attains the age of majority under state law, the designated beneficiary becomes the responsible individual. If a family member under the age of majority under state law becomes the designated beneficiary by reason of being a named death beneficiary, the responsible individual shall be such designated beneficiary's parent or guardian.

## ARTICLE VI

*(See the application and section 10.06 of this agreement for information regarding the responsible individual's ability to change the designated beneficiary named by the depositor.)*

## ARTICLE VII

1. The depositor agrees to provide the custodian with all information necessary to prepare any reports required by section 530(h).
2. The custodian agrees to submit to the Internal Revenue Service (IRS) and 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 inconsistent with section 530 and the related regulations will be invalid.

## ARTICLE IX

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 depositor and custodian whose signatures appear on the application.

## ARTICLE X

**10.01 Notices and Change of Address** – Any required notice regarding this Coverdell ESA will be considered effective when the custodian sends it to the intended recipient at the last email address the custodian has in its records. If no email address was provided, the custodian will provide such notice by U.S. mail to the last address the custodian has in its records. This notice will direct the responsible individual to the custodian's website to view any new information pertaining to the Coverdell ESA electronically unless the responsible individual notifies us that paper copies of the same are preferred. The responsible individual, or the intended recipient, must promptly notify the custodian of any change of email or mailing address. Any notice to be given to the custodian will be considered effective when the custodian actually receives it.

### 10.02 Representations and Responsibilities

- a. *In General.* The depositor and the responsible individual represent and warrant to the custodian that any information the depositor and responsible individual have given or will give the custodian with respect to this agreement is complete and accurate. Further, the depositor and the responsible individual agree that any directions they give the custodian, or action they take will be in compliance with applicable laws and proper under this agreement, and that the custodian is entitled to rely upon any such information or directions. If the custodian fails to receive directions regarding any transaction, receives ambiguous directions regarding any transaction, or

if the custodian, in good faith, believes that any transaction requested is in dispute, the custodian reserves the right to take no action until further clarification acceptable to the custodian is received from the responsible individual or the appropriate government or judicial authority. The custodian will not be responsible for losses of any kind that may result from the depositor's and responsible individual's directions to it or the depositor's and responsible individual's actions, or failures to act, or for the custodian exercising its right to take no action until it has received further clarification acceptable to the custodian. The depositor and responsible individual agree to reimburse and indemnify the custodian for any loss the custodian may incur as a result of such directions, actions or failures to act. The custodian will not be responsible for any penalties, taxes, judgments, or expenses incurred in connection with this Coverdell ESA. The custodian has no duty to determine whether the contributions or distributions comply with the Code, regulations, rulings, or this agreement.

The custodian may permit the responsible individual to appoint, through written notice acceptable to it, an authorized agent to act on the responsible individual's behalf with respect to this agreement (e.g., attorney-in-fact, executor, administrator, and investment manager); the custodian has no duty to determine the validity of such appointment or any instrument appointing such authorized agent. The custodian is not responsible for losses of any kind that may result from directions, actions, or failures to act by the authorized agent, and the responsible individual agrees to reimburse and indemnify the custodian for any loss it may incur as a result of such directions, actions or failures to act by the authorized agent.

The responsible individual will have 60 days after receiving any documents, statements or other information from the custodian to notify the custodian in writing of any errors or inaccuracies reflected in these documents, statements or other information. If the custodian is not notified within 60 days, the documents, statements, or other information will be deemed correct and accurate, and the custodian will have no further liability or obligation for such documents, statements, other information or the transactions described therein.

By performing services under this agreement the custodian is acting as the responsible individual's agent. The responsible individual acknowledges and agrees that nothing in this agreement will be construed as conferring fiduciary status upon the custodian. The custodian is not required to perform any additional services unless specifically agreed to under the terms and conditions of this agreement and as directed by the responsible individual, or as required under the Code, the Regulations, or applicable state or federal law. The custodian may employ agents and organizations for the purpose of performing administrative or other custodial-related services with respect to the Coverdell ESA for which the custodian otherwise has responsibility under this agreement, and the limitations on its duties to the responsible individual under this agreement or otherwise will also apply with respect to each agent or organization so employed. The responsible individual represents to the custodian if a mandatory distribution arises, the responsible individual will have the ability through the Coverdell ESA and/or other retirement accounts to meet any mandatory distribution requirements. The responsible individual agrees to release, indemnify, and hold the custodian harmless for any and all claims, damages, judgments, liabilities, costs, and expenses (including, without limitation, attorneys' fees) arising from or in connection with this agreement.

To the extent written instructions or notices are required

under this agreement; the custodian may accept or provide such information in any other form permitted by the Code or applicable regulations including, but not limited to, electronic communication.

UNDER NO CIRCUMSTANCES IS CUSTODIAN, OR ITS OFFICERS, DIRECTORS, EMPLOYEES, MEMBERS, AGENTS, LICENSORS, OR REPRESENTATIVES SUBJECT TO OR LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY OR SIMILAR DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES OR COSTS INCURRED AS A RESULT OF LOSS OF TIME, LOSS OF SAVINGS, LOSS OF DATA, LOSS OF REVENUES AND/OR PROFITS, WHETHER FORESEEABLE OR UNFORESEEABLE, THAT MAY ARISE OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR CUSTODIAN OR ADMINISTRATOR COMPLYING WITH THE RESPONSIBLE INDIVIDUAL'S DIRECTIONS, REGARDLESS IF SUCH DAMAGES ARE BASED IN CONTRACT, TORT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE.

