

ORION PORTFOLIO SOLUTIONS TERMS OF SERVICES AND USE AGREEMENT

Core Platform (Non-ERISA Retirement Plans)

Effective Date: March 23, 2020

This Terms of Services and Use Agreement ("Agreement") is made by and between you ("You" or "Your") and Orion Portfolio Solutions, LLC ("OPS", "We" or "Our" or "Us"), located at 17605 Wright Street, Omaha, Nebraska 68130. You have been provided this Agreement along with Your OPS Account Application and Account Application Addendum, and You acknowledged receipt and acceptance of this Agreement in those documents. In addition, by clicking on "I ACCEPT" the first time You access and use the OPS website ("Website"), You are again acknowledging and agreeing that this Agreement applies each time You use the Website; You also acknowledge and agree to the OPS Website Terms of Use ("Website Terms"), which can be found at www.orionportfoliosolutions.com.

The Accounts covered by this Agreement are non-ERISA Retirement Plan Accounts for which OPS provides services (collectively, the "Program"). Such Accounts include:

(a) a "Program Account" that is established pursuant to Your enrollment in an asset allocation model portfolio ("Model Portfolios") developed and maintained by OPS or the Program's other third-party strategists ("Strategists"). OPS may add or revise the available Strategists and Model Portfolios in its discretion;

(b) an "SMA Account" that is established through OPS's utilization of third-party investment managers (each, a "Manager") as sub-advisers to manage portfolios focusing on certain strategic, tactical, or diversification strategies. OPS may add or revise the available Managers in its discretion; and

(c) an "Advisor-Directed Account" that is established pursuant to Your enrollment in an investment portfolio developed and managed on the OPS platform by Your financial advisor ("Advisor").

The Program Account, SMA Account, and Advisor-Directed Account may be referred to individually as an "Account" or collectively as the "Accounts". Certain terms of this Agreement, which are noted accordingly, may only apply to Program Accounts, SMA Accounts, or Advisor-Directed Accounts. For Program Accounts and SMA Accounts, You also agree to retain the applicable Strategist or Manager pursuant to the terms of this Agreement, and that Strategist or Manager, if selected, becomes incorporated as a party to this Agreement.

We reserve the right to change this Agreement from time to time by posting a notice of such change on Our Website, or by notifying You of changes either electronically or by mail. It is Your responsibility to check the Website and this Agreement from time to time for modifications. Continued use of the Program after any modifications of this Agreement will constitute acceptance of such modifications.

You and OPS agree the following terms and conditions apply to Your Account(s) and Program services:

1. Controlling Agreements. Your Account is governed by this Agreement, which is incorporated by reference and made a part of the most recent version of the OPS Account Application or Application Addendum that is executed by You (the "Application"); (this Agreement, the Application and any other agreements entered into by You and Us after the date You accept this Agreement are referred to as the "OPS Agreements"). This Agreement supersedes and replaces in its entirety any prior Terms of Services and Use Agreement for Your Account, if any. If there is a conflict between OPS Agreements, this Agreement shall prevail. This Agreement is separate from Your agreements with Your Advisor. If there is a conflict between Your agreements with Your Advisor and this Agreement with respect to OPS's relationship with You, this Agreement shall prevail. Your Advisor, the Strategist, and Manager, as applicable, has agreed to be bound by this Agreement as if a party hereto.

2. Advisor Services. Promptly upon enrollment, Your Advisor will initiate the steps necessary to open an Account on Your behalf. Advisor will be available to You during Advisor's normal business hours to perform the "Advisor Services", including consultation with You regarding the administration of Your Account and Your financial situation or investment needs. As part of the Advisor Services, Advisor will also furnish on-going advice as to the investment of the Account based on Your needs, objectives and instructions. You acknowledge that You have authorized Your Advisor to send written instructions to OPS on Your behalf and authorize OPS to act on those instructions. This Agreement shall further evidence such authorization.

Except as stated herein or as stated in a separate advisory agreement between You and OPS, OPS will not provide any advisory services or investment advice to You.

