



## INVESTMENT ADVISORY AGREEMENT

This Investment Advisory Agreement (the "Agreement") is entered into as of \_\_\_\_\_ (the "Effective Date") by and between CAPITA FINANCIAL NETWORK, LLC (hereinafter referred to as "Adviser"), a registered investment adviser, and \_\_\_\_\_ (hereinafter referred to as "Client"). Adviser shall provide Client with investment advisory and asset management services, which may include the strategic organization, structure and management of assets, and the coordination and selection of other professionals. Client agrees to provide all information pertinent to its financial situation and to keep the Adviser apprised of any changes in its situation.

### 1. SCOPE OF ENGAGEMENT

- a. Client hereby appoints Adviser to perform the services hereinafter described, and Adviser accepts such appointment. Adviser acknowledges it is a fiduciary under the Investment Advisers Act of 1940, as amended (the "Advisers Act"), and shall be responsible for the discretionary investment and reinvestment of those assets of Client designated by Client to be subject to Adviser's management (which assets, together with all additions, substitutions and/or alterations thereto are hereinafter referred to as the "Assets" or "Account");
- b. Client delegates to Adviser all of its powers with regard to the investment and reinvestment of the Assets and appoints Adviser as Client's attorney and agent in fact with full authority to buy, sell, or otherwise effect securities brokerage transactions involving the Assets in Client's name and for Client's Account;
- c. Adviser is authorized, without prior consultation with Client, to buy, sell, trade and allocate in and among stocks, bonds, mutual funds, sub-advisers, independent investment managers and other securities and/or investment contracts relating to the same, on margin (only if written authorization has been granted) or otherwise, and to give instructions in furtherance of such authority to the registered broker-dealer and the custodian of the Assets. Adviser may occasionally accept unsolicited orders from Client to effect trades in Client's accounts not managed by the Adviser;
- d. Client acknowledges that Adviser may, in accordance with Client's investment objective(s), determine to allocate all or a portion of the Assets among various individual debt and/or equity securities and/or mutual funds, or other securities or investment contracts, or one or more of the Adviser's proprietary models, and/or other money managers or investment advisers;
- e. Client agrees to provide a continual working email address and such other information and/or documentation requested by Adviser in furtherance of this Agreement as it pertains to Client's financial profile, investment objectives, needs and goals, and to keep Adviser duly informed and updated of any changes regarding same. Client acknowledges that Adviser cannot adequately perform its services for Client unless Client diligently performs Client's responsibilities under this Agreement. Adviser shall not be required to verify any information obtained from Client, Client's attorney, accountant or other professionals, and is expressly authorized to rely thereon; and
- f. Client agrees that the services to be provided by Adviser pursuant to this Agreement are limited to the management of the Assets, as set forth herein, and do not include any insurance related services or products or any other services or products.

### 2. ADVISER COMPENSATION

- a. Adviser's annual fee for asset management services provided under this Agreement shall be based

on a percentage of the market value of the Assets, in accordance with the fee schedule annexed hereto and made a part hereof as Exhibit(s) A or C. There will be a separate Exhibit A or C for each Account managed by the Adviser. The annual fee shall be prorated based on deposits and withdrawals of greater than \$5 during a quarter and details related to payment of the fee are also included in Exhibit(s) A and/or C. No increase in the annual fee shall be effective without written notification to Client. The annual fee may be negotiated or waived, in whole or in part, at the Adviser's sole discretion;