- b. *Prohibited Transactions.* The responsible individual understands that certain transactions are prohibited in Coverdell ESAs under the Code, and specifically Code section 4975. The responsible individual further understands that the determination of a prohibited transaction depends on the facts and circumstances that surround the particular transaction. The responsible individual understands that the custodian has no obligation or duty to make a determination, and accordingly will make no determination, as to whether any Coverdell ESA investment is prohibited. It is further understood that should the Coverdell ESA engage in a prohibited transaction, the designated beneficiary will incur a taxable distribution as well as possible penalties. The responsible individual represents to the custodian that a tax or legal professional has been or will be consulted with to ensure that none of the responsible individual's directions, instructions, or Coverdell ESA investments will constitute a prohibited transaction and that the Coverdell ESA investments will comply with all applicable federal and state laws, regulations, and requirements.
- c. *Unrelated Business Income Tax (UBIT).* Since a Coverdell ESA is a tax-exempt organization under the Code, if the Coverdell ESA earns income from an investment that uses debt financing or which is derived from a business regarded as not related to the exempt purpose of the Coverdell ESA, it may be subject to the so-called "unrelated business income tax" if it is in excess of permitted thresholds. For example, income from a Coverdell ESA investment in a partnership generally will result in unrelated business taxable income. In the event that the responsible individual's investment of Coverdell ESA assets results in taxable income (unrelated or debt-financed) under the Code (or other rules) for any taxable year, the responsible individual agrees to prepare or have prepared the applicable returns, an application for employer identification number (if not previously obtained), and any other documents that may be required, and to submit them to the custodian, for filing with the Internal Revenue Service (IRS) (or any other governmental entity), at least five days before the date on which the return is due for such taxable year, along with an appropriate payment directive authorizing the custodian to execute the forms on behalf of the Coverdell ESA and to pay the applicable unrelated business income tax from the Coverdell ESA. The responsible individual understands that the custodian has no obligation or duty to prepare or have prepared such documents. The responsible individual agrees, however, that the custodian may prepare any forms, returns, or other required documentation if they are not provided in time. All taxes and the expenses incurred in preparing such documentation will be considered the Coverdell ESA's expense and may be debited from the Coverdell ESA IRA.

If the Coverdell ESA has insufficient liquid assets to pay these expenses, the responsible individual may pay them. Certain Coverdell ESA reimbursements are considered annual contributions. To ensure proper governmental reporting, the custodian must be informed of any Coverdell ESA expenses that were paid for outside the Coverdell ESA.

- d. *Listed Transactions and Reportable Transactions.* The responsible individual understands that certain transactions are or may be identified by the IRS as abusive tax shelter schemes or transactions. The responsible individual further understands that the determination of a listed or reportable transaction may depend upon the facts and circumstances that surround the particular transaction. The custodian has no duty to make a determination as to whether any Coverdell ESA investment constitutes a listed or reportable transaction. The responsible individual represents to the custodian that a tax or legal professional has been or will be consulted with to ensure that any listed or reportable transactions engaged in by the Coverdell ESA are identified. The responsible individual further represents and acknowledges to the custodian that with respect to any listed or reportable transaction the responsible individual is considered the entity manager who approved or caused the Coverdell ESA to be a party to the transaction and that the responsible individual is responsible for: reporting each such transaction to the IRS, using the applicable IRS form; paying any applicable excise taxes, using the applicable IRS form; disclosing to the Coverdell ESA custodian that such transaction was a prohibited tax shelter transaction; and directing the custodian as to any necessary corrective action to be taken by the Coverdell ESA.
- e. *Passive Custodian Provides No Investment Advice.* From time to time, the custodian may provide general investment information regarding the products it offers through webinars, newsletters, social media posts, its website, and other forums, which the responsible individual acknowledges and agrees is not investment advice. Similarly, the responsible individual acknowledges and agrees that the custodian may participate in events with other companies in its industry, which is not and should not be interpreted as its endorsement of any of the other participants. The responsible individual further acknowledges that the custodian does not provide legal or tax services or advice with respect to the Coverdell ESA investments; and releases and indemnifies and agrees to hold harmless and defend the custodian in the event that any investment or sale of the Coverdell ESA assets pursuant to a *Direction of Investment* form violates any federal or state law or regulation or otherwise results in a disqualification, penalty, fine or tax imposed upon the designated beneficiary, the Coverdell ESA, or the custodian.
- f. *Investment Conforms to All Applicable Securities Laws.* The responsible individual represents to the custodian that if any investment by the Coverdell ESA is a security under applicable federal or state securities laws, such investment has been registered or is exempt from registration under federal and state securities laws; and the responsible individual releases and waives all claims against the custodian for its role in carrying out the responsible individual's instructions with respect to such investment. The responsible individual acknowledges that the foregoing representation is being relied upon by the custodian in accepting the responsible individual's investment directions and agrees to indemnify the custodian with respect to all costs, expenses (including attorneys' fees), fines, penalties, liabilities, damages, actions, judgments and claims arising out of such investment and/or a breach of the foregoing representation, including, without limitation, claims asserted by the responsible individual.
- g. *Custodian Not Responsible for Insurance.* The custodian will

not bear or assume any responsibility to notify the responsible individual, secure or maintain fire, casualty, liability, or other insurance coverage on any personal or real property held by the Coverdell ESA or that serves as collateral under any mortgage or other security instrument held by the Coverdell ESA with respect to any promissory note or other evidence of indebtedness. It is incumbent upon the responsible individual to arrange for such insurance as determined necessary or appropriate to protect the Coverdell ESA assets and to direct the custodian in writing as to the payment of any premiums therefore. Furthermore it is the responsible individual's responsibility to determine that payment has been made upon the responsible individual's written request by verifying same with the Coverdell ESA statements. The custodian will not be responsible for notification or payments of any insurance premiums, real estate taxes, utilities, or other charges with respect to any investment held in the Coverdell ESA, unless the responsible individual specifically directs the custodian to pay the same in writing and sufficient funds are available to pay same from the Coverdell ESA. Furthermore, it is the responsible individual's responsibility to determine that payment has been made from the custodial account. The responsible individual must use an appropriate payment directive form available from the custodian within a sufficient period of time for such direction to be accomplished in accordance with the custodian's normal business practices (without regard to whether the custodian has undertaken efforts to comply with such directive).

