

U.S. OFFICE OF GOVERNMENT ETHICS

Model Qualified Blind Trust Provisions
[For use in the case of multiple fiduciaries]

The model qualified blind trust agreement contained in this memorandum is made available by the U.S. Office of Government Ethics to attorneys for their use in drafting proposed trust agreements to be submitted for certification pursuant to 5 U.S.C. § 13104(f)(3) and subpart D of 5 C.F.R. Part 2634. Under the statutory scheme, a trust agreement is not permitted to be recognized as creating an efficacious blind trust arrangement for any purpose under Federal law unless it had been certified by the U.S. Office of Government Ethics prior to its execution. Proposed trust drafts submitted to the U.S. Office of Government Ethics for consideration must adhere to the language of the model except to the extent, as agreed to by the U.S. Office of Government Ethics, that variations are required by the unusual circumstances of a particular case. The fiduciaries' certificates of independence must be executed in the exact form indicated.

It is strongly recommended in any case in which the use of a blind trust is contemplated that the U.S. Office of Government Ethics be consulted as early as possible. Prospective trustees or their representatives should schedule an appointment with the staff of the U.S. Office of Government Ethics for an orientation to the specialized procedures and requirements which have been established by law with respect to blind trust administration prior to the certification of the trust. As a condition of approval by the U.S. Office of Government Ethics, prospective trustees must exhibit a familiarity with and commitment to the specialized nature of blind trust administration.

For further information, contact the U.S. Office of Government Ethics directly: telephone 202-482-9300, email ContactOGE@oge.gov.

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TRUST AGREEMENT

THIS TRUST AGREEMENT is made and entered into this _____ day of _____, _____, between _____, whose mailing address is _____, hereinafter called the Settlor; _____ [financial institution], whose business address is _____, hereinafter called the Trustee; and _____ [financial institution], whose business address is _____, hereinafter called the Investment Manager; such Trustee and Investment Manager hereinafter collectively called the Fiduciaries.

WITNESSETH

SETTLOR has been appointed by the _____ to the position of _____ of the _____ [department or agency], with respect to which appointment the _____ has given its advice and consent. To avoid any conflict of interest, or appearance of any such conflict, which may arise from his duties and powers in such office and any other office to which he may subsequently be appointed to the extent provided for by 5 U.S.C. § 13104(f)(4)(A), Settlor hereby creates a trust which shall become effective on the date this agreement bears.

The Trustee is an eligible entity as specified in paragraph (a) of 5 C.F.R. § 2634.405 that meets the requirements of paragraph (c) of that section. The existence of any other banking or client relationship between any interested party and the Trustee is disclosed in annexed Schedule A, and no other such relationship shall be instituted without the prior written approval of the Director of the U.S. Office of Government Ethics.

1 The Investment Manager is an eligible entity as specified in paragraph (a) of 5 C.F.R.
2 § 2634.405 that meets the requirements of paragraph (c) of that section. The existence of any
3 other banking or client relationship between any interested party and the Investment Manager is
4 disclosed in annexed Schedule A, and no other such relationship shall be instituted without the
5 prior written approval of the Director of the U.S. Office of Government Ethics.

6

7 Settlor, therefore, hereby delivers to the Trustee, and the Trustee hereby acknowledges
8 receipt of, the property listed in annexed Schedule B, subject to the provisions of this Trust and
9 Chapter 131, title 5 of the United States Code, and regulations promulgated thereunder, and
10 other applicable Federal laws, Executive orders, and regulations.

11

12 The primary purpose of this Trust is to confer on the Fiduciaries the sole responsibility to
13 administer the trust and to manage trust assets without the participation by, or the knowledge of,
14 any interested party or any representative of an interested party. This includes the duty to decide
15 when and to what extent the original assets are to be sold or disposed of and in what investments
16 the proceeds of sale are to be reinvested. Accordingly, the Settlor and the Fiduciaries agree as
17 follows:

18

19 FIRST: (A) This Trust shall terminate upon the first to occur of the following –
20 (1) Settlor's ceasing for any reason to serve as _____ and in any other position to
21 which he may have been subsequently appointed in the Federal Government and Settlor
22 thereafter giving Trustee written notice directing that this Trust be terminated; or (2) Settlor's
23 death or incompetence. The period between the date of this agreement and the termination of the
24 Trust shall be called the "Trust Term".

25

26 (B) Notwithstanding Paragraph (A) of this Article FIRST, this Trust agreement
27 may in addition be terminated through revocation. However, within thirty days of dissolution of
28 the trust, the interested party shall file a report of the dissolution and a list of the assets of the
29 trust at the time of dissolution, categorized as to value in accordance with 5 C.F.R.
30 § 2634.301(d), with the Director of the U.S. Office of Government Ethics.

