



## Retirement Plan ERISA 3(38) Investment Management Agreement

This Agreement is entered into among \_\_\_\_\_ (the "Plan Sponsor") and Redhawk Wealth Advisors, Inc., a registered investment advisor ("Redhawk") and is effective \_\_\_\_\_ ("Effective Date"). Plan Sponsor, being duly authorized, hereby agrees to employ and retain Redhawk to act as the investment manager for the Plan in accordance with the following terms and conditions (the "Agreement").

### RECITALS

**WHEREAS**, Plan Sponsor maintains a participant-directed defined contribution plan ("Plan");

**WHEREAS**, Plan Sponsor, in its capacity as a fiduciary for the Plan, has requested that Redhawk provide certain services relating to the Plan in accordance with ERISA, and related regulatory guidance from the U.S. Department of Labor ("DOL").

**NOW, THEREFORE**, in consideration of the mutual promises set forth herein, Redhawk and Plan Sponsor hereby agree as follows:

#### **1. DEFINITIONS.**

The following definitions shall apply to this Agreement and to any Exhibit attached hereto.

**"Business Days"** shall mean those days that the New York Stock Exchange is open for business.

**"ERISA"** shall mean Employee Retirement Income Security Act of 1974 as amended.

**"Funds"** shall mean the universe of possible investment options accessible by the Plan for its participants through the Provider, which may consist of exchange-traded funds ("ETFs"), collective investment trusts ("CITs"), mutual funds and other similar investments.

**"Investment Options"** shall mean those Funds and any Model Portfolios made available to Participants as investment options under the Plan.

**"Model Portfolios"** shall mean the range of asset allocation portfolio models maintained and managed by any sub-advisor which are to be used to manage the individual accounts of Participants who have elected, or are deemed to have elected, to invest in such Model Portfolios under the Plan.

**"Participants"** shall mean individual employees of Plan Sponsor who are enrolled in the Plan and entitled to direct the investment of their individual accounts under the Plan in accordance with the Plan's applicable procedures and conditions.



“**Provider**” shall mean the third-party entity engaged by Plan Sponsor to provide Plan recordkeeping services, the ability to access Funds through its investment platform and other Plan-related products and services.

“**QDIA**” shall mean a qualified default investment alternative within the meaning of ERISA Section 404(c)(5) and the regulations thereunder.

“**Services**” shall mean the services to be performed or delivered by Redhawk as described in Exhibit A.

“**Website**” shall mean the Internet site(s) owned and operated by the Provider.

## **2. APPOINTMENT.**

- a. Plan Sponsor represents and warrants that it sponsors and maintains the Plan, which is qualified under Sections 401(a) or 403(b) of the Internal Revenue Code of 1986, as amended (the “Code”), and is subject to ERISA.
- b. Plan Sponsor further represents and warrants that it is a “Named Fiduciary” as defined in ERISA Section 402(a)(2) or an authorized delegate thereof with respect to the control or management of the assets of the Plan.
- c. Redhawk represents and warrants that it is an investment advisor registered with the U.S. Securities and Exchange Commission (“SEC”) under the Investment Advisers Act of 1940, as amended (“Advisers Act”), and therefore, is eligible to serve as an “investment manager” as defined in ERISA Section 3(38) (“3(38) Investment Manager”).
- d. Plan Sponsor on behalf of the Plan hereby appoints Redhawk to serve as a fiduciary and as a 3(38) Investment Manager solely as it relates to those Services designated as “Fiduciary Services” in Exhibit A, which appointment Redhawk hereby accepts.

## **3. REDHAWK OBLIGATIONS.**

- a. Services. Redhawk shall provide Services to the Plan and maintain its registration as an investment advisor.
- b. No Liability for Plan Benefits. In providing Services, Redhawk shall not be liable for any benefits due, or claimed to be due, under the Plan.
- c. Standard of Care. During the term of this Agreement, Redhawk will perform the Services under this Agreement in accordance with the fiduciary requirements of ERISA, and its Fiduciary Services will be performed in good faith and with the degree of diligence, care and skill that a prudent person rendering similar services would exercise under similar circumstances. The provisions of this Agreement shall not be interpreted to imply any other obligation on the part of Redhawk to observe any other standard of care. Except as required by ERISA, Redhawk shall not be liable for the acts or omissions of any other fiduciary to the Plan, including, but not limited to, any acts or omissions of Plan Sponsor.