3. Your Account and Responsibilities. You shall: (a) assent to (either electronically or in writing) the OPS Agreements, which You acknowledge governs the relationships of the parties; (b) accurately complete and update the information provided in the Application; and (c) maintain the security of any passwords used to access the Account, and immediately notify OPS of a breach or suspected breach of the passwords.

Your Account will initially be invested in accordance with the information You provided to Your Advisor and set forth in the Application. Thereafter, You may direct the Advisor to make changes to Your Account from time to time by providing instructions to the Advisor. You shall have the right to impose reasonable restrictions with respect to the management of Your Account, including restricting investments in certain securities, provided that any such restrictions are subject to approval. You agree to promptly advise Your Advisor of any changes or modifications to Your objectives or financial situation, and any specific investment restrictions relating to Your Account. You further agree to promptly notify Your Advisor in writing if You consider any investments recommended for an Account a violation of such investments or restrictions or if any Account statement reflects an error in the execution of Your instructions. By assenting to this Agreement, You hereby give permission to OPS to provide the Advisor, Strategist, and/or Manager with access to Your Account information to the extent reasonably necessary to service Your Account.

In the event that cash is required to be generated in the Account to satisfy fee billing, distribution request, or other purposes, You authorize OPS to deduct such amounts from Your Account. Positions will be redeemed pro-rata unless otherwise specified. Furthermore, You authorize OPS to redeem Your holdings, at OPS's discretion, in order to obtain the required funds. You understand that You are subject to the fund minimums and short-term redemption fees as stated in the applicable mutual fund prospectus.

Tax management techniques may be offered, including tax loss harvesting and capital gain management, but You acknowledge that there is no guarantee any tax management technique will be successful, and transactions in accounts not managed in the Program could create "wash sales" causing losses to be disallowed or deferred. Further, tax management techniques can adversely impact Your investment performance which may cause Your Account's performance to vary significantly from any selected model. You acknowledge that OPS, Strategists, and Managers do not offer tax advice and that You are fully responsible for any taxes due upon gains recognized in Your Account.

You further understand and acknowledge the following:

Program Account(s): For a Program Account, You understand and acknowledge that You and Your Advisor are responsible for selecting the appropriate Model Portfolio, and Your Advisor shall work with You to communicate such selection to OPS. You understand and acknowledge that while Strategist regularly monitors and manages the Model Portfolio, Strategist is not Your investment advisor and does not provide personalized investment advice. The Strategist may periodically rebalance and adjust each Model Portfolio. You hereby instruct and direct that Your Account be invested in accordance with all adjustments and rebalancing. Once a Strategist suggests a transaction in any Model Portfolio, OPS will generate trades to reflect transactions in the applicable Account(s). You appoint OPS to act as Your agent and attorney-in-fact with discretionary power to buy, sell, or otherwise effect transactions in stocks, options, bonds, mutual funds, exchange traded funds and any other securities for Your Account to implement adjustments or updates to Your Model Portfolio, as communicated by the Strategist to OPS. If the Model Portfolio no longer meets Your investment needs, You agree to promptly notify Your Advisor to reassign the Account. You will receive notification of all transactions in a Program Account in the form of an Account statement provided by the Account Custodian.

SMA Account(s): For an SMA Account, You understand and acknowledge that You and Your Advisor are outsourcing the ongoing security selection and management of Your Account to OPS and a designated Manager based on Your communicated investment and strategy preferences. The SMA Account may be periodically rebalanced and adjusted and You hereby instruct and direct that Your Account be invested in accordance with all adjustments and rebalancing. You appoint OPS and Manager to act as Your agent and attorney-in-fact with discretionary power to buy, sell, or otherwise effect transactions in stocks, options, bonds, mutual funds, exchange traded funds and any other securities for Your Account. If the Account no longer meets Your investment needs, You agree to promptly notify Your Advisor to reassign the Account. You will receive notification of all transactions in an SMA Account in the form of an Account statement provided by the Account Custodian.