- b. Unless Client pays Adviser directly for its services (in which event Adviser's fee is due and payable upon receipt of Adviser's billing invoice), Client shall direct and authorize the custodian of the Assets to charge the Account for the amount of Adviser's fee as directed by the Adviser and to remit such fee to Adviser in accordance with required regulatory procedures. Client also directs and authorizes the Adviser to instruct the custodian of the Assets to send Client a statement, at least quarterly, indicating all amounts disbursed from the Account, including the fee paid to Adviser. Client acknowledges that it is responsible to verify the accuracy of the Adviser's fee and such custodian will not determine whether the Adviser's fee is accurate or properly calculated;
- c. The annual fee does not include underlying mutual fund, exchange traded fund ("ETF") or private/alternative fund advisory fees or expenses taken at the individual fund level for any mutual funds or ETFs in the Account. These fees and expenses are charged by the fund managers and service providers in the normal course of business and are reflected in the share value of the fund. Moreover, these fees and expenses are the standard expenses that all fund investors incur as a result of investment in such funds. The annual fee is not reduced by the amount of the fees or other compensation, if any, received by the Adviser from a mutual fund or ETF for investment management or certain other services as a result of the Account's investments in such funds; and
- d. The annual fee does not cover charges resulting from trades effected through broker-dealers or markups or markdowns by such broker-dealers, transfer taxes, exchange fees, regulatory fees, odd-lot differentials, handling charges, electronic fund and wire transfer fees, and any other charges imposed by law or otherwise agreed to with regard to the Account.

**3. CUSTODIAN.** The Assets shall be held by an independent custodian, not the Adviser. Adviser is authorized to give instructions to the custodian with respect to all investment decisions regarding the Assets and the custodian is hereby authorized and directed to effect transactions, and otherwise take such actions as Adviser shall direct in connection with the performance of Adviser's obligations with respect to the Assets. The fees charged to Client by the custodian are exclusive of, and in addition to, Adviser's annual fee set forth in the Agreement, and other charges discussed herein. Adviser does not share in any portion of the fees assessed by Client's custodian(s).

**4. EXECUTION OF BROKERAGE TRANSACTIONS.** Unless otherwise agreed, Adviser will arrange for the execution of securities brokerage transactions for the Account through broker-dealers that Adviser reasonably believes will provide "best execution." In seeking best execution, the determinative factor is not the lowest possible commission cost but whether the transaction represents the best qualitative execution, taking into consideration the full range of a broker-dealer's services, including the value of research provided, execution capability, commission rates, and responsiveness. Accordingly, although Adviser will seek competitive commission rates, it may not necessarily obtain the lowest possible commission rates for Account transactions. Adviser does not obligate itself to seek the lowest transaction charges in all cases.

## **5. ACCOUNT TRANSACTIONS.**

- a. Client recognizes and agrees that in order for Adviser to discharge its responsibilities, it must engage with independent broker-dealers to effect securities brokerage transactions described in the



Agreement herein. Brokerage transactions will be conducted by registered broker-dealers as described in the Agreement herein;

- b. Commissions and/or transaction fees are generally charged for effecting securities transactions; and
- c. Adviser, in return for effecting securities brokerage transactions through certain broker-dealers, may receive from those broker-dealers certain investment research products and/or services which assist Adviser in its investment decision making process for the Client. Such research products and/or services generally will be used to service all of Adviser's clients, but brokerage commissions paid by the Client to a broker-dealer may be used to pay for research that is not used in managing the Account. The Account may be used to pay a broker-dealer a commission greater than another qualified broker-dealer might charge to effect the same transaction where Adviser determines in good faith that the commission is reasonable in relation to the value of the brokerage and research services received.

**6. RISK ACKNOWLEDGMENT.** Client understands that investment decisions made for the Account by Adviser are subject to various market, currency, economic, political and business risks, and that those investment decisions will not always be profitable. Client agrees to and is aware of and is willing to assume the risks involved with investing the Assets. Adviser does not guarantee the future performance of the Account or any specific level of performance, the success of any investment decision or strategy that Adviser may use, or the success of Adviser's overall management of the Account.

**7. DIRECTIONS TO ADVISER.** Adviser shall be fully protected in relying upon any written or verbal direction, notice, or instruction until it has been duly advised of changes therein.