**4. PLAN SPONSOR OBLIGATIONS.**

- a. Agreement. Plan Sponsor shall be solely responsible for independently determining whether or not to enter into this Agreement and will not rely on any advice of Redhawk or any of its affiliates in making such decisions.
- b. Cooperation. Plan Sponsor shall fully cooperate with Redhawk in its provision of Services, in such manner as Redhawk may from time to time reasonably request. Plan Sponsor understands and acknowledges that such cooperation shall include timely and accurate (i) communication to Participants regarding the scope of the Services including the Participants' ultimate responsibility for the investment decisions pertaining to their Plan assets (ii) communication to Participants regarding the Investment Options, if applicable, any updates or changes to them and (iii) if applicable, Participant information and their Investment Options selection ("Participant Information").
- c. Errors. Plan Sponsor shall promptly notify Redhawk and Provider of any errors, incompleteness or untimeliness in any of the data, analysis, opinions or other information contained in the Services and/or Participant Information about which Plan Sponsor becomes aware of. Moreover, Plan Sponsor acknowledges and agrees that Redhawk does not guarantee that the Model Portfolios will be delivered via the Plan's recordkeeper without interruption, timely, error-free, or secure. Errors may occur in software-based services as a result of programming errors, database errors, or other causes.
- d. Qualified Default Investment Alternative. Redhawk will designate the QDIA, as described in Exhibit A, as the Plan's default investment for those Participants who have automatically enrolled or have otherwise failed to direct the investment of their individual accounts under the Plan. Plan Sponsor agrees to provide any required QDIA notices to Participants in accordance with ERISA Section 404(c)(5) and the regulations thereunder.
- e. Consent to Electronic Delivery of Information. Plan Sponsor acknowledges that through its agreement with the Provider, services, including those provided by Redhawk, and information related to the Plan is provided through electronic means, primarily through the Website. Plan Sponsor represents that they have provided the Provider a valid electronic mail address ("E-Mail Address") and consent to having communication between Plan Sponsor and Redhawk relating to the Services sent to that E-Mail Address ("Redhawk Communications"). Plan Sponsor represents to Redhawk that its E-Mail Address allows them to read and print Redhawk Communications. Plan Sponsor agrees that such electronic delivery shall be deemed by Redhawk as effective delivery to Plan Sponsor whether or not Plan Sponsor access or review the Redhawk Communication. To receive electronic delivery of Redhawk Communication, Plan Sponsor represents to Redhawk that it has a computer with Internet access and an E-Mail Address. Plan Sponsor also represents to Redhawk that it can download and save or download and print Redhawk Communication so as to retain the Redhawk Communication for their records. Plan Sponsor understands and acknowledges that Internet access may involve some costs to them. Plan Sponsor may withdraw or revoke their consent of receiving Redhawk Communication electronically at any time by notifying the Provider. However doing so, Plan Sponsor understands that it may affect its ability to use Redhawk's Services.



**5. USE AND PROMOTION.**

- a. Scope of Use. The Services, or any portion thereof, may be used by Plan Sponsor and its Participants only in connection with Plan assets. Any other use by Plan Sponsor, including commercial use for the benefit of another person, is prohibited under this Agreement and shall be a material breach of this Agreement. Plan Sponsor shall take all commercially reasonable actions to ensure that there is no unauthorized use by its employees, agents, independent contractors, vendors or other third parties. Plan Sponsor shall immediately notify Redhawk of any actual or potential unauthorized use of which Plan Sponsor becomes aware. Plan Sponsor agrees to cooperate and provide reasonable assistance to Redhawk in connection with preventing and stopping any unauthorized use, of the data, analysis, opinions and other information contained in the Services.
- b. Approval of Promotion. Except to the extent required by ERISA, Plan Sponsor may not mention or refer to Redhawk, the Services, any of Redhawk's Intellectual Property, as defined below, or any of Redhawk's correspondence, public announcements, advertising, marketing or promotional materials, announcements or events (collectively, the "Promotion Material") without Redhawk's prior written approval, unless such material was provided by Redhawk to Plan Sponsor for its incorporation into such Promotion Material. Plan Sponsor shall incorporate appropriate notice, attribution and disclaimer language into the Promotion Material, as Redhawk may specify in its review of the Promotion Material. Plan Sponsor shall have a limited license to use the Redhawk name, trademarks, service marks ("Redhawk Marks") identified herein but, in each instance, only in the manner and format specified by Redhawk in writing in advance.

