

# KEY WEST INVESTMENTS, LLC

## ADVISOR SERVICES

### INVESTMENT ADVISORY AGREEMENT

AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Registered Investment Advisor in the name of \_\_\_\_\_ (hereinafter referred to as "Advisor") of KEY WEST INVESTMENTS, LLC (hereinafter referred to as "KWI") having an office at 33 E Valley Boulevard, Suite 201, Alhambra, CA 91801, and \_\_\_\_\_ (hereinafter referred to as the "Client");

WHEREAS, Client desires to retain ADVISOR in accordance with the terms and conditions of this Agreement to keep under investment supervision and management certain assets of Client and warrants that the Client is authorized to so retain KWI; and

WHEREAS, ADVISOR desires to accept such retention in accordance with such terms and conditions;

NOW, THEREFORE, in consideration of the mutual promises and understandings herein contained, the parties agree as follows:

1. Appointment. Client hereby contracts with ADVISOR to render advice with respect to the investment of those assets of Client which Client and ADVISOR mutually agree in writing (hereinafter referred to as the "Portfolio"), with the rights, obligations, and duties specified herein. Client agrees to provide ADVISOR with reasonable prior notice of any material addition or withdrawal of assets from the Portfolio.

2. Investment Duties. (a) ADVISOR shall promptly analyze the Portfolio and provide continuous review thereof, together with all additions, substitutions, and alterations thereto, as is appropriate for the purpose of investment of the Portfolio. ADVISOR shall evaluate such information relating to the economy, industries, businesses, securities markets and securities and consult such sub-advisors as it may deem necessary or useful in the rendering of its services hereunder. While ADVISOR believes such information is accurate, it does not guarantee the accuracy thereof.

(b) ADVISOR, as agent and attorney-in-fact with respect to Client, shall place orders, negotiate commissions (if any) or otherwise give instructions without prior consultations with or notification to Client for the purchase, sale, acquisition, lending, conversion, exercise or disposal of the securities or other assets of the Portfolio. It is agreed and understood that ADVISOR shall invest the assets of the Portfolio pursuant to the guidelines and policies established by Client, from time to time, for the Portfolio and communicated in writing to KWI. ADVISOR shall otherwise have complete discretion as to the nature, amount, and timing of all such transactions, subject only to the limitations set forth herein or otherwise provided by law.

(c) The authorization granted hereunder is a continuing one and shall remain in full force and effect until ADVISOR has received, at ADVISOR's offices at 33 E Valley Boulevard, Suite 201, Alhambra, CA 91801, what it deems to be reliable written notice of the alteration, revocation or termination thereof signed by Client.

3. Fees. ADVISOR will receive a fee for investment supervision and management of the Portfolio based on the current market value of the Portfolio (including cash and equivalent items) as follows:

1.5.% per annum on management fee on accounts below \$1mm  
1.0.% per annum on management fee on accounts above \$1mm

Such fee will be payable in arrears in quarterly installments with each installment based on the market value of the Portfolio as of the end of the calendar quarter. Payment will be due to Advisor within 10 days after receipt of billing by Client. If this Agreement starts or ends at a date other than the beginning of a calendar quarter, the fee for that partial quarter shall be prorated accordingly.

4. Expenses. Client will be responsible for paying (i) all expenses of transfer, receipt, safekeeping, servicing, and accounting for the Portfolio, including all custodial fees charged by the Clearing Agent (referred to in Section 5); (ii) all broker's trades transaction,

commissions and other charges incident to the purchase, sale or lending of the Portfolio, and (iii) all taxes or other fees payable by or with respect to Client to federal, state or other governmental agencies. Expenses will be paid by Client directly or by directing the Clearing Agent to pay such expenses from the Portfolio.

5. Clearing Agent. (a) Unless instructed by Client to the contrary, Wedbush Securities, Inc., having its principal office at Los Angeles, California (hereinafter referred to as the "Clearing Agent") has been appointed under separate agreement as clearing agent for Key West Investment, LLC a FINRA broker/dealer.

(b) To the extent that Client requires a separate plan administrator, Client has appointed such by separate agreement to provide administrative services to the Portfolio.

(c) Client instructs and authorizes Key West Investment, LLC or ADVISOR to disclose such information regarding the Portfolio to any Clearing Agent or Administrator as may be reasonably requested by them in furtherance of their duties.

6. Other Clients. Client hereby agrees that ADVISOR's services to client are not exclusive, and ADVISOR shall be free to render similar investment advisory services to other clients, even if such is based upon the same advise. Client further agrees that ADVISOR's authority hereunder shall not be impaired because securities of the Portfolio are identical or similar to securities of other accounts which ADVISOR manages or to which it provides investment advisory services. ADVISOR shall incur no liability if another account under its management buys or sells securities at different times or for different prices than Client, or if one account is purchasing a security while another is selling it. ADVISOR shall not, however, represent another customer on the other side of a transaction on behalf of Client unless ADVISOR has previously obtained Client's consent after making full written disclosure of the essential facts of the proposed transaction. If a single transaction or groups of transactions are allocated among clients, then all clients shall receive the same price per security.

7. Reports. ADVISOR shall provide Client with periodic reports of investment holdings in the Portfolio and investment transactions. The frequency, format and content of such reports shall be as mutually agreed upon by the Client and KWI. Each periodic report shall be deemed to have been approved by Client if no written objection thereto is received by ADVISOR within 30 days after such report has been provided to Client.