**8. ADVISER LIABILITY.** Except as otherwise provided by law, the Adviser and its officers, employees, representatives and agents will not be liable for: (a) any loss resulting from following Client's instructions or using inaccurate, outdated or incomplete information provided by Client, (b) any act or failure to act by other professionals or any other third party, including a broker-dealer or custodian recommended by Adviser, (c) any loss to Client resulting from or related to any conditions or events that are not within the control of Adviser, including, but not limited to, data breaches, cybersecurity attacks, power failures, acts of nature and other similar conditions and events, or (d) any loss in the market value of the Account, except for losses resulting from the Adviser's bad faith, willful misconduct, gross negligence, or any other breach of fiduciary duty. If the Account contains only a portion of Client's total assets, Adviser shall only be responsible for those assets that Client has designated to be the subject of Adviser's investment management services under this Agreement without consideration to those additional assets not so designated by Client. The federal and state securities laws impose liabilities under certain circumstances on persons who act in good faith, and therefore nothing in this Agreement will waive or limit any rights that Client may have under those laws. The Adviser does not provide legal or tax advice.

- a. If, during the term of this Agreement, the Adviser purchases specific individual securities for the Account at the direction of the Client (i.e. the request to purchase was initiated by the Client), the Client acknowledges that the Adviser shall do so as an accommodation only, and that the Client shall maintain exclusive ongoing responsibility for monitoring any and all such individual securities and the disposition thereof. Correspondingly, the Client further acknowledges and agrees that the Adviser shall not have any responsibility for the performance of any and all such securities, regardless of whether any such security is reflected on any quarterly Account reports prepared by Adviser. In addition, with respect to any and all assets or accounts maintained by the Client with other investment professionals or at custodians for which the Adviser does not maintain trading authority as provided in this Agreement, the Client, and not the Adviser, shall be exclusively responsible for the investment performance of any such assets or accounts. In the event the Client desires that the Adviser provide investment management services with respect to any such assets or accounts, the Client may engage the Adviser to do so for a separate and additional fee.



b. Consistent with the provisions of the Agreement herein, the Client acknowledges that investments have varying degrees of risk. Accordingly, Adviser shall not be responsible for any adverse financial consequences to the Account resulting from any investment that, at the time made, was consistent with the Client's investment objectives. Furthermore, Client further acknowledges and agrees that Adviser shall not bear any responsibility whatsoever for any adverse financial consequences occurring during the Account transition process (i.e. the transfer of the Assets from the Client's predecessor advisers or custodians to the Account(s) to be managed by the Adviser) resulting from: (a) securities purchased by Client's predecessor adviser(s); (b) the sale by Adviser of securities purchased by the Client's predecessor adviser(s) subsequent to completion of the Account transition process; or (c) any account transfer, closing or administrative charges or fees imposed by the previous broker-dealer or custodian.

**9. PROXIES.** Client hereby authorizes Adviser to vote all proxies on Client's behalf. Adviser will also receive all proxy soliciting materials, annual reports, and other related issuer materials. Adviser will vote Client securities according to management recommendations. Client maintains the right to inquire Adviser about how shares were voted or elect to receive and vote shares on its own at no additional cost.

**10. SECURITIES CLASS ACTION SERVICES.** Clients of Adviser who choose to have their proxies voted by the Adviser on their account application forms are automatically enrolled in the Broadridge Global Securities Class Action Services program where if any security held in a custodial account, past or present, undergoes a class action lawsuit, bankruptcies, and disgorgements, the service will proactively try to recover what they can for the Client. Client acknowledges and agrees that it will not file directly with claims administrators or seek to recover monies for any class action cases outside of the Class Action Services provided by Broadridge unless Client is participating in a securities class action case as a lead plaintiff. The fee for this service is a contingency fee of 20% of the total reimbursement of asset settlements collected for the client in consideration of the Class Action Services. If Client wishes to opt out of this service, please contact Adviser in writing to give notice to opt out.

**11. REPORTS.** Client will receive confirmations of each transaction executed for the Account and a brokerage statement(s) no less than quarterly, directly from the custodian of the Assets. Adviser may provide periodic reports to Client as deemed necessary by Adviser. In the event the Adviser provides supplemental account reports which include assets for which the Adviser does not have discretionary investment management authority, the Client acknowledges the reporting is provided as an accommodation only, and does not include investment management, review, or monitoring services, nor investment recommendations or advice, related to any such assets.