**6. CONFIDENTIALITY.**

- a. The parties acknowledge that in the course of their dealings hereunder, each may acquire information about the other, its business activities and operations, its technical information and its trade secrets, all of which are proprietary and confidential ("Confidential Information"). Except as required by applicable law, each party hereby agrees that: (a) all Confidential Information (including, but not limited to the terms of this Agreement) remains the exclusive property of the disclosing party; (b) it shall maintain, and shall use prudent methods to cause its employees and agents to maintain (and not to otherwise copy, publish, disclose or use other than as contemplated under this Agreement), the confidentiality and secrecy of the disclosing party's Confidential Information; and (c) it shall return or destroy all copies of the disclosing party's Confidential Information upon request of the disclosing party.
- b. Notwithstanding the foregoing, Confidential Information shall not include any information to the extent it: (i) is or becomes a part of the public domain through no act or omission on the part of the receiving party; (ii) is disclosed to third parties by the disclosing party without restriction on such third parties; (iii) is in the receiving party's possession, without actual or constructive knowledge of an obligation of confidentiality with respect thereto, at or prior to the time of disclosure under this Agreement; (iv) is independently developed by the receiving party without reference to the disclosing party's Confidential Information; (v) is released from confidential treatment by written consent of the disclosing party; or (vi) is required to be disclosed by a court of competent jurisdiction; provided the receiving party



gives the disclosing party prior written notice of such proposed disclosure sufficient to enable the disclosing party to obtain an appropriate protective order, if it so desires.

## **7. OWNERSHIP.**

- a. Notwithstanding the rights granted under this Agreement, Plan Sponsor acknowledges and agrees that: (i) Redhawk retains sole and exclusive ownership over all data (“Redhawk Data”), analysis, opinions, developments, inventions, processes, formulas, technology, or other information contained in the Services (“Intellectual Property”), and that the Services and all data, analysis, opinions and other information contained in it include valuable copyrighted and proprietary material of Redhawk; (ii) Redhawk as applicable, retains sole and exclusive ownership over the Intellectual Property; (iii) the Services, Redhawk Data, and Intellectual Property are being made available to Plan Sponsor for the express purposes and use set forth herein and nothing contained herein transfers to Plan Sponsor any ownership interest in the Intellectual Property, Redhawk Data, or the Services and any software, pictures, images, materials, changes, or other works of authorship provided contained therein or Intellectual Property; and (iv) Plan Sponsor shall not have any rights in and to the Services, Redhawk Data, and Intellectual Property, except as specifically granted by this Agreement. Plan Sponsor has no right to make derivative works of the Services, Redhawk Data, or the Intellectual Property in any form for use in any medium currently in existence or under development, now or in the future.
  
- b. Plan Sponsor shall not, at any time during or after the term of this Agreement: (i) contest or assist any third party in contesting the validity or enforceability of Redhawk’s ownership of all right, title and interest in and to the Services and all corresponding intellectual property rights, or in Redhawk’s ownership of all right, title and interest in and to the Redhawk Data and all corresponding intellectual property rights thereto; (ii) use the Intellectual Property, except as specifically authorized by this Agreement; (iii) use any trademark, service mark, trade name or corporate name that is a colorable imitation or confusingly similar to any of the Intellectual Property, except as expressly authorized by Redhawk in writing in advance; or (iv) contest or assist any third party in contesting the validity or enforceability of the Intellectual Property or the ownership of all right, title and interest in and to the Intellectual Property. To the extent Plan Sponsor is authorized to use any of the Intellectual Property, such use shall inure to the benefit of Redhawk, as appropriate. Plan Sponsor shall, at all times during or after the term of this Agreement, execute any documents and take such other actions reasonably requested by Redhawk to confirm or protect Redhawk’s right, title and interest in and to the Services, Redhawk Data, or the Intellectual Property, as applicable, and any corresponding intellectual property rights.

## **8. TERM AND TERMINATION.**

- a. Term. The term of this Agreement shall begin on the Effective Date and shall continue until any of the events described in this section occurs. Plan Sponsor understands and agrees that upon termination of this Agreement all Services will cease and Redhawk will no longer serve as a 3(38) Investment Manager. Termination of this Agreement for any





reason shall not affect Plan Sponsor's obligation to pay any and all fees and other amounts due and payable under this Agreement, nor shall such termination relieve Plan Sponsor of any liability for breach of this Agreement or of the obligation to arbitrate disputes arising under this Agreement.

- b. Termination Upon Default or Insolvency. If either party defaults in the performance of, or is in material non-compliance with, any provision contained in this Agreement (including, but not limited to, any uncured insolvency or the like), and such default is not cured within thirty (30) Business Days after written notice thereof is given to the defaulting party, the party giving such notice may then give further written notice which shall terminate this Agreement as of the date specified in such notice.
- c. Termination With Notice. This Agreement may be terminated by either party upon fifteen (15) Business Days prior written notice to the other party. This Agreement will terminate automatically upon such termination following the applicable notice period.