31

1 (C) The Fiduciaries and the interested parties may amend the terms of this trust
2 agreement only with the prior written approval of the Director of the U.S. Office of Government
3 Ethics and upon a showing of necessity and appropriateness.

4
5 SECOND: The Fiduciaries in the exercise of their authority and discretion to manage and
6 control the assets of this Trust shall not consult or notify any interested party or any
7 representative of an interested party.

8
9 THIRD: (A) None of the assets initially placed in Trust hereunder, as listed in
10 annexed Schedule B, is prohibited as a holding by any interested party by Chapter 131, title
11 5 of the United States Code and regulations promulgated thereunder, and other applicable
12 Federal laws, Executive orders, and regulations.

13
14 (B) Each asset listed in annexed Schedule B is free of any restriction with respect
15 to its transfer or sale, except as fully described in such Schedule B.

16
17 (C) During the Trust Term, the interested parties shall not pledge, mortgage, or
18 otherwise encumber their interests in the property held in trust hereunder.

19
20 FOURTH: The Fiduciaries shall not knowingly and willfully, or negligently, disclose to the
21 public or to any interested party or any representative of an interested party any information as to
22 the acquisition, retention, or disposition of any particular securities or other Trust property;
23 except that, the Trustee shall promptly notify the Settlor and the Director of the U.S. Office of
24 Government Ethics when the holdings of any particular asset transferred to the Trust by any
25 interested party have been completely disposed of or when the value of that asset becomes less
26 than \$1,000.

27
28 FIFTH: The income tax return of the Trust shall be prepared by the Trustee or his
29 delegate, and such return and any information relating thereto (other than the Trust income
30 summarized in appropriate categories necessary to complete an interested party's tax return),
31 shall not be disclosed publicly or to any interested party or any representative of an interested

1 party. To effectuate the provisions of this Article FIFTH, the Trustee shall use its best efforts to
2 provide the interested party, promptly after the close of each taxable year of the Trust during the
3 Trust Term, with that information concerning the Trust, including information on income,
4 expenses, capital gains and capital losses, which is necessary for the interested party to prepare
5 and file tax returns required by the laws of the United States and the laws of any State, district or
6 political subdivision; provided however, that in no event shall the Fiduciaries disclose publicly or
7 to any interested party or any representative of an interested party any information whatsoever
8 which might identify the securities or other property which comprise the assets of the Trust or
9 identify the securities or other property which have been sold from the assets of the Trust.

10
11 SIXTH: An interested party and any representative of an interested party shall not receive
12 any report on the holdings and sources of income of the Trust; except that the Trustee shall –

13
14 (A) Make quarterly reports of the aggregate market value of the assets
15 representing such interested party's interest in the Trust,

16
17 (B) Report the net income or loss of the Trust and make other reports necessary
18 to enable the interested party to complete an individual tax return required by law (in
19 accordance with Article FIFTH of this Trust), and

20
21 (C) Provide an annual report for purposes of 5 U.S.C. § 13104(a)(1) of the
22 aggregate amount of the Trust's income attributable to the beneficial interest in the Trust of
23 such interested party, categorized in accordance with the provisions of such section.

24
25 A copy of each written communication under this Article SIXTH shall be filed by the Trustee
26 with the Director, U.S. Office of Government Ethics, within five days of the date of the
27 communication.

28
29 SEVENTH: There shall be no direct or indirect communication between an interested party
30 or any representative of an interested party and the Fiduciaries with respect to the Trust unless

1 the communication is with the Fiduciary, in writing, and has the prior written approval of the
2 Director, U.S. Office of Government Ethics, and unless it relates only –

3

4 (A) To a request for a distribution of cash or other unspecified assets of the
5 trust,

6

7 (B) To the general financial interest and needs of the interested party (including,
8 but not limited to, a preference for maximizing income or long-term capital gain),

9

10 (C) To the notification of the Fiduciaries of a law, Executive order, or
11 regulation subsequently applicable to the Settlor that prohibits the interested party from
12 holding an asset, which notification directs that the asset not be held by the Trust, or

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14 (D) To directions to the Fiduciaries to sell all of an asset initially placed in the
15 Trust by an interested party that in the determination of the Settlor creates a conflict of interest or
16 the appearance thereof due to the subsequent assumption of duties by the Settlor (but any such
17 direction is not required).

18

19 A copy of each written communication under this Article SEVENTH shall be filed by the
20 person initiating the communication with the Director, U.S. Office of Government Ethics,
21 within five days of the date of the communication.

