

**HAND  
DELIVERED**

**TPM BLIND TRUST  
TRUST AGREEMENT**

LEGISLATIVE RESOURCE CENTER

2021 AUG 17 AM 11:59

OFFICE OF THE CLERK

**THIS TRUST AGREEMENT** is made and entered into this 20th day of July, 2021, between ~~TOMASZ P. MALINOWSKI, whose home address is 15 Welisewitz Road, Ringoes, NJ 08551 (the "Grantor"), and JACKSON HOLE TRUST COMPANY, whose business address is 185 W. Broadway, Suite 101, Jackson, WY 83001 (the "Trustee").~~

**WITNESSETH**

GRANTOR is a United States Representative in Congress from the State of New Jersey. To avoid any conflict of interest, or appearance of any such conflict, which may arise from his duties and powers in such office to the extent provided for by § 102(f)(4)(A) of the Ethics in Government Act of 1978 (Pub. L. No. 95-521, as amended) (the "Act"), Grantor hereby creates a trust to be administered in accordance with the requirements of the Act (the "Trust"), which shall become effective on the date this Agreement bears.

The Trustee is an eligible person, as specified in § 102(f)(3)(A) of the Act, who meets the requirements of such section.

Grantor, therefore, hereby delivers to the Trustee, and the Trustee hereby acknowledges receipt of, the property listed in the annexed Schedule A, subject to the provisions of this Trust, the Act, and other applicable Federal laws.

The primary purpose of this Trust is to entrust to the Trustee decisions as to when and to what extent the original assets of the Trust are to be sold or disposed of and in what investments the proceeds of sale are to be reinvested, without any participation in, or knowledge of, such decisions by any interested party. The term "interested party" as used in this Trust means the Grantor and his representatives. Accordingly, the Grantor and the Trustee agree as follows:

**FIRST:** (A) This Trust shall terminate upon the first to occur of the following—(1) Grantor's ceasing for any reason to serve as a U.S. Representative and Grantor thereafter giving Trustee written notice directing that this Trust be terminated; or (2) Grantor's death or incompetence. The period between the date of this agreement and the termination of the Trust shall be called the "Trust Term." (B) Notwithstanding Paragraph (A) of this Article FIRST, this Trust agreement may in addition be terminated through revocation.

(C) Within thirty (30) days of the termination of this Trust, the Trustee shall file with the U.S. House of Representatives Committee on Ethics a copy of a list of the assets held by the Trust at the time of its termination and the category of value of each such asset, as defined by § 102(f)(5)(D) of the Ethics in Government Act of 1978.

(D) Upon termination of this Trust, the Trustee shall proceed expeditiously to distribute the trust assets to the Grantor, subject to the right of the Trustee to retain a reasonable reserve for the payment of debts, expenses, and taxes.

**SECOND:** The Trustee shall administer this Trust in accordance with the requirements of the Act, all applicable state laws, and, in the exercise of its authority and discretion to manage and control the assets of this Trust, shall not consult, or notify any interested party.

**THIRD:** (A) Each asset listed in the annexed **Schedule A** is free of any restriction with respect to its transfer or sale, except as fully described in such **Schedule A**, and none of the assets listed are prohibited by any law or regulation.  
(B) During the Trust Term, the interested parties shall not pledge, mortgage, or otherwise encumber their interests in the property held in trust hereunder.

**FOURTH:** The Trustee shall not knowingly or negligently disclose to the public or to any interested party any information as to the acquisition, retention, or disposition of any particular securities or other Trust property; except that, the Trustee shall promptly notify the Grantor, the U.S. House of Representatives Committee on Ethics when the holdings of a particular asset transferred to the Trust by any interested party have been completely disposed of or when the value of that asset becomes less than \$1,000.

**FIFTH:** The income tax return of the Trust shall be prepared by the Trustee or his designee, and such return and any information relating thereto (other than the Trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to the public or to any interested party. To effectuate the provisions of this Article FIFTH, the Trustee shall use its best efforts to provide the interested party, promptly after the close of each taxable year of the Trust during the Trust Term, with that information concerning the Trust, including information on income, expenses, capital gains and capital losses, which is necessary for the interested party to prepare and file tax returns required by the laws of the United States and the laws of any State, district or political subdivision; provided however, that in no event shall the Trustee disclose publicly or to any interested party any information whatsoever which might identify the securities or other property which comprise the assets of the Trust or identify the securities or other property which have been sold from the assets of the Trust.

**SIXTH:** An interested party shall not receive any report on the holdings and sources

of income of the Trust other than provided by Article FOURTH of this Trust; except that the Trustee shall—

- (A) Make quarterly reports of the total cash value of such interested party's interest in the Trust,
- (B) Report the net income or loss of the Trust and make other reports necessary to enable the interested party to complete an individual tax return required by law (in accordance with Article FIFTH of this Trust), and
- (C) Provide an annual report for purposes of § 102(a)(1) and § 102(d)(1) of the Act and House Rule 26 of the aggregate amount of the Trust's value and income attributable to the beneficial interest in the Trust of such interested party, categorized in accordance with the provisions of such sections and Rule.