Advisor-Directed Account(s): For an Advisor-Directed Account, You understand and acknowledge that You and Your Advisor are responsible for selecting the appropriate portfolio, and Your Advisor shall work with You to communicate such selection to OPS. Your Advisor will have discretionary authority over the securities in the portfolio and will communicate portfolio updates to OPS. Once Your Advisor suggests a transaction in the portfolio, OPS will generate trades and will work with the Advisor to implement the transactions in the Account. You will receive notification of all transactions in an Advisor-Directed Account in the form of an Account statement provided by the Account Custodian.

Your Account will remain invested unless and until You expressly instruct Your Advisor to terminate, execute written or electronic instructions to change how the Account is invested, or the Strategist, Manager, or Model Portfolio is terminated from the platform. You acknowledge that Your portfolio will be deemed an Advisor-Directed account if: (i) You or Your Advisor vary Your Account in any way from a Model Portfolio; (ii) the Strategist, Manager, and/or Model Portfolio is terminated from the OPS platform; or (iii) Your Advisor is terminated and no longer provides You the Advisor Services. Advisor-Directed accounts will not be rebalanced and will be adjusted only upon specific instructions from You or Your Advisor.

4. **Custodian Services.** You have entered into a separate agreement with an independent qualified custodian ("Custodian") for Your Account(s). The Custodian will maintain possession of all the funds and securities in Your Account and provide custodial and brokerage services relating to Your Account. Except as otherwise provided, the Custodian will execute trades, either directly or through another broker-dealer, for Your Account. In order to transfer assets from Your Account to another account held in Your name at a bank, savings association, broker-dealer, or other custodian, You shall provide written direction to the Custodian in accordance with the Custodian's requirements.

OPS will not provide any custody services to You at any time.

5. **Portfolio Transactions.** Trade confirmations for transactions in the Account will be available to You and Your Advisor on the OPS Website, in Your Account's transaction history, and in statements provided by the Account Custodian.

For certain Accounts, trades may be executed through a broker-dealer other than Custodian. In such cases, the executing party shall seek to obtain the best price and execution for Your Account. This shall not obligate any party to solicit competitive bids for each transaction or to seek the lowest commission cost available to Your Account, as long as they reasonably believe the broker-dealer selected on the particular transaction can be expected to obtain a "best execution" market price and determines in good faith that the cost is reasonable relative to the value of the brokerage services provided, as may be consistent with applicable SEC rules. In accordance with Section 28(e) of the Securities Exchange Act of 1934, a broker-dealer executing transactions in Your Account may be paid commissions in excess of those another broker-dealer might charge, after determining in good faith that such amount of commission is reasonable in relation to the value of the broker's services. You also understand that transactions in Your Account may be combined with those of other clients and the broker executing such transactions may record the price as the average of the prices at which the broker executes such

transactions.

6. Advisory Fees. You will pay an advisory fee (the “Advisory Fees”) as specified in the schedule included on the Application, Fee Change Form, or such other fully executed form. Based on the schedule provided, OPS will calculate the amount of the Advisory Fees and deduct them from Your Account. For Program Accounts and SMA Accounts, Advisory Fees will be deducted from the Account’s cash position if sufficient cash is available to cover the fee. If there is insufficient cash to cover the fee, the Account’s largest position at the time fees are processed will be redeemed. For Advisor-Directed accounts, Advisory Fees will be deducted from a designated sweep fund, if applicable, or the Account’s largest position at the time fees are processed. For all Accounts, if none of the designated positions contains sufficient funds to pay the applicable fees, OPS may redeem holdings in any fund(s) in Your portfolio, at OPS’s discretion. You shall pay the Advisory Fee monthly (or in some cases quarterly) in arrears. If Your Account was not open for the entire month used to compute the Advisory Fee, the Advisory Fee will be pro-rated based upon the number of days that the Account was open during such month. You acknowledge that the Advisory Fee may be distributed among Advisor and an affiliated Corporate Registered Investment Advisor, if applicable. All Advisory Fees are paid to the Advisor; OPS does not receive any of the Advisory Fees. You understand that assets invested in shares of certain investments or with other investment companies may be subject to additional fees and expenses, as set forth in the prospectuses of those funds, and that these fees and expenses are ultimately borne by You.