22

23 EIGHTH: The interested parties and any representative of an interested party shall not
24 take any action to obtain, and shall take reasonable action to avoid receiving, information with
25 respect to the holdings of, and the sources of income of, the Trust, including obtaining a copy
26 of any Trust tax return filed by the Trustee or any information relating thereto, except for the
27 reports and information specified in Article SIXTH of this Trust.

28

29 NINTH: The Fiduciaries shall each file with the Director, U.S. Office of Government
30 Ethics, by the May 15th after any calendar year during which the Trust was in existence a
31 properly executed Certificate of Compliance in the form prescribed by the U.S. Office of

1 Government Ethics. In addition, the Fiduciaries shall maintain and make available for inspection
2 by the U.S. Office of Government Ethics, as it may from time to time direct, the Trust's books of
3 account and other records and copies of the Trust's tax returns for each taxable year of the Trust.

4

5 TENTH: The Fiduciaries shall not knowingly and willfully, or negligently –

6

7 (A) Disclose any information to any interested party or any representative of an
8 interested party with respect to this Trust that may not be disclosed pursuant to any provision or
9 requirement of Subchapter I of Chapter 131, title 5 of the United States Code (and the
10 regulations thereunder) or this Trust;

11

12 (B) Acquire any holding:

13

14 (1) directly from an interested party or any representative of an interested party
15 without the prior written approval of the Director of the U.S. Office of Government Ethics, or

16

17 (2) the ownership of which is prohibited by, or not in accordance with
18 Subchapter I of Chapter 131, title 5 of the United States Code (and the regulations thereunder),
19 the terms of this Trust, or other applicable statutes and regulations;

20

21 (C) Solicit advice from any interested party or any representative of an
22 interested party with respect to this Trust, which solicitation is prohibited by any provision
23 or requirement of Subchapter I of Chapter 131, title 5 of the United States Code (and the
24 regulations thereunder) or this Trust, or

25

26 (D) Fail to file any document required by Subchapter I of Chapter 131, title 5
27 of the United States Code (and the regulations thereunder) or this Trust.

28

29 ELEVENTH: The Settlor shall not knowingly and willfully, or negligently –

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1 (A) Solicit or receive any information with respect to this Trust that may not be
2 disclosed pursuant to any provision or requirement of Subchapter I of Chapter 131, title 5 of the
3 United States Code (and the regulations thereunder) or this Trust, or

4
5 (B) Fail to file any document required by Subchapter I of Chapter 131, title 5
6 of the United States Code (and the regulations thereunder).

7
8 **TWELFTH [Optional provision]:** Subject to such amounts as the Fiduciaries may from time
9 to time reserve for the payment of such income taxes as may be due and payable by the Trust,
10 and for payment of expenses and compensation as provided for in this Trust, during the Trust
11 Term the Trustee shall pay to the Settlor \$_____ at the beginning of each month.

12
13 **THIRTEENTH:** In addition to the rights, duties, and powers conferred upon the Fiduciaries
14 by law, the Fiduciaries shall have the following powers, rights, and discretion with respect to any
15 Trust property held by them:

16
17 (A) To sell, exchange, or otherwise dispose of the property in such manner and
18 upon such terms as the Fiduciaries in their sole discretion shall deem appropriate;

19
20 (B) Except as limited by specific enumeration in this Trust agreement, to invest
21 and reinvest the principal and any undistributed income, in property of any kind;

22
23 (C) Except as limited by specific enumeration in this Trust agreement, to
24 participate in any reorganization, consolidation, merger, or dissolution of any corporation having
25 stocks, bonds or other securities that may be held at any time, to receive and hold any property
26 that may be allocated or distributed to them by reason of participation in any such reorganization,
27 consolidation, merger, or dissolution;

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29 (D) To exercise all conversion, subscription, voting, and other rights of
30 whatsoever nature pertaining to any such property and to grant proxies, discretionary, or
31 otherwise, with respect thereto;

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(E) To elect, appoint, and remove directors of any corporation, the stock of which shall constitute Trust property, and to act through their nominee as a director or officer of any such corporation;

(F) Except as limited by specific enumeration in this Trust agreement, to manage, control, operate, convert, reconvert, invest, reinvest, sell, exchange, lease, mortgage, grant a security interest in, pledge, pool, or otherwise encumber and deal with the property of this Trust, for Trust purposes and in behalf of the Trust to the same extent and with the same powers that any individual would have with respect to his own property and funds;