- h. *Service Fees.* The custodian has the right to charge establishment, document, and custodial fees, as well as other designated fees (e.g., a transfer, rollover, or termination fee) for maintaining the Coverdell ESA. In addition, and as described in more detail in Section 10.04, the custodian has the right to collect or otherwise receive as an additional fee any interest or other income earned or generated from any Uninvested Cash Funds (as defined in Section 10.04), and to be reimbursed for all reasonable expenses, including legal expenses, it incurs in connection with the administration of the Coverdell ESA. The custodian may charge the responsible individual separately for any fees or expenses, or it may deduct the amount of the fees or expenses from the assets in the Coverdell ESA at the custodian's discretion. The custodian reserves the right to charge any additional, reasonable fee to the responsible individual after giving 30 days' notice. Fees such as sub-accounting and other service fees may be paid to the custodian or an associated business by third parties for assistance in performing certain transactions with respect to this Coverdell ESA. In addition, the custodian or an associated business may receive other income from third- parties in connection with performing such services or the purchase and sale of publicly-traded securities, privately-held securities, or any other assets which may or may not be deemed to be securities, which the responsible individual may have directed the custodian to purchase or sell.
- i. *All Invoices Are Due and Payable Upon Receipt.* If such charge cannot be paid from the Coverdell ESA assets (e.g., if your Coverdell ESA does not contain sufficient cash assets), the custodian will submit an invoice to the responsible individual for all outstanding fees and expenses plus any applicable invoice costs and late charges. Coverdell ESA expenses that are paid out of pocket may be considered regular Coverdell ESA contributions, which are reported to the IRS and are subject to the annual contribution limitations. To collect such fees and/or expenses, the custodian may, and the responsible individual expressly authorizes the custodian to, bill any credit card it has in its records related to the Coverdell ESA, collect from any Uninvested Cash Funds held in the Coverdell ESA,

and/or liquidate sufficient investments in the Coverdell ESA in accordance with Section 10.11 of this Article to pay such fees and expenses.

Any brokerage commissions attributable to the assets in the Coverdell ESA will be charged to the Coverdell ESA. Any reimbursements to the Coverdell ESA for those commissions are considered Coverdell ESA contributions and are subject to the annual Coverdell ESA contribution limitations.

- j. *Interest and Earnings.* The custodian may perform sub-accounting, recordkeeping, administrative or other services related to the Coverdell ESA, and for these services the custodian retains and receives interest and other income from assets that the responsible individual has not directed the custodian to invest. This income includes amounts generated on the Uninvested Cash Funds that the custodian deposits with other financial institutions.

**10.03 Disclosure of Account Information** – The custodian may use agents and/or subcontractors to assist in administering this Coverdell ESA. The custodian may release nonpublic personal information regarding this Coverdell ESA to such providers as necessary to provide the products and services made available under this agreement, and to evaluate its business operations and analyze potential product, service, or process improvements.

#### **10.04 Investment of Amounts in the Coverdell ESA**

- a. *In General.* The responsible individual has exclusive responsibility for and control over the investment of the assets of this Coverdell ESA. All transactions are subject to any and all restrictions or limitations, direct or indirect, that are imposed by any and all applicable federal and state laws and regulations; the rules, regulations, customs, and usages of any exchange, market, or clearing house where the transaction is executed; the custodian's internal policies, standards and practices; and this agreement. The custodian will not exercise the voting rights and other shareholder rights with respect to investments in the Coverdell ESA unless the responsible individual provides timely written directions acceptable to the custodian according to its then current policies and procedures.

The responsible individual will select the type of investment for the Coverdell ESA assets, provided, however, that the selection of investments must be limited to those types of investments that comport with the custodian's internal policies, practices, and standards and are deemed administratively feasible by the custodian. The custodian may, or an associated business may, in its, or their, sole discretion, make available to the responsible individual, additional opportunities, which may include publicly traded securities, mutual funds, money market instruments and other offerings that are obtainable by the custodian, or an associated business, and that the custodian, or such associated business, are capable of holding in the ordinary course of business.

- b. *Custodian Acting in Passive Capacity Only.* The custodian is acting as a passive, directed, and non-discretionary custodian in holding Coverdell ESA assets. Accordingly, the custodian is not a fiduciary (as this term is defined in the Code, ERISA, or any other applicable federal, state or local laws) with respect to the Coverdell ESA account, and the responsible individual acknowledges and agrees that the custodian is not a fiduciary with respect to this Coverdell ESA.

It is not the custodian's responsibility to review the prudence, merits, viability or suitability of any investment directed by the responsible individual or investment advisors or to determine whether the investment is acceptable under ERISA, the Code or any other applicable law. The custodian does not offer

any investment advice, nor does it endorse any investment, investment product or investment strategy; and the custodian does not endorse any investment advisor, representative, broker, or other party selected by the responsible individual. The custodian has no responsibility to question any investment directions given by the responsible individual or by any investment advisor or representative appointed by the responsible individual.

It is the responsible individual's responsibility to perform proper due diligence with regard to any such investment, representative, investment advisor, broker or other party. The custodian will follow the directions of any such investment advisor, representative, broker or other party selected by the responsible individual provided the responsible individual furnishes the custodian with written authorization and documentation acceptable to it, which may include a legal opinion. The custodian will be entitled to all the same protections and indemnities in its reliance upon and execution of the directives of such investment advisor or other party as if such directives were given by the responsible individual. The custodian is under no obligation or duty to investigate, analyze, monitor, verify title to, or otherwise evaluate or perform due diligence for any investment directed by the responsible individual or investment advisor, representative or agent; nor is the custodian responsible to notify the responsible individual or take any action should there be any default or other obligation with regard to any investment. Any review performed by the custodian with respect to an investment will be solely for its own purposes of determining compliance with its internal policies, practices and standards, as the custodian determines from time to time and the administrative feasibility of the investment and neither such review nor its acceptance should be construed in any way as an endorsement of any investment, investment company or investment strategy. The custodian also has the right not to effect any transaction/investment that it deems to be beyond the scope of its administrative responsibilities, capabilities or expertise or that it determines in its sole discretion does not comport with its internal policies, practices or standards. The custodian has no duty or obligation to notify the responsible individual with respect to any information, knowledge, irregularities, or its concerns relating to the responsible individual's investment or the investment advisor, broker, agent, promoter, or representative, except as to civil pleadings or court orders received by the custodian. The custodian will use reasonable efforts to acquire or sell investments in accordance with the responsible individual's directions within a reasonable period of time after the custodian has received an investment direction, and the custodian will make reasonable efforts to notify the responsible individual if it is unable or unwilling to comply with an investment direction. Subject to the foregoing, the custodian will remit funds as directed, but has no responsibility to verify or ensure that such funds have been invested to purchase or acquire the asset selected by the responsible individual.