#### **9. FEES.**

- a. Fees. During the term of this Agreement, Redhawk shall receive a fee ("Redhawk Fee") as described in Exhibit B attached hereto and made part hereof. Plan Sponsor agrees to pay the Redhawk Fee in accordance with this Agreement.
- b. Collection Authorization and Payment Terms. By signing this Agreement, the parties hereby agree that Provider shall collect the Redhawk Fee and is hereby authorized to remit the Redhawk Fee to Redhawk.

#### **10. REPRESENTATIONS AND WARRANTIES.**

- a. Representations of Redhawk. Redhawk represents and warrants to Plan Sponsor that (i) it is an investment advisor registered with the SEC under the Advisers Act; (ii) to Redhawk's knowledge it has all rights in and to all of the Intellectual Property necessary to market, distribute the Services in accordance with the terms of this Agreement; (iii) this Agreement is binding on Redhawk; (iv) Redhawk's entry into this Agreement does not violate any prior obligation or agreement of Redhawk; (v) the Fiduciary Services provided under this Agreement will be provided by Redhawk as an investment adviser registered under the Advisers Act and as a fiduciary within the meaning of Section 3(21) under ERISA; and (vi) Redhawk will not receive any compensation, direct or indirect, for its services under this Agreement, except for the fees disclosed in Exhibit B.
- b. Representations of Plan Sponsor. Plan Sponsor represents and warrants to Redhawk that (i) Plan Sponsor has the authority and power to enter into and comply with its obligations under this Agreement and the rights and licenses necessary to enter into and perform its obligations under this Agreement; (ii) this Agreement is binding on Plan Sponsor and the Plan; (iii) Plan Sponsor's entry into this Agreement does not violate any prior obligation or agreement of Plan Sponsor; (iv) the individual signing this Agreement and any Exhibits thereto is authorized to sign on behalf of Plan Sponsor in its corporate capacity; (v) the Plan is a retirement plan that provides its participants the "opportunity to exercise control over assets" in their individual accounts in material compliance with Section 2550.404c-1(b)(2) of the U.S. Department of Labor regulations; (vi) Plan Sponsor



authorizes the use of electronic communication (including by electronic mail) in communicating to its Participants about the Services and that such communication will be facilitated primarily by the Provider, and (vii) the Plan document allows the Plan to use Plan assets to pay for Redhawk Services.

- c. Further Plan Sponsor represents and warrants to Redhawk that (i) Redhawk's appointment as a 3(38) Investment Manager and the Services to be provided by Redhawk are consistent with the Plan documents, (ii) upon reasonable request, it will furnish Redhawk with true and complete copies of all documents establishing and governing the Plan and evidencing Plan Sponsor's authority to retain Redhawk, (iii) if any amendment to the documents governing the Plan affects Redhawk's rights or obligations, such amendment will be binding on Redhawk only with Redhawk's prior written consent, and (iv) an unsigned copy of this Agreement including the disclosures in Exhibit B (which are intended to provide certain fee disclosures under Section 408(b)(2) of ERISA and the regulations thereunder) was provided reasonably in advance of the date of Plan Sponsor's entering into this Agreement.

#### **11. DISCLAIMERS.**

- a. Data Disclaimer. Redhawk will use commercially reasonable efforts to ensure that the data, analysis, opinion, and other information contained in or utilized for the Services are correct. Although gathered from sources believed to be reliable, Plan Sponsor acknowledges that Redhawk cannot guarantee the accuracy of the data or information used to provide the Services. The completeness and timeliness of all data and information used to provide the Services are dependent upon the sources of such data and information, which are outside of Redhawk's control.
- b. Disclaimer of Warranties. Except as expressly set forth in Section 10 above, Redhawk provides no warranties, either express, implied or otherwise with respect to the Services delivered pursuant to this Agreement, and to the extent permitted by law, including ERISA, Redhawk disclaims the implied warranties of fitness for a particular purpose and merchantability with respect to such Services. Plan Sponsor acknowledges and agrees that Redhawk does not warrant or guarantee any level of performance by any of the Investment Options. Plan Sponsor understands that the Plan and its Participants assume the market risk involved with regard to the investment of Plan assets.
- c. Liability. To the extent permitted by applicable law, Redhawk shall not be liable to Plan Sponsor, the Plan, or any Participant for any error of judgment or mistake of law or for any loss suffered by the Investment Options in connection with the matters to which this Agreement relates, except a loss resulting from misfeasance, bad faith or negligence on the part of Redhawk in the performance of its duties or from reckless disregard by it of its duties under this Agreement. The federal and state securities laws impose liabilities on persons who act in good faith and nothing contained in this Agreement should be construed as a waiver or limitation of Plan Sponsor's rights under such laws under certain circumstances. To the extent permitted by applicable law, neither party will be liable to the other for any consequential, special, incidental, direct, or punitive damages of any kind arising out of or in connection with this Agreement.