7. Administration and Account Maintenance Fees. You will pay an administration fee and an account maintenance fee (the “Administration Fees”) as specified on the Application, Application Addendum, or other such form. For Program Accounts and SMA Accounts, Administration Fees will be deducted from the Account’s cash position if sufficient cash is available to cover the fee. If there is insufficient cash to cover the fee, the Account’s largest position at the time fees are processed will be redeemed. For Advisor-Directed Accounts, Administration Fees will be deducted from a designated sweep fund, if applicable, or the Account’s largest position at the time fees are processed. For all Accounts, if none of the designated positions contains sufficient funds to pay the applicable fees, OPS may redeem holdings in any fund(s) in Your portfolio, at OPS’s discretion. You shall pay the Administration Fees monthly (or in some cases quarterly) in arrears. If Your Account was not open for the entire month used to compute the Administration Fees, the Administration Fees will be pro-rated based upon the number of days that the Account was open during such month. You acknowledge and agree that OPS may change the Administration Fees (both the amount and the type of Administration Fees charged) from time to time upon notice to You and Your Advisor, which may be given by mail, electronically, or by posting a notice of such change on the Website. You acknowledge that the Administration Fees will be distributed among OPS and certain Strategists or Managers as applicable. In addition, OPS may at its discretion, distribute a portion of the Administration Fee to the Advisor. You understand that assets invested in shares of certain investments or with other investment companies may be subject to additional fees and expenses, as set forth in the prospectuses of those funds, and that these fees and expenses are ultimately borne by You.

8. Trading and Custody Fees. For Program Accounts and SMA Accounts allocated to Model Portfolios containing exchange traded funds (ETFs) or stocks, You will pay a trading and custody fee (“Trading and Custody Fees”) as specified on the Application, Application Addendum, or other such form. These Accounts are offered as a “wrap fee program” at OPS where You do not pay brokerage commissions, markups, or transaction charges for execution of transactions. The Trading and Custody Fees are billed and collected in the same manner as the Administration Fees, and You shall pay the Trading and Custody Fees monthly (or in some cases quarterly) in arrears. If Your Account was not open for the entire month used to compute the Trading and Custody Fees, the Trading and Custody Fees will be pro-rated based upon the number of days that the Account was open during such month. You acknowledge and agree that OPS may change the Trading and Custody Fees (both the amount and the type of Trading and Custody Fees charged) from time to time upon notice to You and Your Advisor, which may be given by mail, electronically, or by posting a notice of such change on the Website. You acknowledge that the Trading and Custody Fees will be distributed among OPS and certain Strategists or Managers.

You are responsible for any applicable custodial fees as set forth in the custodial paperwork as well as any transactional or other trading costs unless the Account is enrolled in OPS’s “wrap fee program.” More information on OPS’s wrap fee program can be found in its Appendix 1 of Form ADV Part 2A (the “Wrap Brochure”) at www.orionportfoliosolutions.com.

9. Strategist Fees and Manager Fees. Strategist and Manager Fees vary and are in addition to other fees charged by OPS and the Advisory Fees charged by Your Advisor. You acknowledge that any allocation made to an Account to which a Strategist Fee or Manager Fee applies will be billed and deducted from Your Account. Strategist Fees and Manager Fees are billed and collected in the same manner as the Administration Fees. You acknowledge and agree that OPS may change the Strategist Fees and Manager Fees (both the amount and the type of Strategist Fees or Manager Fees charged) from time to time upon notice to You and Your Advisor, which may be given by mail, electronically, or by posting a notice of such change on the Website. You acknowledge that the Strategist Fees and Manager Fees may be distributed among OPS and certain Strategists or Managers, as applicable. Please refer to the OPS Brochure for additional information about these fees.