- c. *Investment Documentation.* In directing the custodian with respect to any investment, the responsible individual must use the *Direction of Investment* form or such other form acceptable to the custodian. The custodian may act upon any instrument, certificate, paper, or transmission that it believes to be genuine and that is signed or presented by the proper person or persons whether or not by facsimile or other form acceptable to the Custodian. The Custodian is under no duty to make any investigation or inquiry as to any statement contained in any such communication, but may accept the same as conclusive evidence of the truth and accuracy of the statements therein contained. The responsible individual

authorizes and directs the custodian to execute and deliver, on behalf of the Coverdell ESA, any and all documents delivered to it in connection with the Coverdell ESA investments; and the custodian has no responsibility to verify or determine that any such documents are complete, accurate, or constitute the documents necessary to comply with the responsible individual's investment direction. The responsible individual authorizes and directs the custodian to correct errors in investment titling without notice to the responsible individual and to correct other minor clerical errors with telephone or email consent from the responsible individual upon verification of the responsible individual's identity. The custodian retains electronic copies of documents related to the Coverdell ESA as described in Treasury Regulations section 1.408-2(e)(5)(vii) in the custodian's capacity as a recordkeeper and not as any type of safekeeping agent. See also, Nevada Revised Statutes (NRS) 719.240; NRS 719.290. However, please note that the custodian requires all original stock certificates titled in the name of the Coverdell ESA to be held by the custodian.

- d. *Deposit Investments.* The deposit investments available through the custodian may include savings, share, and/or money market accounts, and various certificates of deposit (CDs).
- e. *Uninvested Cash Funds.* From time to time the responsible individual may deposit funds with the custodian, have available free credit balances, or otherwise direct the custodian to hold funds that are not subject to a current *Direction of Investment* or otherwise awaiting direction for investment or deposit (collectively referred to as "Uninvested Cash Funds"). The responsible individual acknowledges and agrees that Uninvested Cash Funds from the Coverdell ESA may be invested on an omnibus basis with Uninvested Cash Funds from other accounts.

The responsible individual directs the custodian to sweep or deposit all Uninvested Cash Funds automatically into an FDIC insured bank account or any investment backed by the U.S. Treasury and/or full faith and credit of the United States Government (which may be invested on an omnibus basis with Uninvested Cash Funds from other accounts) until such time as further direction is received from the responsible individual or a designated representative(s). The responsible individual also authorizes the custodian to transfer any Uninvested Cash Funds to a different FDIC insured bank account without any further approval. Accounts used to hold Uninvested Cash Funds may include, without limitation, certificates of deposit, money market accounts, similar FDIC or government insured accounts at state or national banks or credit unions, or any investment backed by the U.S. Treasury and/or full faith and credit of the United States Government. Any FDIC insurance, which may be applicable to the account, is subject to all applicable laws and regulations, including those laws and regulations related to FDIC insurance limitations. The custodian is entitled to retain and have paid to it as a fee any interest or other income earned or otherwise generated from the Uninvested Cash Funds deposited in such accounts, including any amounts paid to us by financial institutions at the time the custodian deposits the Uninvested Cash Funds. The responsible individual acknowledges and agrees that the custodian may retain this fee as compensation for the services provided under this agreement.

**10.05 Beneficiaries** – Unless indicated otherwise on the application, the responsible individual may not change the designated beneficiary. If the depositor has indicated on the application that the responsible individual may change the beneficiary designated under this agreement and the responsible individual chooses to do so, the responsible individual must designate a member of the family (as defined in IRC Section 529(e)(2)) of the existing designated beneficiary. This designation can only be made on a form prescribed by the custodian.

The depositor or responsible individual may designate one or more

persons or entities as death beneficiaries of this Coverdell ESA. This designation can only be made on a form provided by or acceptable to the custodian, and it will only be effective when it is filed with the custodian during the lifetime of the designated beneficiary. Each beneficiary designation filed with the custodian will cancel all previous designations. The consent of a death beneficiary will not be required in order to revoke a death beneficiary designation. If both primary and contingent death beneficiaries have been named, and no primary death beneficiary survives the designated beneficiary, the contingent death beneficiaries will acquire the designated share of this Coverdell ESA. If a death beneficiary is not designated with respect to this Coverdell ESA, or if all of the primary and contingent death beneficiaries predecease the designated beneficiary, the designated beneficiary's estate will be the death beneficiary.

If the designated beneficiary dies before receiving all of the amounts in this Coverdell ESA, the custodian will have no obligation to pay to the death beneficiaries until such time the custodian is notified of the designated beneficiary's death by receiving a valid death certificate. Any balance remaining in the Coverdell ESA upon the death of the designated beneficiary will be distributed within 30 days of the designated beneficiary's death, unless a qualified family member under age 30 is named as a death beneficiary. If the death beneficiary is a qualified family member under age 30, that individual will become the designated beneficiary as of the original designated beneficiary's date of death. Qualified family members are defined in IRC Section 529(e)(2).

The custodian may, for any reason (e.g., due to limitations of its charter or bylaws), require a qualified family member who becomes the designated beneficiary to take a total distribution of the Coverdell ESA by December 31 of the year following the year of the original designated beneficiary's death.

#### **10.06 Termination of Agreement, Resignation, or Removal of Custodian**

– Either the custodian or the responsible individual may terminate this agreement at any time by giving written notice to the other. However, the responsible individual's termination of this agreement will not be effective until such time as all outstanding fees, costs, indemnities, penalties, expenses, or payments due to the custodian are paid. The custodian can resign as custodian at any time effective 30 days after sending written notice of its resignation to the responsible individual through email (if an email address was provided, otherwise such notice will be sent to the responsible individual through U.S. mail). Upon receipt of that notice, the responsible individual must make arrangements to transfer the Coverdell ESA to another financial organization. If the responsible individual does not complete a transfer of the Coverdell ESA within 30 days from the date the custodian sends the notice to the responsible individual, the custodian has the right to transfer the Coverdell ESA assets to a successor Coverdell ESA trustee or custodian that the custodian chooses in its sole discretion, or the custodian may pay or distribute the Coverdell ESA balance to the designated beneficiary in a single sum or assignment. If the custodian transfers the Coverdell ESA, the existing Coverdell ESA documents will govern the Coverdell ESA relationship with the new custodian or trustee unless the successor custodian/trustee notifies the responsible individual in writing of any changes and/or requires new Coverdell ESA documents to be signed. The custodian will not be liable for any actions or failures to act on the part of any successor trustee or custodian, nor for any tax consequences the designated beneficiary may incur that result from the transfer or distribution of the Coverdell ESA assets pursuant to this section.