- d. Plan Sponsor's Rights Under Securities Law. Nothing in this Agreement is intended to or shall waive any rights to which Plan Sponsor is specifically entitled under the securities laws of the United States.

## 12. INDEMNIFICATION.

- a. Indemnification by Redhawk. Redhawk agrees to indemnify, defend and hold harmless Plan Sponsor and its and their successors and assigns, and its and their directors, officers and employees, from and against any and all third party claims, demands, suits, actions, and any and all damages, losses, liabilities, taxes, penalties, fines, charges costs and expenses, including reasonable attorneys' fees, (individually a "Loss" and collectively "Losses") arising from Redhawk's breach of its obligations under this Agreement. Redhawk's indemnification obligation shall not apply to any Loss or Losses arising out of or relating to a Loss due to any of the following: (i) any violation of law, rules, or regulations by a party other than Redhawk in connection with any Investment Option included in the Plan; (ii) the decisions, fault or negligence of Plan Sponsor; (iii) untimely and/or inaccurate Participant Information provided by Plan Sponsor to the Provider or Redhawk; (iv) the violation of rules or regulations by Plan Sponsor; (v) the fault or negligence of services provided by the Provider; or (vi) the decisions made by Participants to use any Investment Option or any other decisions relating to their Plan account. Plan Sponsor shall provide prompt written notice of any claim, action, or proceeding giving rise to such obligation, shall reasonably cooperate with its defense and/or settlement efforts and shall grant Redhawk at Redhawk's option, sole control of the defense and/or settlement of such claim, action, or proceeding. This indemnification obligation shall survive any termination of this Agreement. Plan Sponsor also agrees to hold Redhawk harmless and indemnify Redhawk against any Loss or Losses which Redhawk may incur or suffer under ERISA, if and to the extent such liability or loss is caused by the inaccuracy or breach by Plan Sponsor of any of the representations, warranties or obligations of Plan Sponsor set forth in this Agreement.
- b. Indemnification by Plan Sponsor. Plan Sponsor agrees to indemnify, defend and hold harmless Redhawk and its and their successors and assigns, and its and their directors, officers and employees, from and against any and all third party claims, demands, suits, actions, and any and all damages, losses, liabilities, taxes, penalties, fines, charges, costs and expenses, including reasonable attorneys' fees, (individually a "Loss" and collectively "Losses") arising from Plan Sponsor's breach of its obligations under this Agreement or its fiduciary obligations under the Plan, its use of the Intellectual Property provided hereunder in any manner not specifically authorized hereunder, or its failure to provide accurate information to Redhawk or the Provider. Plan Sponsor's indemnification obligation shall not apply to any Loss or Losses arising out of or relating to a Loss due to any of the following: (i) any violation of law, rules, or regulations by a party other than Plan Sponsor in connection with any Investment Option included in the Plan; (ii) the fault or negligence of, or violation of rules or regulations by Redhawk; or (iii) Redhawk's decisions pertaining to the identification of Investment Options. Redhawk shall provide prompt written notice of any claim, action, or proceeding giving rise to such obligation, shall reasonably cooperate with its defense and/or settlement efforts and shall grant Plan Sponsor at Plan Sponsor's option, sole control of the defense and/or settlement of such





claim, action, or proceeding. This indemnification obligation shall survive any termination of this Agreement.

This section shall survive the termination of this Agreement.