(G) Except as limited by specific enumeration in this Trust agreement, to borrow money from any person or corporation (including the Fiduciaries hereunder) and for the purpose of securing the payment thereof, to pledge, mortgage, or otherwise encumber any and all such property for Trust purposes upon such terms, covenants, and conditions as they may deem proper and also to extend the time of payment of any loans or encumbrances which at any time may be encumbrances on any such property irrespective of by whom the same were made or where the obligations may or should ultimately be borne on such terms, covenants, and conditions as they may deem proper;

(H) To register any property belonging to the Trust in the name of their nominee, or to hold the same unregistered, or in such form that title shall pass by delivery;

(I) To abandon, settle, compromise, extend, renew, modify, adjust, or submit to arbitration in whole or in part and without the order or decree of any court any and all claims whether such claims shall increase or decrease the assets held under this Trust agreement;

(J) To determine whether or to what extent receipts should be deemed income or principal, whether or to what extent expenditures should be charged against principal or income, and what other adjustments should be made between principal and income, provided that such adjustments shall not conflict with well-settled rules for the determination of principal and

1 income adjustments, or the Uniform Principal and Income Act, if in effect in the State of
2 _____;

3

4 (K) To determine whether or not to amortize bonds purchased at a
5 premium;

6

7 (L) Except to the extent otherwise expressly provided in this Trust agreement, to
8 make distributions in kind or in cash or partly in each and for such purposes to fix, insofar as
9 legally permissible, the value of any property;

10

11 (M) To pay such persons employed by the Fiduciaries to assist them in the
12 administration of the Trust, including investment counsel, accountants, and those engaged for
13 assistance in preparation of tax returns, such sums as the Fiduciaries deem to be reasonable
14 compensation for the services rendered by such persons. Such persons may rely upon and
15 execute the written instructions of the Fiduciaries, and shall not be obliged to inquire into the
16 propriety thereof;

17

18 (N) No person may be employed or consulted by the Fiduciaries to assist them in
19 any capacity in the administration of the Trust or the management and control of Trust assets,
20 including investment counsel, investment advisers, accountants, and those engaged for assistance
21 in preparation of tax returns, unless the following four conditions are met –

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23 (1) when an interested party or any representative of an interested party
24 learns about such employment or consultation, the person must sign the Trust
25 instrument as a party, subject to the prior approval of the Director of the U.S. Office of
26 Government Ethics,

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28 (2) under all the facts and circumstances, the person is determined pursuant to
29 the requirements for eligible entities under 5 C.F.R. § 2634.405(c) to be independent of any
30 interested party with respect to the trust arrangement,

31

1 (3) the person is instructed by the Fiduciaries to make no disclosure publicly or
2 to any interested party or any representative of an interested party that might specifically
3 identify current Trust assets or those assets which have been sold or disposed of from Trust
4 holdings, and

5
6 (4) the person is instructed by the Fiduciaries to have no direct communication
7 with any interested party or any representative of an interested party, and that any indirect
8 communication with an interested party or any representative of an interested party shall be made
9 only through the Fiduciary pursuant to Article SEVENTH of this Trust;

10
11 (O) Except as specifically limited in this Trust agreement, to do all such acts,
12 take all such proceedings, and exercise all such rights and privileges, although not otherwise
13 specifically mentioned in this Article THIRTEENTH, with relation to any such property, as if the
14 Fiduciaries were the absolute owners thereof, and in connection therewith to make, execute, and
15 deliver any instruments and to enter into any covenants or agreements binding the Trust.

16

17 FOURTEENTH: Notwithstanding the provisions of Article THIRTEENTH of this Trust,
18 the Fiduciaries shall not acquire by purchase, grant, gift, exercise of option, or otherwise,
19 without the prior written approval of the Director of the U.S. Office of Government Ethics, any
20 securities, cash, or other property in addition to that listed in the annexed Schedule B, from any
21 interested party or any representative of an interested party.

22

23 FIFTEENTH: The Fiduciaries shall not at any time be held liable for any action taken or
24 not taken or for any loss or depreciation of the value of any property held in the Trust whether
25 due to an error of judgment or otherwise where the Fiduciaries have exercised good faith and
26 ordinary diligence in the exercise of their duties such as would have been exercised by a prudent
27 person.

28

29 SIXTEENTH: No Fiduciaries hereunder shall be required, in any jurisdiction, to furnish
30 any bond or other security, or to obtain the approval of any court before applying, distributing,
31 selling, or otherwise dealing with property.

32

1 SEVENTEENTH: Except as provided in Article SIXTH of this Trust, the Fiduciaries shall
2 make no accounting to the Settlor until the date of termination of this Trust, and, at such time,
3 they shall be required to make full and proper accounting and turn over to the Settlor all assets of
4 the Trust then held by them the said Fiduciaries.