**12. TERMINATION.** This Agreement will continue in effect until terminated by either party by written notice to the other party. Termination of this Agreement will not affect (a) the validity of any action previously taken by Adviser under this Agreement; (b) liabilities or obligations of the parties from transactions initiated before termination of this Agreement; or (c) Client's obligation to pay advisory fees (prorated through the date of termination which means Client will incur advisory fees only in proportion to the number of days in the quarter for which the Account was open). Upon the termination of this Agreement, Adviser will have no obligation to recommend or take any action with regard to the securities, cash or other investments in the Account. If Client has pre-paid advisory fees that Adviser has not yet earned, Client will receive a prorated refund of those fees.

**13. ASSIGNMENT.** This Agreement may not be "assigned" within the meaning of the Advisers Act by either Client or Adviser without the prior written consent of the other party. Client acknowledges and agrees that transactions that do not result in a change of actual control or management of Adviser shall not be considered an assignment pursuant to Rule 202(a)(1)-1 under the Advisers Act, and/or relevant state law.

**14. NON-EXCLUSIVE MANAGEMENT.** Adviser, its officers, employees, representatives, and agents, may have or take the same or similar positions in specific investments for their own accounts, or for the



accounts of other clients, as Adviser does for the Account. Client expressly acknowledges and understands that Adviser shall be free to render investment advice to others and that Adviser does not make its investment management services available exclusively to Client. Nothing in this Agreement shall impose upon Adviser any obligation to purchase or sell, or to recommend for purchase or sale, for the Account any security which Adviser, its officers, affiliates, representatives, or employees, may purchase or sell for their own accounts or for the account of any other client, if in the reasonable opinion of Adviser such investment would be unsuitable for the Account or if Adviser determines in the best interest of the Account it would be impractical or undesirable.

**15. DEATH OR DISABILITY.** The death, disability or incompetency of Client will not terminate or change the terms of this Agreement. However, Client's executor, guardian, attorney-in-fact or other authorized representative may terminate this Agreement by giving written notice to Adviser. Client recognizes that the custodian may not permit any further Account transactions until such time as any documentation required is provided to the custodian.

**16. ARBITRATION.** Subject to the conditions and exceptions noted below, and to the extent not inconsistent with applicable law, in the event of any dispute pertaining to this Agreement or the Account, both Adviser and Client agree to submit the dispute to arbitration in Salt Lake City, Utah in accordance with the commercial rules of the American Arbitration Association ("AAA"). Adviser and Client understand that such arbitration shall be final and binding, and that by agreeing to arbitration, both Adviser and Client are waiving their respective rights to seek remedies in court, including the right to a jury trial. Client acknowledges and agrees that in the specific event of non-payment of any portion of Adviser's fee pursuant to the Agreement herein, Adviser, in addition to the aforementioned arbitration remedy, shall be free to pursue all other legal remedies available to it under law, and shall be entitled to reimbursement of reasonable attorney fees and other costs of collection. Nothing in this arbitration provision shall be deemed to limit or waive any rights the Client may have under applicable laws, including the right to pursue claims under such laws where arbitration is not permitted.

**17. RECEIPT OF DISCLOSURES.** Client hereby acknowledges receipt of Adviser's Privacy Policy Notice, a copy of Adviser's brochure and brochure supplement as set forth on Part 2 of Form ADV (Uniform Application for Investment Adviser Registration), and Form CRS (Customer Relationship Summary) in accordance with applicable rules and requirements of the Advisers Act, and/or applicable state law.

**18. ELECTRONIC DELIVERY.** Client hereby consents to the receipt of communications, notices and disclosure information, including, but not limited to, Adviser's Form ADV and privacy policy disclosures, and other forms of communication electronically. Client confirms that Client is capable of receiving such disclosures electronically, and understands that non-public personal information may be sent via e-mail or other electronic media, and that electronic media (including e-mail) may not be as reliable or secure as other forms of communication.