**13. MISCELLANEOUS.**

- a. Notices. All notices or other communications shall be in electronic communication format. Unless otherwise provided, notice will be effective on the date it is officially recorded as delivered by the Provider's electronic email system.
- b. Entire Understanding; Partial Invalidity. This Agreement, along with any Exhibits or other attachments hereto, sets forth the entire understanding between the parties and supersedes any and all oral or written agreements between the parties as to the subject matter of this Agreement. If any provision of this Agreement shall to any extent be held to be invalid or unenforceable, the remainder of the Agreement, or the application of such provisions as to which it is not held to be invalid or unenforceable, shall not be affected thereby, and each provision shall be valid and be enforced to the fullest extent permitted by law.
- c. Modification. This Agreement may be modified only in a document signed by both parties.
- d. Assignment. The parties' benefits and obligations in this Agreement shall not be assigned (as the term "assignment" is defined and interpreted under the Advisers Act) without the consent of the other party. This Agreement shall apply to, inure to the benefit of, and be binding upon the parties hereto and upon their permitted successors in interest and assigns. The parties acknowledge that there are no intended third party beneficiaries of this Agreement.
- e. No Waiver; Force Majeure. The failure of one party to require the other to perform hereunder shall in no way affect the first party's right to require such performance thereafter, nor shall the waiver by either party of a breach of any Agreement provision be deemed a waiver of any succeeding breach of that provision or a waiver of the provision itself. In no event shall one party be liable to the other for any delay or failure to perform hereunder if the delay or failure is due to causes beyond the reasonable control of that party.
- f. Injunctive Relief. Each party acknowledges that the other's legal remedies (including the payment of damages) would not adequately compensate the non-breaching party for the other's breach of this Agreement regarding ownership, use, copying, distribution, confidentiality or nondisclosure, as applicable, of the Services (or any part thereof), the Intellectual Property, or Confidential Information and that it would suffer continuing, irreparable injury as a direct result of such breach. Therefore, in the event of any such breach or threatened breach, the non-breaching party may seek entry of any injunctive relief necessary to prevent or cure such breach (including temporary and preliminary relief, and relief by order of specific performance), without posting of bond or other security or proof of irreparable harm.



- g. Arbitration. Any dispute under this Agreement shall be settled by binding arbitration in Minneapolis, Minnesota under the rules of the American Arbitration Association. In any such arbitration, each party shall bear its own costs, expenses and attorneys' fees and the parties shall share the arbitrator fees and other expenses of arbitration. The arbitration award may be enforced in any court having jurisdiction over the parties and the subject matter of the arbitration to enforce an arbitration award. Notwithstanding the foregoing, this binding arbitration clause in no way limits or affects Plan Sponsor's rights under the Advisers Act.
- h. Choice of Law. To the extent not preempted by ERISA or other federal law, all disputes arising under this Agreement or its performance shall be determined exclusively under the laws of the State of Minnesota without regard to its conflict of laws provisions.
- i. Acknowledgement of Receipt of Redhawk's Disclosure Statement. Plan Sponsor acknowledges that it has received Redhawk's Form ADV Part 2 prior to or at the time of entering into this Agreement.
- j. Survival of Rights. The termination or cancellation of this Agreement for any reason shall not relieve either party of obligations that accrued prior to termination or cancellation, or of obligations that by their nature are intended to survive this Agreement, including but not limited to obligations in connection with warranties, disclaimers, confidential information and indemnification.
- k. Counterparts. This Agreement may be signed in two counterparts, which together shall form a single agreement as if both parties had executed the same document. Plan Sponsor confirms that the person signing on behalf of the Plan is a fiduciary to the Plan and has the authority to cause the Plan to enter into this Agreement.

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IN WITNESS WHEREOF, the parties have entered into this Agreement as of the Effective Date set forth above.



**REDHAWK WEALTH ADVISORS™**

**Plan Sponsor:**

**Redhawk Wealth Advisors, Inc.**

Name: \_\_\_\_\_

Name: Dan Hunt

Signature: \_\_\_\_\_

Signature: 

Title: \_\_\_\_\_

Title: Chief Executive Officer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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**EXHIBIT A  
REDHAWK SERVICES**

**1. FIDUCIARY SERVICES**

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Redhawk's Fiduciary Services will consist of those Services selected below as follows:

**a. Investment Policy Statement**

Redhawk will develop an Investment Policy Statement ("IPS"). The purpose of the IPS is to provide guidelines for making investment-related decisions in a prudent manner. It outlines the underlying philosophies and processes for the selection, evaluation, monitoring, and, if necessary, termination of the investment options offered by the Plan. The IPS is not a contract; specifically, it:

- Defines the Plan's investment objectives.
- Describes the criteria and procedures for selecting appropriate investment options.
- Establishes investment procedures, measurement standards, and investment monitoring procedures.
- Describes steps to be taken if an investment manager fails to satisfy established objectives.
- Describe the roles and responsibilities of the various parties that will be involved in the oversight of Plan investment activities.

This IPS will be reviewed periodically, and, if necessary, will be amended to reflect changes in the capital markets, plan objectives, or other factors relevant to the Plan.