5

6 EIGHTEENTH: The Fiduciaries (and any substitutes or successors) shall have the right, by
7 a duly acknowledged instrument delivered to the Settlor to resign as Fiduciaries in which event
8 the Settlor shall designate and appoint substitute or successor Fiduciaries (subject to the prior
9 written approval of the Director, U.S. Office of Government Ethics) in their place and stead,
10 which shall have all of the rights, powers, discretions, and duties conferred or imposed hereunder
11 upon the original Fiduciaries.

12

13 NINETEENTH: Any amendment of the terms of this Trust Agreement, including the
14 appointment of substitute or successor Fiduciaries, shall require the prior written approval of the
15 Director of the U.S. Office of Government Ethics, upon a showing of necessity and
16 appropriateness. Any such substitute or successor Fiduciaries shall have all of the rights,
17 powers, discretions, and duties conferred or imposed hereunder upon the original Fiduciaries.

18

19 **TWENTIETH [Optional provision]: [A provision delineating the respective powers and**
20 **responsibilities of the Fiduciaries is recommended. Note that the Fiduciaries will not be**
21 **able to communicate with the Settlor for resolution of any disputes that may arise among**
22 **them.]**

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24 The term "interested party" as used in this Trust means the Settlor, the Settlor's spouse,
25 and any minor or dependent child.

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The validity, construction, and administration of this Trust shall be governed by Chapter 131, title 5 of the United States Code (and regulations thereunder) and the laws of the State of _____.

Dated this _____ day of _____, _____.

Settlor

NOTARIZATION
REQUIRED

The above Trust is accepted this _____ day of _____, _____.

Trustee

NOTARIZATION
REQUIRED

By:
(title)

Investment Manager

NOTARIZATION
REQUIRED

By:
(title)

Privacy Act Statement

The Ethics in Government Act of 1978 as amended and the regulations of the U.S. Office of Government Ethics (OGE) require the reporting of this information for the administration of qualified trusts. The consequences of failing to provide the requested information are as follows: for proposed qualified trusts, OGE may be unable to review or approve the trust; for existing qualified trusts, OGE may revoke the trust certification or trustee approval previously granted. The primary use of the information on the trust instrument, communication, or certification prepared based in part upon this model draft document is for review by Government officials of OGE and the agency of the Government employee for whom the trust is being established to determine compliance with applicable Federal laws and regulations as regards qualified trusts. Additional disclosures of the information may be made:

- 1) To disclose information furnished in accordance with sections 105 and 402(b)(1) of the Ethics in Government Act of 1978, codified at 5 U.S.C. 13107 and 13122(b)(1), and subject to the limitations contained therein, to any requesting person.
- 2) To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.
- 3) To disclose information to any source when necessary to obtain information relevant to a conflict-of-interest investigation or determination.
- 4) To disclose information to the National Archives and Records Administration or the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.
- 5) To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.
- 6) To disclose information when the disclosing agency determines that the records are relevant and necessary to a proceeding before a court, grand jury, or administrative or adjudicative body; or in a proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.
- 7) To disclose the public financial disclosure report and any accompanying documents to reviewing officials in a new office, department or agency when an employee transfers or is detailed from a covered position in one office, department or agency to a covered position in another office, department or agency.
- 8) To disclose information to a Member of Congress or a congressional office in response to an inquiry made on behalf of, and at the request of, an individual who is the subject of the record.
- 9) To disclose the information to contractors, grantees, experts, consultants, detailees, and other non-Government employees performing or working on a contract, service, or other

- 1 assignment for the Federal Government, when necessary to accomplish an agency
2 function related to this system of records.
- 3 10) To disclose information to appropriate agencies, entities, and persons when: (1) the
4 agency maintaining the records suspects or has confirmed that there has been a breach of
5 the system of records; (2) the agency maintaining the records has determined that as a
6 result of the suspected or confirmed breach there is a risk of harm to individuals, the
7 agency (including its information systems, programs, and operations), the Federal
8 Government, or national security; and (3) the disclosure made to such agencies, entities,
9 and persons is reasonably necessary to assist in connection with the agency's efforts to
10 respond to the suspected or confirmed breach or to prevent, minimize, or remedy such
11 harm.
- 12 11) To disclose information to another Federal agency or Federal entity, when the agency
13 maintaining the record determines that information from this system of records is
14 reasonably necessary to assist the recipient agency or entity in (1) responding to a
15 suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of
16 harm to individuals, the recipient agency or entity (including its information systems,
17 programs, and operations), the Federal Government, or national security, resulting from a
18 suspected or confirmed breach.
- 19
- 20 For additional information please see the OGE/GOVT-1 Governmentwide Privacy Act
21 System of Records.