If this agreement is terminated, the custodian may charge the Coverdell ESA a reasonable amount of money that it believes is necessary to cover any associated costs, including but not limited to one or more of the following.

- Any fees, expenses, or taxes chargeable against the Coverdell ESA

- Any penalties or surrender charges associated with the early withdrawal of any savings instrument or other investment in the Coverdell ESA. After the Coverdell ESA with the Custodian is closed, if there are additional assets remaining in or subsequently credited to the Coverdell ESA account, the custodian will seek to distribute or transfer such assets in accordance with the responsible individual's prior direction, but only after offsetting any applicable administrative expenses and custodial fees (according to its then operative fee schedule).

The custodian may establish a policy requiring distribution of the entire balance of this Coverdell ESA to the designated beneficiary in cash or property if the balance of this Coverdell ESA drops below the minimum balance required under the applicable investment or policy established.

**10.07 Successor Custodian** – If the custodian's organization changes its name, reorganizes, merges with another organization (or comes under the control of any federal or state agency), or if the entire organization (or any portion that includes this Coverdell ESA) is bought by another organization, that organization (or agency) will automatically become the trustee or custodian of this Coverdell ESA, but only if it is the type of organization authorized to serve as a Coverdell ESA trustee or custodian.

**10.08 Amendments** – The custodian has the right to amend this agreement at any time. Any amendment the custodian makes, including those made to comply with the Code and related regulations, does not require the consent of either the responsible individual or the depositor. The responsible individual will be deemed to have consented to any other amendment unless, within 30 days from the date the custodian sends the amendment, the responsible individual notifies the custodian in writing that the responsible individual does not consent.

**10.09 Withdrawals or Transfers** – All requests for withdrawal or transfer will be in writing on a form provided by or acceptable to the custodian. The method of distribution must be specified in writing or in any other method acceptable to the custodian. The tax identification number of the designated beneficiary or death beneficiary must be provided to the custodian before the custodian is obligated to make a distribution. Withdrawals will be subject to all applicable tax and other laws and regulations, including but not limited to possible early distribution penalty taxes, surrender charges, and withholding requirements.

**10.10 Transfers From Other Plans** – The custodian can receive amounts transferred to the Coverdell ESA from the trustee or custodian of another Coverdell ESA. We reserve the right not to accept any transfer.

**10.11 Liquidation of Assets: Grant of Security Interest Upon Default**

a. The custodian has the right to liquidate assets in the Coverdell ESA if necessary to make distributions or to pay fees, expenses, indemnities, taxes, federal tax levies, penalties, or surrender charges properly chargeable against the Coverdell ESA. If the responsible individual fails to direct the custodian as to which assets to liquidate, the custodian will decide, in its complete and sole discretion, and the responsible individual agrees not to hold the custodian liable for any adverse consequences that result from the custodian's decision.

b. If payment is not received on or before the due date listed on the invoice, a \$50 late fee will be assessed to the Coverdell ESA and a *Past Due Notice* will be issued. In the event the responsible individual fails to pay any fees, costs, indemnities, penalties, expenses or payments due to the custodian required by the Account Agreement or otherwise, and upon issuance of the *Past Due Notice*, the custodian

reserves the right to proceed with the process for establishing a lien on and security interest in all of the rights, title and interests in such portion of the Coverdell ESA, the Uninvested Cash Funds and any other deposit, monies, accounts and other assets in such accounts or otherwise deposited with the custodian at such time in an amount equal to the amounts necessary to pay in full such amounts then due to the custodian, as collateral security for the prompt and complete payment of such unpaid fees or other amounts due and owing, to the maximum extent permitted by law or regulations, at its complete and sole discretion. Upon the custodian providing the responsible individual with notice through email (or through U.S. mail if no email address was provided) of its intent to pursue such security interest, the responsible individual hereby authorizes the custodian to file all financing statements and other documents and take such other actions as may from time to time be necessary or desirable in its complete and sole discretion to perfect and to maintain the perfection and priority of such security interest and/or authorize the custodian to liquidate the asset(s) without the responsible individual's prior approval and without any further notice.

The custodian may, at its complete and sole discretion, liquidate sufficient assets to cover outstanding fees plus one year's estimated fees, including the Account Termination Fee, and the responsible individual agrees not to hold the custodian responsible for any adverse consequences that result from its decision. Upon receipt, such liquidated funds will first be applied to outstanding fees. Remaining balances, if any, will be placed into the Coverdell ESA. The custodian has no liability for any adverse tax or other financial consequences as a result of liquidating the Coverdell ESA to cover the fees and charges. Coverdell ESAs with past due fees, unfunded Coverdell ESAs, and Coverdell ESAs with zero value will continue to incur administration and maintenance fees until such time as the responsible individual notifies the custodian in writing of intent to close the account or of the responsible individual's wish that the custodian resign. Should fees not be collected, the custodian has the option to cease performing any functions, including, but not limited to, processing investment transactions, until such time as all fees charged against the Coverdell ESA are fully paid. The custodian may then close the Coverdell ESA and distribute all assets to the designated beneficiary, which will be reported to the IRS on Form 1099-Q and may subject the designated beneficiary to possible taxes and penalties. In the event of non-payment, the custodian may employ a collection agency to recover any unpaid fees or expenses.

The responsible individual will be personally liable for all Re-registration Fees, Late Fees, Account Termination Fees, and any other fees related to collection of fees, including but not limited to, third party fees incurred.

**10.12 Restrictions on the Fund** – Neither the responsible individual, the designated beneficiary (nor anyone acting on behalf of the designated beneficiary), the depositor nor any contributor may sell, transfer or pledge any interest in the Coverdell ESA in any manner whatsoever, except as provided by law or this agreement.

**10.13 What Law Applies** – This agreement is subject to all applicable federal and state laws and regulations. If it is necessary to apply any state law to interpret and administer this agreement, the law of the state in which the custodian is chartered will govern.

If any part of this agreement is held to be illegal or invalid, the remaining parts will not be affected. Neither the responsible individual's nor the custodian's failure to enforce at any time or for any period of time any of the provisions of this agreement

will be construed as a waiver of such provisions, or the parties' right thereafter to enforce each and every such provision.