**19. TRADE ERRORS.** All Account trades are placed electronically or telephonically by Adviser. Adviser assumes responsibility for any Account losses for trading errors directly resulting from Adviser's failure to follow Adviser's trading procedures or from a lapse in Adviser's internal communications. In such instances, the Account(s) will be compensated for any such corresponding losses. However, Client acknowledges that Adviser cannot and will not be responsible for Account errors and/or losses that occur where Adviser has used its best efforts (without direct failure on the part of Adviser) to execute trades in a timely and efficient manner. If a trade or some portion of a trade is not effected or an electronic "glitch" occurs which results in the Account not being traded at the same time or at the same price as others, and such occurrence is not a result of Adviser's failure to execute or follow its trade procedures, the resulting loss will not be considered a trading error for which Adviser is responsible. In addition, virtually all mutual funds and ETFs, as disclosed in their prospectuses, reserve the right to refuse to execute trades if, in a fund's sole judgment, the trade(s) would jeopardize the value of the fund. Adviser has no authority to change, alter, amend, or negotiate any provision set forth in a mutual fund or ETF prospectus. Client



further acknowledges that Adviser cannot and will not be responsible for trades that are not properly executed by any clearing firm, custodian, mutual fund, ETF, or insurance company, when an order has been properly submitted by Adviser. Finally, Adviser cannot be responsible for a unilateral adverse decision by a mutual fund, ETF, or insurance company to restrict and/or prohibit fund asset management programs.

**20. SEVERABILITY.** Any term or provision of this Agreement which is invalid or unenforceable shall be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms or provisions of this Agreement or affecting the validity or enforceability of any of the other terms or provisions of this Agreement.

**21. CLIENT CONFLICTS.** If this Agreement is between Adviser and related parties as the Client (i.e. husband and wife, spousal equivalents, partners, affiliated entities or trusts, etc.), Adviser's services shall be based upon the joint goals communicated by both parties to Adviser. Adviser shall be permitted to rely and act upon verbal or written instructions from either party with respect to management and disposition of the Assets, and the Client, including both parties, shall be legally bound thereby, unless and until such reliance is revoked by either party in writing received by the Adviser. The Adviser shall not be responsible for any claims or damages to Client, including either party, resulting from such reliance or from any change in the status of the relationship between the parties. The Client, including both parties, jointly and severally, shall indemnify and hold the Adviser harmless from any liability, costs or expenses related to such reliance or such change in relationship status.

**22. APPLICABLE LAW.** To the extent not inconsistent with applicable law, this Agreement shall be governed by and construed in accordance with the laws of the State of Utah, without reference to choice of law rules. In addition, to the extent not inconsistent with applicable law, the exclusive venue (i.e. location) for the resolution of any dispute or controversy between Adviser and Client shall be in the federal or state courts located in Salt Lake County, State of Utah, subject to the provisions of the Agreement herein. The parties hereby irrevocably submit to the personal jurisdiction of such courts, subject to the provisions of the Agreement herein.

**23. AUTHORITY.** Client represents that it has all requisite legal authority to execute this Agreement, and that there are no encumbrances on the Assets. Client correspondingly agrees to immediately notify Adviser, in writing, in the event that either of these representations should change.

**24. SUB-ADVISORY ARRANGEMENT/HOLD HARMLESS.** The Client acknowledges that the Adviser intends to engage an unaffiliated investment sub-adviser to assist the Adviser with the management of all or a portion of the Assets. Client further acknowledges and agrees: (a) the sub-adviser's obligation shall be limited to managing the Assets consistent with the written instructions provided by the Adviser except to the extent such acts or omissions involve a violation of applicable law or breach of fiduciary duty by the sub-adviser; (b) the Adviser is authorized to provide written instruction to the sub-adviser; (c) the sub-adviser is authorized to act on the Adviser's written instructions; (d) there can be no assurance that the services provided by sub-adviser will be profitable or successful; (e) the sub-adviser shall not be responsible for Account losses unless the losses are directly attributable to sub-adviser's failure to perform its obligations in accordance with applicable law and to manage the allocated Assets consistent with the Adviser's written instructions; (f) the sub-adviser is released and held harmless from any acts or omissions of the Adviser; (g) the sub-adviser shall rely on this paragraph as a condition precedent to providing sub-advisory services for the Assets; (h) the terms of this Agreement and the rights of Adviser hereunder shall apply equally to the sub-adviser to the extent applicable; and (i) the sub-adviser shall be deemed an intended third-party beneficiary of this Agreement.