10. Form ADV Part 2A Brochure Delivery. Your Advisor is registered as an investment advisor with the Securities and Exchange Commission under the Investment Advisers Act of 1940, as amended or a registered investment advisor under state specific jurisdiction. You acknowledge receipt of Your Advisor’s Form ADV Part 2A (“Brochure”), or a disclosure statement containing the equivalent information, or, if applicable, a disclosure statement containing at least the information required by a wrap brochure, if You are entering into a wrap fee program sponsored by Advisor. In addition, You acknowledge that Your Advisor has delivered to You a copy of OPS’s Brochure. Furthermore, if You are establishing a Program Account or an SMA Account, You acknowledge receipt of the Brochure of the applicable Strategist(s) or Manager(s).

11. Proxy Voting and Shareholder Materials. You retain the right to receive shareholder materials relating to securities held in Your Account and shall retain the right to vote any voting securities and direct the voting of proxies with respect to such securities. The obligation to vote Your proxies shall at all times rest with You or Your Advisor depending upon the terms of Your Advisory Agreement. Should OPS inadvertently receive proxy information or shareholder materials for a security held in Your Account, such information shall be promptly forwarded to You or Your Advisor. Further, neither OPS, nor Your Advisor, nor the Strategist or Manager will advise or act for You with respect to any legal matters, including bankruptcies or class actions, with respect to securities held in Your Account.

OPS does not and will not exercise proxy-voting authority over Your securities.

12. **Investment Risk.** Neither OPS, Your Advisor, the Strategist(s), nor the Manager(s) guarantee the future performance of Your Account or any specific level of performance, the success of any investment decision or strategy used, or the success of Advisor's overall management of the Account. You understand that investment decisions made for Your Account are subject to various markets, currency, economic, political, business and other risks, and that such investment decisions may not be profitable. You hereby acknowledge that the price of securities can and will fluctuate, and any stock, mutual fund, ETF or other investment may become valueless.

13. **Confidentiality and Privacy.** Except as otherwise agreed in writing or as required by law, Advisor and OPS will exercise due care in keeping confidential Your personally identifiable non-public information. OPS and Advisor will use Your personally identifiable non-public information only as necessary to effectuate the purposes of this Agreement. By signing this Agreement, You authorize both Advisor and OPS to provide a copy of this Agreement to any broker-dealer or other party to a transaction for the Account. In compliance with the Securities and Exchange Commission's Regulation S-P (Privacy of Consumer Financial Information), which was adopted to comply with Section 504 of the Gramm-Leach-Bliley Act, Advisor and OPS have disclosed to You their policies and procedures regarding the use and safekeeping of personal information, including, if applicable, how You may avoid ("opt out" of) having Your information shared. The "OPS Privacy Policy" can be located at www.orionportfoliosolutions.com.

14. **Entire Agreement; Assignment; Governing Law.** The OPS Agreements, OPS Privacy Policy, exhibits to the Agreement, and the documents referenced or incorporated by reference herein, represent the entire Agreement among the parties with respect to the subject matter hereof, and supersedes all prior oral or written understandings, agreements or negotiations among the parties with respect to the subject matter hereof. OPS is permitted to assign the Agreement to the extent not prohibited by applicable law, regulation, or statute, and OPS may delegate certain of its responsibilities hereunder from time to time. The Agreement and the rights and obligations relating to it are to be interpreted and determined under and in accordance with the internal laws of the State of Missouri without giving effect to the principles of conflict of laws. In order for an amendment to be effective against OPS, it must be either posted on the Website or pursuant to a writing signed by OPS.

15. **Term; Termination; Survival.** This Agreement shall become effective as of the date specified herein, and, with respect to the Accounts, shall remain in full force and effect until You, OPS, or Advisor delivers written notice to the others of its intention to terminate this Agreement. Such termination will take effect thirty (30) days after such written notice is delivered, or at a later date as stated in the written notice. Notwithstanding a valid termination, You, OPS, and Advisor, as applicable, agree that all transactions in progress as of the effective date of termination will be completed in the normal course of business. Those terms, provisions and sections of this Agreement hereby shall survive termination as necessary to give effect thereto.