**10.14 Valuations Policy** - The custodian is required to report the fair market value ("FMV") of the assets within the Coverdell ESA to the IRS. The IRS definition of FMV is the price at which the asset would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell, and both having a reasonable knowledge of the relevant facts. For additional guidance to determine FMV, please refer to the Code and to the Treasury Regulations.

The responsible individual must provide the custodian with a credible valuation of the Coverdell ESA assets in order for the custodian to generate accurate IRS reporting. The custodian may report the FMV of the Coverdell ESA assets based on supporting documentation that the responsible individual provides and that, in the custodian's sole discretion, is deemed reasonable and applicable. For example, the custodian may base its FMV report on a recent, impartial appraisal of commercial real estate that the responsible individual provides from a competent professional. Or the custodian may report the FMV of the Coverdell ESA's interest in a closely held company based on the detailed assessment of a CPA who is accustomed to appraising such companies.

If the responsible individual does not provide an acceptable Coverdell ESA valuation to the custodian when required, the responsible individual agrees that the custodian may, but is not required to, seek a valuation determination. The expenses incurred in preparing such a valuation will be considered the Coverdell ESA's expense and may be debited from the Coverdell ESA. If the Coverdell ESA has insufficient liquid assets to pay these expenses, the responsible individual may pay them. Certain Coverdell ESA reimbursements may be considered annual contributions. To ensure proper governmental reporting, the responsible individual must inform the custodian of any Coverdell ESA expense that the responsible individual pays for outside the Coverdell ESA. If the custodian determines the value of any asset in the Coverdell ESA for recordkeeping or reporting purposes, the custodian will use reasonable, good faith efforts. Illiquid assets can be difficult to value accurately, particularly without sometimes costly and time-consuming appraisals. Therefore, the custodian neither guarantees the appropriateness of the appraisal techniques used, nor assumes responsibility for the accuracy of the valuations obtained.

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## GENERAL INSTRUCTIONS

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*Section references are to the Internal Revenue Code unless otherwise noted.*

### WHAT'S NEW

**Military Death Gratuity** – Families of soldiers who receive military death benefits may contribute, subject to certain limitations, up to 100 percent of such benefits into an educational savings account. Publication 970, *Tax Benefits for Education*, explains the rules for rolling over the military death gratuity and lists eligible family members.

### PURPOSE OF FORM

Form 5305-EA is a model custodial account agreement that meets the requirements of section 530(b)(1) and has been pre-approved by the IRS. A Coverdell education savings account (ESA) is established after the form is fully executed by both the depositor and the custodian. This account must be created in the United States for the exclusive purpose of paying the qualified elementary, secondary, and higher education expenses of the designated beneficiary.

If the model account is a trust account, see **Form 5305-E**, Coverdell Education Savings Trust Account.

**Do not** file Form 5305-EA with the IRS. Instead, the depositor must keep the completed form in its records.

## DEFINITIONS

**Custodian** – The custodian must be a bank or savings and loan association, as defined in section 408(n), or any person who has the approval of the IRS to act as custodian. Any person who may serve as a custodian of a Traditional IRA may serve as the custodian of a Coverdell ESA.

**Depositor** – The depositor is the person who establishes the custodial account.

**Designated Beneficiary** – The designated beneficiary is the individual on whose behalf the custodial account has been established.

**Family Member** – Family members of the designated beneficiary include his or her spouse, child, grandchild, sibling, parent, niece or nephew, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law, and the spouse of any such individual. A first cousin, but not his or her spouse, is also a "family member."

**Responsible Individual** – The responsible individual, generally, is a parent or guardian of the designated beneficiary. However, under certain circumstances, the responsible individual may be the designated beneficiary.

## IDENTIFICATION NUMBERS

The depositor and designated beneficiary's social security numbers will serve as their identification numbers. If the depositor is a nonresident alien and does not have an identification number, write "Foreign" in the block where the number is requested. The designated beneficiary's social security number is the identification number of his or her Coverdell ESA. If the designated beneficiary is a nonresident alien, the designated beneficiary's individual taxpayer identification number is the identification number of his or her Coverdell ESA. An employer identification number (EIN) is required only for a Coverdell ESA for which a return is filed to report unrelated business income. An EIN is required for a common fund created for Coverdell ESAs.

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## SPECIFIC INSTRUCTIONS

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**Note:** *The age limitation restricting contributions, distributions, rollover contributions, and change of beneficiary are waived for a designated beneficiary with special needs.*

**Article X** – Article X and any that follow may incorporate additional provisions that are agreed to by the depositor and custodian to complete the agreement. They may include, for example, provisions relating to: definitions, investment powers, voting rights, exculpatory provisions, amendment and termination, removal of the custodian, custodian's fees, state law requirements, treatment of excess contributions, and prohibited transactions with the depositor, designated beneficiary, or responsible individual, etc. Attach additional pages as necessary.

**Optional Provisions in Article V and Article VI** – Form 5305-EA may be reproduced in a manner that provides only those optional provisions offered by the custodian.

# DISCLOSURE STATEMENT

## REQUIREMENTS OF A COVERDELL ESA

A. **Cash Contributions** – A Coverdell ESA contribution must be in cash.

B. **Maximum Contribution** – The total amount that may be contributed to any and all Coverdell ESAs on behalf of a designated beneficiary is \$2,000 per year, excluding rollover and transfer contributions.

Contributions may not be made to a Coverdell ESA after the designated beneficiary's 18th birthday, except in the case of a special needs beneficiary.

The Coverdell ESA contribution that may be made by a depositor is further limited if the depositor's modified adjusted gross income (MAGI) exceeds \$190,000 and he or she is a married individual filing jointly (\$95,000 for single taxpayers). Married individuals filing jointly with MAGI exceeding \$220,000 may not fund a Coverdell ESA. Single individuals with MAGI exceeding \$110,000 may not fund a Coverdell ESA. The MAGI limits apply only to depositors that are individuals.

If the depositor is married filing jointly with MAGI between \$190,000 and \$220,000, the maximum Coverdell ESA contribution is determined as follows: (1) subtract the depositor's MAGI from \$220,000, (2) divide the difference by \$30,000, and (3) multiply the result in step (2) by \$2,000. For example, if the depositor's MAGI is \$205,000, the maximum Coverdell ESA contribution that may be made by such depositor is \$1,000. This amount is determined as follows:  $[(\$220,000 \text{ minus } \$205,000) \text{ divided by } \$30,000] \text{ multiplied by } \$2,000$ .