**25. INDEMNIFICATION.** Client shall defend, indemnify and hold harmless the Adviser and its officers, employees, representatives and agents (collectively, the "Indemnified Parties") from and against any and all costs, losses, liabilities, claims, judgments, actions, damages (whether direct, indirect, special,



incidental, consequent, punitive, or otherwise of any kind) and expenses, including, but not limited to, attorneys' fees, expenses and court costs sustained by any of the Indemnified Parties resulting from, arising out of or in connection with (a) any actions taken or not taken by the Adviser or any other Indemnified Party in good faith reliance on representations made by or on behalf of Client, (b) any breach of this Agreement by Client, (c) any inaccuracies in the information provided by Client to the Adviser or any other Indemnified Party, or (d) any instructions provided by Client to the Adviser or any other Indemnified Party in connection with this Agreement or the Account. Nothing in this Section shall be construed to waive or limit any rights the Client may have under applicable securities laws.

**26. TAXES.** Economic and taxable gains or losses will result when securities are sold or redeemed in the Account. Distributions to the Account may be taxable as ordinary income. The Client is responsible for all tax liabilities arising from transactions in the Account, for the adequacy and accuracy of any positions taken on Client's tax returns, for the actual filing of required tax returns, and the remittance of tax payments to taxing authorities. Tax laws and regulations change frequently and their application can vary widely based on the specific facts and circumstances involved. The Adviser does not offer tax advice and does not actively manage for alternative minimum taxes; state or local taxes; foreign taxes on non-U.S. investments; or estate, gift, or generation-skipping transfer taxes. The Client is encouraged to contact its own tax adviser regarding its specific tax situation and all tax related issues and matters.

**27. MISCELLANEOUS.** This Agreement will bind and be for the benefit of the parties and their respective successors and permitted assigns. No term or provision of this Agreement may be waived except in writing, signed by the party against whom such waiver is sought to be enforced. This Agreement (including the exhibits hereto) contains the entire understanding and agreement between the parties concerning the subject matter of this Agreement, and there are no verbal or other understandings, conditions or terms applicable hereto that are not set forth herein. This Agreement supersedes and replaces, in its entirety, all previous discussions, contracts and investment advisory agreement(s) between the parties. Headings in this Agreement are for convenience of reference only and are not part of this Agreement. The Adviser will honor all reasonable instructions delivered by any legal representative of the Client, including any duly appointed guardian, trustee or attorney-in-fact operating under a valid power of attorney. Updates to Accounts managed by the Adviser may happen from time to time, and are documented in the form of a written Exhibit U. These updates reflect changes requested by the Client or deemed in the best interest of the Client by the Adviser.

**28. SUB-ADVISER BROCHURES.** Client may instruct the Adviser to receive, for and on behalf of Client, brochure documents of unaffiliated sub-adviser(s) that would otherwise be deliverable to the Client. If Adviser is instructed to receive brochure documents of sub-adviser(s) directly, as indicated below, the Adviser will inform the Client of the identity of the sub-adviser(s), will retain all copies of brochure documents as may be required under the Advisers Act, upon request provide them to the Client either in paper or electronically, maintain policies and procedures to ensure brochure documents are reviewed, and also allow the Client to change its instruction at any time to receive sub-adviser(s) brochure documents directly at no additional cost.

(Check the option that applies)      Adviser Receives       Client Receives



**THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY EITHER PARTY.**

**IN WITNESS WHEREOF, Client and Adviser have each executed this Agreement as of the Effective Date first above written. By each party executing this Agreement, such party acknowledges and accepts its respective rights, duties, and responsibilities hereunder.**

\_\_\_\_\_  
CLIENT

\_\_\_\_\_  
CLIENT

**CAPITA FINANCIAL NETWORK, LLC**

By: Scott Watko

Name: Scott Watko

Title: Chief Compliance Officer