**b. Asset Class Selection for Plan Menu**

Redhawk will select an appropriate range of asset classes and investment categories for the Plan's menu of Investment Options, which may span the risk/return spectrum. Major asset classes to be considered will include:

- **Conservative investments:** Cash and liquid investments, including but not limited to money market, stable value, and guaranteed interest accounts.
- **Income investments:** Income-oriented investments, including but not limited to low-, medium-, and high-quality bond funds, with short-, intermediate-, and/or long-term duration. Management styles may include investments designed to mirror an index and/or actively managed investments using international, global, and/or domestic asset classes.
- **Equity investments:** Funds that invest in equity securities, both domestic and foreign, including but not limited to small, medium, and large market capitalization, with value, blend, and growth investment objectives that may include investments designed to mirror an index and/or actively managed investments.
- **Model Portfolios:** Portfolios managed by sub-advisors with various investment styles that include different underlying investments.
- **Other:** Appropriate investments in other styles, sectors, or asset classes offered through vehicles such as exchange-traded funds (ETFs), mutual funds, and collective investment trusts (CITs) will be considered for diversification purposes, depending on the specific needs of the Plan and its participants.

Redhawk will also consider additional investment categories based on Plan needs.



**c. Selection of Investment Options**

Redhawk will have full discretion over the selection and monitoring of Funds, including Model Portfolios to be utilized as Investment Options under the Plan in its capacity as the Plan's 3(38) Investment Manager. Redhawk may remove any Investment Option at any time and for whatever reason it deems appropriate, including a determination that the investment is no longer suitable for Participants. Redhawk's goal in selecting and monitoring the Plan's Investment Options is to provide a suitable range of Investment Options that qualify as a "broad range of investment alternatives" under ERISA Section 404(c) and the regulations thereunder. The Investment Options are intended to enable Participants to invest according to varying risk tolerance, savings, time horizons or other financial goals. The Plan's Investment Options may consist of ETFs, CITS, mutual funds, Model Portfolios, or other similar investments that are selected and monitored by Redhawk. Redhawk will choose Investment Options from those Funds, including Model Portfolios that are available through the Plan's Provider.

**d. Model Portfolio QDIA**

Redhawk will select an investment fund product sponsored by a third party meeting the definition of a "qualified default investment alternative" in Section 2550.404c-5(e)(3) of the DOL regulations, which will be designated by Plan Sponsor as the Plan's default investment for Participants.

**e. Investment Monitoring and Reporting**

Redhawk will perform on-going monitoring of the Investment Options within the Plan. The ongoing monitoring of investments is a regular and disciplined process. Monitoring confirms that the criteria remain satisfied and that an Investment Option continues to be appropriate. The process of monitoring investment performance relative to specified guidelines will be consistently applied. Frequent change of investments is neither expected nor desired.

**2. OTHER SERVICES**

Redhawk's non-fiduciary services will consist of those Services selected below as follows:

**a. Risk Tolerance Questionnaire**

Redhawk may make available to Participants either through the Provider's recordkeeping platform, a stand-alone form, or a third party web-site a risk tolerance questionnaire. The questionnaire's sole purpose is to provide Participant's with financial education and general assistance in terms of identifying their risk tolerance and investment objectives and, based on this information, help them determine which Model Portfolio is most aligned with their risk tolerance/investment objectives. Plan Sponsor understands and acknowledges that Redhawk does not provide fiduciary advice to Participants and such questionnaire will not constitute individualized advice from Redhawk.

**3. EXCLUDED SERVICES**

In no event shall Redhawk's Services under the Agreement include the following services or related responsibilities:





- a. **Tax Qualification**. Reviewing or amending Plan documents for compliance with changes in tax qualification requirements.
- b. **Plan Contributions**. Ensuring that contributions by Plan Sponsor or from Participants are timely deposited with the trustee or custodian for the Plan.
- c. **Custody of Plan Assets**. Taking custody or possession of any Plan assets.
- d. **Proxies**. Rendering advice on, or taking any action with respect to, the voting of proxies solicited on behalf of any securities held by the Plan, or taking any other action related to the exercise of shareholder rights regarding such securities. Plan Sponsor acknowledges that, in its capacity as the Plan's Named Fiduciary, it has reserved to itself the right to direct the Plan trustee regarding the voting of proxies or to delegate such responsibility to another party.
- e. **Discretionary Plan Administration**. Interpreting the Plan, determining eligibility or participation under the Plan, approving or disapproving claims for benefits, distributing Plan assets to pay benefits or expenses, or making any other discretionary decisions with respect to the administration of the Plan.
- f. **Distributions**. Assisting the Plan Fiduciary in complying with any legal obligations for distributions from the Plan, determining whether any distributions are required by the minimum required distribution rules under the Code, or reviewing any beneficiary designations made by Participants.
- g. **Legal or Tax Advice**. Provide legal or tax advice on matters relating to the Plan, including advising on whether Plan investments will result in unrelated business taxable income.
- h. **Participant Advice; Regulatory Communications**. Providing fiduciary "investment advice" within the meaning of ERISA to Participants; distributing summary plan descriptions, notices, participant-level fee disclosures, elections, and any other reports required by law to Participants.
- i. **Governmental Reports**. Filing reports and forms that are required to be filed for the Plan or Plan Sponsor.

