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## DISCRETIONARY INVESTMENT MANAGEMENT AGREEMENT

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This discretionary investment management agreement (“Agreement”) is made on \_\_\_\_\_, 20\_\_\_\_ between \_\_\_\_\_ and \_\_\_\_\_ (“Client” or “you”) whose mailing address is \_\_\_\_\_ and whose email address is \_\_\_\_\_ and Demming Financial Services Corp., a registered investment adviser, whose mailing address is 13 New Hudson Road, Aurora, Ohio 44202 (“we,” “our” or “us”).

You and we agree:

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### 1. Scope of Engagement.

We will act as your investment adviser and provide you with advice on the investment of the assets and accounts that we are managing under this Agreement (“Assets”). We will periodically monitor and review the Assets in accordance with your investment needs, goals, objectives and risk tolerance, as described on your most recent investment policy statement or otherwise agreed upon (“Investment Needs”).

You appoint us your attorney-in-fact and grant us limited power-of-attorney (coupled with an interest) with discretionary trading authority over the Assets to buy, sell and otherwise effect investment transactions related to the Assets. You authorize us, without prior consultation, consent or approval to (a) implement transactions for your Assets; (b) buy, sell and trade stocks, bonds, mutual funds, index funds, exchange traded funds, short-term money-market instruments and other securities and contracts, including on margin if you have signed a separate margin authorization; and (c) give instructions to the broker-dealer and the custodian of your Assets.

Our services under this Agreement are limited to the discretionary management of the Assets and do not include financial planning or any other services. We can furnish others services to you under a separate written agreement for an additional fee.

### 2. Independent Managers.

You authorize us, without prior consultation, consent or approval to delegate the management of all or part of the Assets to one or more independent investment managers or independent investment management programs (“Independent Managers”). The Independent Managers may be hired under separate written agreements and may charge fees in addition to our Management Fee. You agree to timely execute the agreements we deliver to you, if any.

The Independent Managers will have limited power-of-attorney and trading authority over those Assets we direct to them for management. They will be authorized to buy, sell and trade in accordance with your Investment Needs and to give instructions, related to their authority, to the broker-dealer and the custodian of your Assets.

We will supervise the Independent Managers. We may terminate or change Independent Managers when, in our sole discretion, we believe such termination or change is in your best interest. We will continue to monitor and review Asset allocation, Asset performance, and your Investment Needs.

### 3. Management Fees.

Our annual management fee (“Management Fee”) is described on Exhibit A. The Management Fee will be prorated and paid based upon the market value of the Assets on the last day of the previous billing period (“Billing Period”) as set forth on Exhibit A. No portion of the Management Fee will be based on capital gains or appreciation of the Assets. There will be no increase in the Management Fee without prior written notice.

You authorize us and the Independent Managers to deduct the Management Fee directly from the account(s) where such Assets are held, pursuant to applicable custody rules. It is your responsibility to verify the accuracy of the calculation of the Management Fee; the custodian will not do so.

In addition to the Management Fee, unaffiliated third parties may impose certain charges. These charges may include, but are not limited to, fees charged by Independent Managers, custodial fees, brokerage commissions, transaction fees, charges imposed directly by a mutual, index or exchange traded fund, fees imposed by variable annuity providers, certain deferred sales charges, odd-lot differentials, transfer taxes, and wire transfer and electronic fund fees.

### 4. Additions and Withdrawals.

You may make additions to and withdrawals from your Assets at any time, subject to our right to terminate our services. We design our portfolios as long-term investments and Asset withdrawals may impair the achievement of your investment objectives.



## 5. Custodian.

We will not maintain physical custody of your Assets. Your Assets will be held in the custody of a custodian meeting the requirements of a "qualified custodian" under Rule 206(4)-2 of the Investment Advisers Act of 1940 or applicable state law.

## 6. Proxies.

You are responsible for (a) directing the manner in which proxies solicited by issuers of securities will be voted and (b) making all elections relating to mergers, acquisitions, tender offers, bankruptcy proceedings and other events pertaining to the securities. We will instruct the custodian to forward copies of all proxies and shareholder communications relating to the Assets to you.

## 7. Reports and Statements.

The broker-dealer or custodian of your Assets will be responsible for sending confirmations of each transaction executed for the Assets and a brokerage statement no less than quarterly to you directly. We may also send you a report, including an inventory of holdings and performance on a quarterly basis or as you may reasonably request from time to time. We recommend that you compare and verify the information in our report with the information on the statements you receive directly from the custodian.