16. **Arbitration.** Any controversy or claim, including, but not limited to, transactions relating to Your Account, errors and omissions arising out of, or relating to, this Agreement (or any other agreement You may enter into with Us, whether entered into prior, on or subsequent to the date that You accept this Agreement), shall be determined by arbitration. The arbitration shall be held in Omaha, Nebraska under the rules of the American Arbitration Association by arbitrators familiar with the securities industry, and the judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. You understand that this agreement to arbitrate does not constitute a waiver of the right to seek a judicial forum where such waiver would be void under federal or state securities laws. In such case, any judicial actions shall take place in the federal or state courts located in Omaha, Nebraska. You irrevocably consent and submit to the exclusive personal jurisdiction of that court, and You irrevocably waive any jurisdictional, venue or inconvenient forum objections to such court. Arbitration is final and binding on the parties.

17. **Limitations on Liability.**

A. YOU AGREE AND UNDERSTAND THAT OPS, ALL OF THE AFFILIATES OF OPS, AND EACH PERSON WHO CONTROLS OR IS ASSOCIATED WITH OPS, AND ANY OFFICER, MANAGER, DIRECTOR, EMPLOYEE OR AGENT OF THE FOREGOING (THE "OPS PARTIES") WILL NOT BE LIABLE FOR:

- (a) ANY LOSS THAT YOU MAY SUFFER BY REASON OF ANY INVESTMENT DECISION MADE OR OTHER ACTION TAKEN OR OMITTED IN GOOD FAITH BY ADVISOR, OPS, A STRATEGIST, OR A MANAGER;
- (b) ANY LOSS ARISING FROM ADVISOR'S ADHERENCE TO YOUR WRITTEN OR ORAL INSTRUCTIONS;
- (c) ANY ACT OR FAILURE TO ACT BY THE CUSTODIAN, ANY BROKER OR DEALER TO WHICH ADVISOR DIRECTS TRANSACTIONS FOR THE PROGRAM ACCOUNT, OR BY ANY OTHER THIRD PARTY INCLUDING, BUT NOT LIMITED TO, STRATEGISTS OR MANAGERS;
- (d) YOUR USE OF THE WEBSITE AND THE CONTENT CONTAINED THEREIN; OR
- (e) ANY LOSS THAT YOU SUFFER ARISING FROM A CAUSE BEYOND THE CONTROL OF OPS, ADVISOR, MANAGERS, AND/OR STRATEGIST, INCLUDING, BUT NOT LIMITED TO, AN ACTION BY ANY MILITARY, CIVIL OR REGULATORY AUTHORITY, A CHANGE IN LAW OR REGULATION, FIRE, FLOOD, EARTHQUAKE, STORM OR SIMILAR ACT OF GOD, RIOT, ACT OF TERRORISM, LABOR STRIKE, WAR OR CIVIL UNREST, A DISRUPTION, IMPERFECTION OR OUTAGE OF TELECOMMUNICATIONS, POWER OR OTHER UTILITY, ELECTRICAL DISTURBANCES, BROWNOUTS, FAILURES OR UNAVAILABILITY OF, OR ERRORS IN, THIRD PARTY SYSTEMS, EQUIPMENT AND SOFTWARE, OR ANY OTHER SIMILAR CAUSE.

B. IN NO EVENT WILL THE OPS PARTIES BE LIABLE TO ANY PARTY (INCLUDING, WITHOUT LIMITATION, YOU) FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, EVEN IF THE OPS PARTIES HAD BEEN NOTIFIED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT, PRODUCTS LIABILITY OR OTHERWISE.

C. IN NO EVENT WILL THE OPS PARTIES' LIABILITY FOR ANY DAMAGES TO ANY PARTY, INCLUDING WITHOUT

LIMITATION, TO YOU, IN THE AGGREGATE EVER EXCEED THE AMOUNT OF THE FEES ACTUALLY RECEIVED BY OPS FROM YOU IN THE SIX (6) MONTH PERIOD PRIOR TO THE TIME WHEN THE CAUSE OF ACTION ACCRUED.