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**EXHIBIT B  
REDHAWK FEE**

The Redhawk Fee for the Services provided on behalf of the Plan shall include the “Core Service Fee” as provided below. If this Agreement becomes effective on a day other than the first day of a calendar quarter or ceases to be effective on a day other than the last day of a calendar quarter, the applicable fee for that period shall be prorated based on the length of time the Agreement is in effect during that period. Upon the effective date of termination, any earned and unpaid fees will become due and payable. The fee does not cover the cost of any services which may be provided by Redhawk that are not described in Exhibit A, including but not limited to the cost for preparing and providing any additional records which are not contemplated under the Agreement.

**1. Core Service Fee**

In exchange for the Services provided on behalf of the Plan, the Redhawk Fee payable to Redhawk shall be an annual fee paid quarterly in accordance with the table below. The asset based fee will be charged quarterly in arrears based on the Plan’s total assets at the end of each calendar quarter. The Redhawk Fee can be paid directly by the Plan Sponsor or from Plan assets. Plan Sponsor authorizes the Plan’s Provider to pay the fee due under this Agreement directly to Redhawk.

**To Be Completed by the Plan Sponsor:**

By checking off the appropriate option below, the Plan Sponsor agrees to pay the Redhawk Fee as indicated. If the Plan Sponsor does not make an election, Redhawk will take the Redhawk Fees directly from Participant accounts.

Redhawk to take fees directly from Participant accounts.

Redhawk to direct bill the Plan Sponsor.

**ERISA 3(38) Investment Management Fee (please select one):**

Annual Fixed Fee: \$ \_\_\_\_\_.

*or*

Annual Asset Based Fee: \$ \_\_\_\_\_.



Fixed Fee Example:

The annual fixed fee is \$10,000. The Redhawk Fee for the quarter would be:  $(\$10,000 * .25) = \$2,500$ .

Asset Based Fee Example:

Total Plan assets at the end of the most recent quarter is \$5,000,000. The Redhawk Fee for the quarter would be:  $(\$5,000,000 * 0.20\% * .25) = \$2,500$ .

**2. Acknowledgement of Third Party Expenses**

- a. At Plan Sponsor's sole discretion, fees related to recordkeeping, trustee and custodial services, trading, and certain other administrative services for the Plan may be charged to a Participant's Plan account. In addition to the Redhawk Fee, Plan Sponsor understands and acknowledges that Participants will also incur advisory and other fund-related expenses imposed by the Funds, including Model Portfolios in which their Plan assets are invested. This may include redemption fees that a Fund, including Model Portfolios may impose as a result of a transaction-related request.
- b. Lastly, Plan Sponsor understands and acknowledges that the financial advisor they have retained may also receive distribution, marketing and/or shareholder servicing fees from the Funds. Plan Sponsor understands and acknowledges that all of the fees and expenses described in this paragraph are separate from the Redhawk Fee and that Redhawk has no control, influence or involvement in them.

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**EXHIBIT C  
REDHAWK ADV PART 2 DISCLOSURE DOCUMENT**

Enclosed is a copy of the Form ADV – Part 2 of Redhawk Wealth Advisors, Inc.

This disclosure document is required under the Investment Advisers Act and rules of the Securities and Exchange Commission (or applicable state law) to be provided to any client or prospective client before establishing an investment advisory relationship with Redhawk.

By signing below, you acknowledge receipt of the Form ADV - Part II of Redhawk. This will confirm for SEC (or state) purposes that you have received the information above.

**Plan Sponsor:**

**Redhawk Wealth Advisors, Inc.**

Name: \_\_\_\_\_

Name: Dan Hunt

Signature: \_\_\_\_\_

Signature: 

Title: \_\_\_\_\_

Title: Chief Executive Officer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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