## 8. Risk Acknowledgement / Advisor Liability.

We do not guarantee the future performance of your Assets, any specific level of performance, the success of any investment recommendation or strategy or the success of our overall management of the Assets. Our investment recommendations are subject to various market, currency, economic, political and business risks. Investment decisions will not always be profitable.

Except as otherwise provided by law, neither we nor any (a) of our officers, partners or directors (or persons performing similar functions); (b) of our employees and representatives; or (c) persons directly or indirectly controlling us or controlled by us (as defined in the Investment Advisers Act of 1940) (together, our "Affiliates") will be liable for (a) any loss arising from any investment decision made or other action taken or omitted in good faith by us with the degree of care, skill, prudence; and diligence that a person acting in a fiduciary capacity would use under the circumstances; (b) any loss arising from adhering to your written or oral instructions; (c) any act or failure to act by the custodian or broker-dealer of your Assets or any third party; or (d) any loss that you may suffer by reason of any decision made or other action taken by any Independent Manager. Nothing in this Agreement will waive or limit any rights that you may have under federal and state securities laws.

If the Assets we are managing under this Agreement are only a portion of your total assets, we will not be responsible for (a) any of your assets that we are not managing under this Agreement; or (b) diversifying all of your assets.

## 9. Indemnification.

You will defend, indemnify and hold us and our Affiliates harmless from all obligations, costs, fees, losses, liabilities, claims, judgments, actions, damages and expenses, including but not limited to attorneys' fees, expenses and court costs, paid, suffered, incurred or sustained by us or our Affiliates arising out of or in connection with any misrepresentations or omissions made by you in this Agreement, any inaccuracies in the information that you provide to us, or any instructions that you provide to us in connection with your Assets.

## 10. Non-Exclusivity.

We may render investment advice to others. We and our Affiliates may take the same or similar positions in specific investments for our other clients' and our own accounts, as we do for you. We have no obligation to purchase or sell, or to recommend for purchase or sale, any security which we or our Affiliates may purchase or sell for our other clients' and our own accounts.

## 11. Authority.

You represent that you have the full legal power and authority to enter into this Agreement and that the terms of this Agreement do not violate any obligation or duty to which you are subject or bound, whether arising out of contract, operation of law, or otherwise. If you are an entity, this Agreement has been duly authorized by appropriate entity action and when executed and delivered will be valid and binding in accordance with its terms. At our request, you will promptly deliver a corporate resolution or other action authorizing this Agreement.

## 12. Information and Confidentiality.

You represent that the information set forth on Exhibit B and as otherwise provided to us is a complete and accurate representation of your financial position and Investment Needs. You will promptly inform us in writing if and when such information becomes incomplete or inaccurate. You will provide us with any other information and documentation that we may request in connection with this Agreement or related to your Investment Needs. We are not required to verify the accuracy of the information.

The information you provide us in connection with this Agreement is confidential. Pursuant to our privacy policy, we will not disclose it, except in limited circumstances. Typically, we only disclose the information as permitted by law, or as needed, to implement your Investment Needs



or perform the services contemplated by this Agreement. Please see our Privacy Policy Notice for details regarding how we protect your non-public personal information.

### **13. Joint Client.**

If this Agreement is with more than one client, we will base our services on your joint goals as collectively given to us. We may rely on instructions and information we receive from any of you. We are not accountable for any change in the relationship between you and can continue to act on the instruction of any of you as long as this Agreement remains in effect.

### **14. Receipt of Disclosures.**

You acknowledge receipt of our Privacy Policy Notice, written disclosure brochure as set forth on Part 2A of Form ADV and all accompanying appendices, our brochure supplement(s) as set forth on Part 2B of Form ADV (if applicable), or another document meeting the disclosure requirements of applicable federal or state law.

### **15. Death or Disability.**

If you are a natural person, your death, disability or incompetence will not change the terms of this Agreement. However, your executor, guardian, attorney-in-fact or other authorized representative may terminate this Agreement by giving us proper written notice.

### **16. Terms of Agreement and Termination.**

We have the right to modify this Agreement at any time. We will provide you with notice of each modification. A modification will become effective unless you provide us with notice of your intention to terminate the Agreement. You will abide by any rules, procedures, standards, requirements or other conditions that we establish in connection with your Assets or this Agreement. This Agreement will continue indefinitely unless terminated in writing as provided below.

This Agreement may be terminated at any time upon receipt of written notice to terminate given by either party to the other. Your notice should include instruction as to whether the Assets should be liquidated or transferred. Termination of this Agreement will not affect (a) the validity of any action previously taken under this Agreement; (b) liabilities or obligations of the parties from transactions initiated before termination of this Agreement; or (c) your obligation to pay us fees that have already been earned under this Agreement. Upon the termination of this Agreement, we will not have a continuing obligation to take any action.