8. Portfolio Transfers. Transfers from the Portfolio shall be governed by mutually agreeable written administrative procedures, including any mutually agreeable written amendments thereto. To the extent such procedures provide for Client-directed transfers, ADVISOR may rely upon such directions as properly given by Client under any applicable law.

9. Representation of Status. ADVISOR represents that it is a registered investment advisor under the Investment Advisors Act of 1940 (the "Act"), and covenants that it shall maintain such registrations at all times during the term of this Agreement. ADVISOR acknowledges that, by providing investment advisory services to pension funds governed by the Employees' Retirement Income Security Act of 1976 ("ERISA"), it may be deemed a "fiduciary" of those funds under ERISA.

10. Assignment and Termination. No assignment of this Agreement shall be made by ADVISOR without the consent of Client. Either the Client or ADVISOR may terminate this Agreement at any time by telephone and confirmed in writing within five days, at which time any fee owed to ADVISOR shall be paid by Client on a prorated basis as of the effective date of the termination. Upon KWI's receipt of written notice of termination from Client, ADVISOR shall immediately discontinue all trading (but may settle open transactions and execute additional trades upon instruction from Client and shall distribute to Client, within 30 days following such receipt, any assets then held by ADVISOR under this Agreement.

11. Investment Performance and Responsibility. (a) It is understood and agreed by Client that ADVISOR does not in any way guarantee the Portfolio from loss or depreciation, nor does ADVISOR guarantee any minimum investment performance for the Portfolio. ADVISOR shall be responsible only for the satisfactory performance of all duties expressly assumed by ADVISOR hereunder.

(b) Client shall indemnify and hold harmless ADVISOR from and against any and all expenses, penalties, damages or other pecuniary loss which may be suffered by Client with respect to the value of the Portfolio and from expenses (including the costs of defense), penalties and damages incurred by ADVISOR in connection with any complaint, investigation or action brought by third parties with respect to the value of the Portfolio.

(c) Nothing in this Section 11 shall act as a waiver of, or be deemed to limit in any way, (i) the obligations of ADVISOR under federal or state securities laws (including, specifically, laws relating to the regulation of investment advisors); (ii) the obligations of ADVISOR under ERISA, if applicable; (iii) any fiduciary obligation owed by ADVISOR to Client under law; or (iv) KWI's liability for damages arising from its willful misconduct or gross negligence.

12. Bailey Case Disclosure. In the event that a client directs ADVISOR to use a particular broker or dealer, ADVISOR may not be authorized under those circumstances to negotiate commissions and may not be able to obtain volume discounts or best execution. In addition, under these circumstances a disparity in commission charges may exist between the commissions charged to clients who direct ADVISOR to use a particular broker or dealer and other clients who do not direct ADVISOR to use a particular broker or dealer.

13. Limit of Liability Except as otherwise provided by federal or state securities laws, KWI, acting in good faith, shall not be liable for any action, omission, investment recommendation/decision, or loss in connection with this Agreement including, but not limited to, the investment of assets in the Account, or the acts and/or omissions of other professionals or third party service providers. If the Account contains only a portion of the Client's total assets, ADVISOR shall be responsible for those assets that the Client has designated to be the subject of the Advisor's investment management services under this Agreement without consideration to those additional assets not so designated by the Client.

14. No Legal or Accounting Services It is expressly understood and agreed between the parties to this Agreement that ADVISOR shall not provide legal or accounting advice or prepare any legal or accounting documents for Client. Client agrees truly on his/her attorney and/or accountant for tax advice and/or tax preparation.

15. Indemnification. Each party hereto agrees to indemnify and hold harmless each other party and all employees, representatives, directors, officers, shareholders and persons affiliated with the Indemnified Party against all claims, damages, losses, liabilities, costs and expenses (including, without limitation, settlement costs and any reasonable legal, accounting or other expenses for investigating or defending any actions or threatened actions) (collectively "Losses") incurred by the Indemnified Party arising out of or resulting from (a) the gross negligence, willful misconduct or fraud of the Indemnifying Party or (b) a breach by the Indemnifying Party of its representations and warranties, covenants or other obligations under this Agreement..

16. Miscellaneous. Except as expressly set forth herein, it is agreed that ADVISOR has no other discretion, duty or responsibility whatsoever with respect to the control, management or administration of the Portfolio. This Agreement constitutes the sole and exclusive agreement between the parties hereto and shall supersede all prior agreements between the parties with respect to Advisory Services. This Agreement may be only modified by a written instrument signed by both parties and shall be construed under the laws of the State of California as at that time are in effect. Any controversy or claim arising out of or relating to this agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial [or other] Arbitration Rules [including the Optional Rules for Emergency Measures of Protection], and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

17. Disclosure Statement. Advisor hereby represents and warrants that it has provided to Client a written disclosure statement as required by Rule 204-3 under the Investment Advisors Act of 1940. Client hereby acknowledges that Advisor has delivered such written disclosure statement(s) at the time of entering this Agreement and that, as a consequence thereof, Client may terminate this Agreement within five days hereafter without penalty.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed as of the day and year first above written.

By

\_\_\_\_\_  
Registered Investment Advisor Name

\_\_\_\_\_  
Primary Account Holder Name

\_\_\_\_\_  
Registered Investment Advisor Signature

\_\_\_\_\_  
Primary Account Holder Signature

\_\_\_\_\_  
Joint Account Holder Name

\_\_\_\_\_  
Joint Account Holder Signature