D. EXCEPT FOR NEGLIGENCE AND MALFEASANCE, OR VIOLATION OF APPLICABLE LAW, NEITHER THE STRATEGIST, OPS, MANAGER, NOR ANY OF THEIR OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES, AGENTS, OR AFFILIATES SHALL BE LIABLE FOR ANY LOSSES FOR ANY ACTIONS PERFORMED OR OMITTED TO BE PERFORMED BY STRATEGIST, OPS, OR MANAGER OR FOR ANY OF THEIR ERRORS IN JUDGMENT IN MANAGING YOUR ACCOUNT. THE LOSSES REFERRED TO IN THIS PARAGRAPH INCLUDE, BUT ARE NOT LIMITED TO, LOSSES DUE TO MARKET FLUCTUATIONS THAT OCCUR WHILE NEW ACCOUNTS, CONTRIBUTIONS, WITHDRAWALS AND/OR ACCOUNT ADJUSTMENTS ARE BEING PROCESSED, THAT RESULT FROM TRADING OR EXCHANGE LIMITATIONS IMPOSED BY A THIRD PARTY, OR THAT RESULT FROM DELAYS IN TRADING OR REBALANCING YOUR SMA ACCOUNT THAT ARE CASUED BY LIMITATIONS IMPOSED BY A THIRD PARTY, OR ANY OTHER CAUSES OVER WHICH THE STRATEGIST HAS NO REASONABLE CONTROL.

E. THE FEDERAL AND STATE SECURITIES LAWS IMPOSE LIABILITIES UNDER CERTAIN CIRCUMSTANCES ON PERSONS WHO ACT IN GOOD FAITH, THEREFORE, NOTHING IN THE PRECEDING PARAGRAPH OR ELSEWHERE IN THIS AGREEMENT SHALL CONSTITUTE A WAIVER OR LIMITATION BY YOU OF ANY OF YOUR LEGAL RIGHTS UNDER APPLICABLE FEDERAL OR STATE SECURITIES LAWS OR ANY OTHER LAWS WHOSE APPLICABILITY IS NOT PERMITTED TO BE CONTRACTUALLY WAIVED.

F. YOU ACKNOWLEDGE THAT THE OPS PARTIES, ADVISOR, CUSTODIAN, MANAGER, AND STRATEGIST AND THEIR RESPECTIVE EMPLOYEES AND AGENTS, ARE NEITHER AGENTS NOR EMPLOYEES OF EACH OTHER, AND THAT NO SUCH PARTY SHALL BE LIABLE TO YOU OR ANY OTHER SUCH PARTY FOR ANY ACT OR OMISSION OF ANOTHER SUCH PARTY OR ITS EMPLOYEES ON THE BASIS OF A PRINCIPAL'S LIABILITY FOR THE ACTS OR OMISSIONS OF ITS AGENT, OR ON THE BASIS OF AN EMPLOYER'S LIABILITY FOR THE ACTS OR OMISSIONS OF ITS EMPLOYEE.

18. Disclaimers of Warranties. YOUR ACCOUNT, ANY SERVICES RELATING THERETO, THE PROGRAM, WHERE APPLICABLE, AND THE WEBSITE (AND ITS CONTENT), ARE PROVIDED ON AN "AS IS, WHERE IS" BASIS WITH NO WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. AS WITH ALL INVESTMENTS, THE PROGRAM AND THE INVESTMENTS IN YOUR ACCOUNT INVOLVES RISK, AND THE OPS PARTIES DO NOT MAKE ANY GUARANTEES OR WARRANTIES WITH RESPECT TO THE PROGRAM, THE INVESTMENTS IN YOUR ACCOUNT, THE OPS SERVICES, THE ADVISOR SERVICES, THE SUCCESS OF INVESTMENTS WITHIN THE PROGRAM OR IN YOUR ACCOUNT, OR OTHER ITEMS OR SERVICES RELATING TO THE PROGRAM OR YOUR ACCOUNT. THE OPS PARTIES DO NOT GUARANTEE THE ACCURACY, COMPLETENESS OR TIMELINESS OF THE PROGRAM, THE WEBSITE (AND ITS CONTENT) OR YOUR ACCOUNT INFORMATION. THE OPS PARTIES DO NOT CONTROL THE INTERNET, AND CANNOT GUARANTEE THAT THE WEBSITE AND ON-LINE ACCESS TO YOUR INFORMATION WILL ALWAYS BE AVAILABLE.