If you terminate this Agreement, you will promptly pay us any unpaid but earned Management Fee, as appropriate.

### **17. Notices.**

Any notice or other communication given to a party in connection with this Agreement will be in writing and will be deemed effective upon receipt, if delivered to such party at its mailing or email address listed above (or to a substitute address properly given). It is your responsibility to immediately review all communications, including emails, and to advise us of any discrepancies.

You hereby consent to receiving communications from us by email or other electronic delivery without also receiving paper copies. Your consent may be revoked at any time by informing us in writing. By sending or receiving sensitive or confidential electronic communications, you accept the risks and possible lack of confidentiality over the Internet. You agree to hold us and our Affiliates, successors and assigns free from any damages related to or arising from the delivery of electronic communications.

### **18. Arbitration.**

To the extent permitted by law, any controversy, dispute or claim arising out of or relating to this Agreement will be submitted to arbitration before a single arbitrator in accordance with the Commercial Rules of the American Arbitration Association. The prevailing party will be entitled to reasonable attorneys' fees, costs and expenses.

**This agreement to arbitrate does not constitute a waiver of your right to seek a judicial forum where such waiver would be void under federal or applicable state securities laws.**

### **19. Assignment.**

Neither party may assign this Agreement without the consent of the other party. Transactions that do not result in a change of actual control or management will not be considered an assignment.

### **20. Governing Law, Venue, and Jurisdiction.**

Except for the Section entitled Arbitration, which will be governed by the Federal Arbitration Act, to the extent permitted by law, this Agreement and any dispute, disagreement, or issue of construction or interpretation whether relating to its execution, its validity, the obligations provided herein, or performance will be governed by the internal laws of the State of Ohio (the "Governing Jurisdiction") without regard to choice of law considerations.



Any action, suit or proceeding arising out of, under or in connection with this Agreement seeking an injunction or not otherwise submitted to arbitration pursuant to this Agreement will be brought and determined in the appropriate federal or state court in the Governing Jurisdiction and in no other forum. The parties hereby irrevocably and unconditionally submit to the personal jurisdiction of such courts and agree to take any and all action necessary to submit to the jurisdiction of such courts in any such suit, action or proceeding arising out of or relating to this Agreement.

**21. Miscellaneous.**

This Agreement and the Exhibits are the entire agreement between the parties and supersedes all understandings, agreements (oral and written), and representations with respect to the subject matter of this Agreement. This Agreement may only be amended or modified with our written consent. Neither party has made or relied on any representation, inducement or condition not in this Agreement.

No failure by us to exercise any right, power, or privilege will operate as a waiver thereof. No waiver of any breach of this Agreement by you will be deemed to be a waiver of any subsequent breach.

If any provision of this Agreement is deemed to be invalid or unenforceable or is prohibited by the laws of the state or jurisdiction where it is to be performed, this Agreement will be considered divisible as to such provision and such provision will be inoperative in such state or jurisdiction. The remaining provisions of this Agreement will be valid and binding and of full force and effect as though such provision was not included.

Section headings have been inserted for reference only and will not be deemed to limit or otherwise affect, in any manner, or be deemed to interpret in whole or in part any of the terms or provisions of this Agreement.

Any reference to an exhibit in this Agreement will be to the exhibit, as amended and restated from time to time.

This Agreement may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. The execution of this Agreement may be by actual or facsimile signature.

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By executing this Agreement, each party acknowledges and accepts its respective rights, duties, and responsibilities hereunder. This Agreement will not be binding on us, unless and until signed by us.

THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION THAT MAY BE ENFORCED BY THE PARTIES.

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Client Name

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Date

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Client Name

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Date

Demming Financial Services Corp.

By: \_\_\_\_\_  
Name of Firm Signatory, Title

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Date

**Schedule of Excluded Assets and Fees**

**FEES**

We will provide the services described in this Agreement for an annual Management Fee based upon the following fee schedule:

Assets	Annual Fee
First \$2,500,000	0.85%
Next \$2,500,000	0.75%
Next \$2,500,000	0.50%
Above \$7,500,000	Negotiable

The Management Fee is billed on a quarterly basis, in arrears, based upon the market value of the Assets on the last day of the previous quarter.

**ASSETS EXCLUDED FROM MANAGEMENT**

We will not be managing the Assets below and will not be responsible for performing any services for them whatsoever:

Name on Account	Custodian	Account Number

**Client Acknowledgement:**

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Client Initials	Date	Client Initials	Date