If the depositor is a single tax filer with MAGI between \$95,000 and \$110,000, the maximum Coverdell ESA contribution is determined as follows: (1) subtract the depositor's MAGI from \$110,000, (2) divide the difference by \$15,000, and (3) multiply the result in step (2) by \$2,000. For example, if the depositor's MAGI is \$98,000, the maximum Coverdell ESA contribution that may be made by such depositor is \$1,600. This amount is determined as follows:  $[(\$110,000 \text{ minus } \$98,000) \text{ divided by } \$15,000] \text{ multiplied by } \$2,000$ .

The Coverdell ESA contribution that may be made by a depositor is not limited by contributions made by the depositor to Traditional or Roth IRAs. In addition, there is no earned income requirement to be eligible to contribute to a Coverdell ESA. There is no requirement that the depositor be related to the designated beneficiary in order to make contributions. In addition, the designated beneficiary may contribute to his or her own Coverdell ESA.

C. **Eligible Custodians** – The custodian of the Coverdell ESA must be a bank, savings and loan association, credit union, or person or entity approved by the Secretary of the Treasury.

D. **Commingling Assets** – The assets of the Coverdell ESA cannot be commingled with other property except in a common trust fund or common investment fund.

E. **Life Insurance** – No portion of the Coverdell ESA may be invested in life insurance contracts.

F. **Collectibles** – The assets of the Coverdell ESA may not be invested in collectibles (within the meaning of Internal Revenue Code (IRC) Sec. 408(m)). A collectible is defined as any work of art, rug or antique, metal or gem, stamp or coin, alcoholic beverage, or other tangible personal property specified by the Internal Revenue Service (IRS). However, specially minted United States gold and silver coins, and certain state-issued coins are permissible investments. Platinum coins and certain gold, silver, platinum or palladium bullion (as described in IRC Sec. 408(m)(3)) are also permitted as Coverdell ESA investments.

G. **Required Distributions** – Except in the case of a special needs beneficiary, the assets of the Coverdell ESA are required to be distributed to the designated beneficiary within 30 days of the designated beneficiary's attainment of age 30. The designated beneficiary will be subject to both income tax and an additional 10 percent penalty tax on the portion of the distribution that represents earnings, if the designated beneficiary does not have any qualified education expenses in that year.

Any balance remaining in the Coverdell ESA upon the death of the designated beneficiary will be distributed within 30 days of the designated beneficiary's death, unless a death beneficiary is named and the death beneficiary is a qualified family member under age 30. If the death beneficiary is a qualified family member under age 30, that individual will become the designated beneficiary as of the date of death. Qualified family members include the designated beneficiary's child, grandchild, or stepchild, brother, sister, stepbrother, or stepsister, nephew or niece, parents, stepparents, or grandparents, uncle or aunt, spouses of all the family members listed above, cousin, and the designated beneficiary's spouse.

If a qualified family member becomes the designated beneficiary, the custodian, if it so chooses for any reason (e.g., due to limitations of its charter or bylaws), may require a total distribution of the Coverdell ESA by December 31 of the year following the year of the original designated beneficiary's death.

H. **Responsible Individual** – The responsible individual is generally the parent or guardian of the designated beneficiary. However, the financial organization may establish a policy that permits someone other than the designated beneficiary's parent or legal guardian to serve as the responsible individual. Unless otherwise indicated on the application, the responsible individual may not change the designated beneficiary. If the depositor has indicated on the application that the responsible individual may change the designated beneficiary, the responsible individual may change the designated beneficiary to another member of the designated beneficiary's family. The responsible individual will perform the following duties.

1. Receive a copy of the plan agreement and disclosure statement,
2. Direct the custodian regarding the investment of contributions, including the ability to redirect the investment of the initial contribution,
3. Direct the custodian regarding the administration, management and distribution of the account, unless the plan agreement indicates otherwise,
4. Name a successor responsible individual if the need arises,
5. Notify the custodian of any address change for the individuals identified on the plan agreement,
6. Remove excess contributions made to the Coverdell ESA.

## INCOME TAX CONSEQUENCES OF ESTABLISHING A COVERDELL ESA

A. **Contributions Not Deducted** – No deduction is allowed for Coverdell ESA contributions, including transfer and rollover contributions.

B. **Contribution Deadline** – The deadline for making a Coverdell ESA contribution is the depositor's tax return due date (not including extensions). The depositor may designate a contribution as a contribution for the preceding taxable year in a manner acceptable to the custodian. For example, if the depositor is a calendar-year filer and makes a Coverdell ESA contribution on or before the tax filing deadline, the contribution is considered to have been made for the previous tax year if the depositor designates it as such.



C. **Excess Contributions** – An excess contribution is any amount that is contributed to the Coverdell ESA that exceeds the eligible contribution limit. If the excess is not corrected timely, an additional penalty tax of six percent will be imposed on the excess amount. The procedure for correcting the excess is determined by the timeliness of the correction as identified below.

1. **Removal Before the Deadline.** The responsible individual should remove the excess contribution along with the earnings attributable to the excess, before June 1 of the year following the year for which the excess was made. An excess withdrawn by this deadline is not taxable upon distribution, but the designated beneficiary must include the earnings attributable to the excess in his or her taxable income for the year in which the excess contribution was made. The six percent excess contribution penalty tax will be avoided.

2. **Failure to Remove Before the Deadline.** Excess Coverdell ESA contributions that are not removed before June 1 of the year following the year for which the excess was made, are treated as contributions for the next calendar year. If, however, additional contributions are made for that year and the total amount results in an excess, the excess amount will be subject to a six percent penalty tax if not removed timely.

If additional contributions have been made for the next year, the amount of the excess equals the excess contribution for the current year, plus the excess contributions remaining from the preceding year, reduced by any distributions made during the current year.

The designated beneficiary must file IRS form 5329 to report and remit any additional penalty taxes to the IRS.

D. **Tax-Deferred Earnings** – The investment earnings of the Coverdell ESA are not subject to federal income tax as they accumulate in the Coverdell ESA. In addition, distributions of the Coverdell ESA earnings will be free from federal income tax if the distributions are taken to pay for qualified education expenses, as discussed below.

E. **Taxation of Distributions** – The taxation of distributions from the Coverdell ESA depends on whether or not the distributions are used for qualified education expenses.