19. No Waiver by Client of Certain Rights. THE PARTIES HEREBY ACKNOWLEDGE THAT FEDERAL AND STATE SECURITIES LAWS IMPOSE LIABILITIES IN LIMITED CIRCUMSTANCES ON PERSONS WHO OTHERWISE ACT IN GOOD FAITH. NOTHING IN THIS AGREEMENT SHALL OPERATE TO WAIVE ANY OF THOSE RIGHTS TO THE EXTENT THAT THEY CANNOT BE WAIVED UNDER SUCH FEDERAL OR STATE SECURITIES LAWS. SOME STATES DO NOT ALLOW THE TYPES OF LIMITATIONS AND DISCLAIMERS THAT ARE SET FORTH IN THIS AGREEMENT. CONSEQUENTLY, THE DISCLAIMERS AND LIMITATIONS CONTAINED IN THIS AGREEMENT MAY NOT APPLY.

20. Rights and Remedies are Cumulative. The rights, remedies and obligations contained in this Agreement are cumulative and are in addition to any and all rights, remedies and obligations, at law or in equity, which the parties hereto are entitled to under state and federal laws. Failure of a party to insist upon strict compliance with any of the conditions of this Agreement shall not be construed as a waiver of any of the conditions, but the same shall remain in full force and effect. No waiver of any of the provisions of this Agreement shall be deemed, nor shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver.

21. Notices. All notices to be provided to OPS hereunder shall be addressed to Orion Portfolio Solutions, LLC, Attn: Legal Counsel, 17605 Wright Street, Omaha, NE 68130. Notices shall be given to You at the address provided on the Application, or such other addresses as such party may hereafter specify in writing. You shall notify OPS of any address changes. Except as otherwise provided herein, each such notice to a party shall be either hand delivered, transmitted by registered or certified United States mail, with return receipt requested, or by express courier, and shall be effective upon delivery.

22. Headings. The headings in this Agreement are included for convenience of reference only and in no way define or delineate any of the provisions hereof or otherwise affect their construction or effect.

23. Severability. This is a severable Agreement. In the event that any provision of this Agreement would require a party to take action prohibited by applicable federal or state law or prohibit a party from taking action required by applicable federal or state law, then it is the intention of the parties hereto that such provision shall be enforced to the extent permitted under the law, and, in any event, that all other provisions of this Agreement shall remain valid and duly enforceable as if the provision at issue had never been part hereof.

24. Recording. You acknowledge that OPS or its agents may record certain communications. You hereby consent to the taping or other electronic recording of electronic or telephonic communications among the parties.

25. No Third Party Beneficiaries. You agree that, except as otherwise expressly provided in this Agreement, there shall be no third-party beneficiaries to this agreement.

26. Waiver. The failure of OPS to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision.

27. Force Majeure. Any delay by or failure or inability of OPS to perform hereunder shall be excused if caused by or results from any cause beyond the control of OPS including, but not limited to, delay or inability to perform caused by an action by any military, civil or regulatory authority, a change in law or regulation, fire, flood, earthquake, storm or similar act of God, riot, act of terrorism, labor strike, war or civil unrest,

a disruption, imperfection or outage of telecommunications, power or other utility, electrical disturbances, brownouts, failures or unavailability of, or errors in, third party systems, equipment and software, or any other similar cause.