1. **Qualified Education Expenses.** The designated beneficiary may take tax-free distributions from a Coverdell ESA to pay for elementary, secondary or post-secondary education expenses at an eligible educational institution. Such expenses include tuition, fees, books, supplies, special needs services, room and board, uniforms, transportation, academic tutoring and supplementary items or services (including extended day programs). Also qualifying are expenses for the purchase of computer technology or equipment, Internet access and related services, if such technology, equipment or services are to be used by the designated beneficiary or designated beneficiary's family during any of the years the designated beneficiary is in school. Qualified expenses may also include amounts contributed to a qualified tuition program.

2. **Nonqualifying Distributions.** If a designated beneficiary withdraws amounts from a Coverdell ESA that exceed the qualified education expenses for the same year, or the distributions are not used for qualified education expenses, a portion of the distributions will be taxable. The amount in excess of the qualified education expenses is taxable pro rata, based on the earnings and the basis in the account.

In most cases of a nonqualified distribution, the taxable portion of a Coverdell ESA distribution is also subject to an additional 10 percent penalty tax. There are several exceptions to the 10 percent penalty tax including distributions made payable

a. to a designated death beneficiary of the Coverdell ESA or to the estate of the designated beneficiary following the death of the designated beneficiary;

b. to the designated beneficiary if the designated beneficiary is disabled;

c. to the designated beneficiary if the designated beneficiary received a qualified scholarship, an educational assistance allowance or an excludable payment exception, but only to the extent the distribution is not more than the amount of the scholarship, allowance or excludable payment, and

d. to the designated beneficiary as a removal of excess along with the net income attributable.

3. **American Opportunity or Lifetime Learning Credits.** A designated beneficiary may claim the American Opportunity Credit (formerly the Hope Credit) or Lifetime Learning Credit on his or her federal income tax return in the same taxable year that a tax-free distribution from a Coverdell ESA is claimed, as long as the distribution(s) does not cover the same expenses claimed for the American Opportunity or Lifetime Learning Credit.

F. **Income Tax Withholding** – Any withdrawal from the Coverdell ESA is not subject to federal income tax withholding.

G. **Rollovers** – Coverdell ESA amounts may be rolled over to another Coverdell ESA of the same designated beneficiary or that of a qualified family member, provided that all of the applicable rollover rules are followed. Rollover is a term used to describe a tax-free movement of cash to a Coverdell ESA from another Coverdell ESA. The rollover rules are generally summarized below. These transactions are often complex. For questions regarding a rollover, please see a competent tax advisor.

1. **Coverdell ESA-to-Coverdell ESA Rollovers.** Assets distributed from a Coverdell ESA may be rolled over to another Coverdell ESA of the same designated beneficiary or that of a qualifying family member if the requirements of IRC Sec. 530(d)(5) are met. A proper Coverdell ESA-to-Coverdell ESA rollover is completed if all or part of the distribution is rolled over not later than 60 days after the distribution is received.

**Effective for distributions occurring on or after January 1, 2015,** the responsible individual is permitted to roll over only one distribution from a Coverdell ESA in a 12-month period, regardless of the number of Coverdell ESAs owned by the designated beneficiary. A distribution may be rolled over to the same Coverdell ESA or to another Coverdell ESA that is eligible to receive the rollover. For more information on rollover limitations, you may wish to obtain IRS Publication 970, *Tax Benefits for Higher Education*, from the IRS or refer to the IRS website at [www.irs.gov](http://www.irs.gov).

2. **Qualified Family Member.** A Coverdell ESA may be rolled to another Coverdell ESA of the same designated beneficiary or to a Coverdell ESA maintained for the benefit of a qualified family member of the designated beneficiary, who is under the age of 30. The age 30 limitation does not apply to qualified family members who are special needs beneficiaries. Qualified family members of the designated beneficiary include the designated beneficiary's child, grandchild, or stepchild, brother, sister, stepbrother, or stepsister, nephew or niece, parents, stepparents, or grandparents, uncle or aunt, spouses of all the family members listed above, cousin, and designated beneficiary's spouse.

3. **Rollover of Military Death Benefits.** If a designated beneficiary receives or has received a military death gratuity or a payment from the Servicemembers' Group Life Insurance (SGLI) program, the designated beneficiary may be able to roll over the proceeds to the Coverdell ESA. The rollover contribution amount is limited to the sum of the death benefits or SGLI payment received, less any such amount that was rolled over to a Roth IRA. Proceeds must be rolled over within one year of receipt of the gratuity or SGLI payment for deaths occurring on or after June 17, 2008. Any amount that is rolled over under this provision is considered nontaxable basis in the Coverdell ESA.

## LIMITATIONS AND RESTRICTIONS

- A. **Gift Tax** – Transfers of Coverdell ESA assets to a death designated beneficiary made during the designated beneficiary's life and at his or her request or because of the designated beneficiary's failure to instruct otherwise, may be subject to federal gift tax under IRC Sec. 2501.
- B. **Prohibited Transactions** – If the responsible individual engages in a prohibited transaction with the Coverdell ESA as described in IRC Sec. 4975, the Coverdell ESA will lose its tax-deferred status and the designated beneficiary must include the value of the earnings in his or her account in his or her gross income for the year.
- C. **Pledging** – If the responsible individual pledges any portion of the Coverdell ESA as collateral for a loan, the amount so pledged will be treated as a distribution and may be included in the designated beneficiary's gross income for that year to the extent that it represents earnings.

## OTHER

- A. **IRS Plan Approval** – The agreement used to establish this Coverdell ESA has been approved by the IRS. The IRS approval is a determination only as to form. It is not an endorsement of the plan in operation or of the investments offered.
- B. **Additional Information** – Additional information on Coverdell ESAs may be obtained from the District Office of the IRS. In particular IRS Publication 970, *Tax Benefits For Higher Education*, may be obtained by calling 1-800-TAX-FORM, or by visiting [www.irs.gov](http://www.irs.gov) on the Internet.
- C. **Important Information About Procedures for Opening a New Account** – To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial organizations to obtain, verify, and record information that identifies each person who opens an account. Therefore, when the depositor opens an account, he or she is required to provide his or her name, residential address, date of birth, and identification number. The custodian may require other information that will allow them to identify the depositor.