**SEVENTH:**

There shall be no direct or indirect communication between an interested party and the Trustee with respect to the Trust unless—

- (A) It relates to a request for a distribution from the Trust of cash or other unspecified assets of the Trust, or
- (B) The communication is in writing and is filed by the person initiating the communication at the office of the U.S. House of Representatives Committee on Ethics within five days of the communication, and it relates only—
  - 1) To the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain),
  - 2) To the notification of the Trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the Trust, or
  - 3) To directions to the Trustee to sell all of an asset initially placed in the Trust by an interested party which in the determination of the Grantor creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the Grantor (but any such direction is not required).

**EIGHTH:** The interested parties shall not take any action to obtain, and shall take appropriate action to avoid receiving, information with respect to the holdings of, and the sources of income of, the Trust, including obtaining a copy of any Trust tax return filed by the Trustee or any information relating thereto, except for the reports and information specified in Article SIXTH of this Trust.

**NINTH:** The Trustee shall not knowingly and willfully, or negligently—

- (A) Disclose any information to any interested party with respect to this Trust that may not be disclosed pursuant to any provision or requirement of Title I of the Act or this Trust,
- (B) Acquire any holding the ownership of which is prohibited by, or not in accordance with the terms of, this Trust, including the acceptance of any contribution in cash or in kind to the trust from an individual other than the Grantor,
- (C) Solicit advice from any interested party with respect to this Trust, which solicitation is prohibited by any provision or requirement of Title I of the Act or this Trust, or
- (D) Fail to file any document required by Title I of the Act.

**TENTH:** The Grantor shall not knowingly and willfully, or negligently—

- (A) Solicit or receive any information with respect to this Trust that may not be disclosed pursuant to any provision or requirement of Title I of the Act or this Trust, or
- (B) Fail to file any document required by Title I of the Act.

**ELEVENTH:** In addition to the rights, duties, and powers conferred upon the Trustee by law, the Trustee shall have the following powers, rights, and discretion with respect to any Trust property held by it Exhibit A, attached hereto and incorporated by reference:

- (A) To sell, exchange, or otherwise dispose of the property in such manner and upon such terms as the Trustee in its sole discretion shall deem appropriate;
- (B) Except as limited by specific enumeration in this Trust agreement or subsequent notification pursuant to Article SEVENTH, paragraph (B)(2), to invest and reinvest the principal and any undistributed income in property of any kind;
- (C) Except as limited by specific enumeration in this Trust

agreement, to participate in any organization, reorganization, consolidation, merger, or dissolution of any corporation having stocks, bonds or other securities which may be held at any time, to receive and hold any property which may be allocated or distributed to it by reason of participation in any such reorganization, consolidation, merger, or dissolution. Nothing in these provisions shall be interpreted to allow participation in initial public offerings;

- (D) To exercise all conversion, subscription, voting, and other rights of whatsoever nature pertaining to any such property and to grant proxies, discretionary, or otherwise, with respect thereto;
- (E) To elect, appoint, and remove directors of any corporation, the stock of which shall constitute Trust property, and to act through its nominee as a director or officer of any such corporation;
- (F) Except as limited by specific enumeration in this Trust agreement, to manage, control, operate, convert, reconvert, invest, reinvest, sell, exchange, lease, mortgage, grant a security interest in, pledge, pool, or otherwise encumber and deal with the property of this Trust for Trust purposes and on behalf of the Trust to the same extent and with the same powers that any individual would have with respect to his own property and funds (but such actions may not take into account any interests of an interested party or other individual outside of those interests held by the Trust);
- (G) Except as limited by specific enumeration in this Trust agreement, to borrow money from any person or corporation (including the Trustee hereunder) and for the purpose of securing the payment thereof, to pledge, mortgage, or otherwise encumber any and all such Trust property for Trust purposes upon such terms, covenants, and conditions as it may deem proper and also to extend the time of payment of any loans or encumbrances which at any time may be encumbrances on any such Trust property, irrespective of by whom the same were made or where the obligations may or should ultimately be borne on such terms, covenants, and conditions as it may deem proper (but such actions may not take into account any interests of an interested party or other individual outside of those interests held by the Trust);

- (H) To register any property belonging to the Trust in the name of its nominee, or to hold the same unregistered, or in such form that title shall pass by delivery;
- (I) To abandon, settle, compromise, extend, renew, modify, adjust, or submit to arbitration in whole or in part and without the order or decree of any court any and all claims whether such claims shall increase or decrease the assets held under this Trust Agreement;
- (J) To determine whether or to what extent receipts should be deemed income or principal, whether or to what extent expenditures should be charged against principal or income, and whether or to what extent other adjustments should be made between principal and income, provided that such adjustments shall not conflict with well-settled rules for the determination of principal and income adjustments, or the Uniform Principal and Income Act, if in effect in the State of Wyoming;
- (K) To determine whether or not to amortize bonds purchased at a premium;
- (L) Except to the extent otherwise expressly provided in this Trust agreement, to make distributions to or at the request of an interested party in kind or in cash or partly in each and for such purposes to fix, insofar as legally permissible, the value of any property;
- (M) To pay such persons employed by the Trustee to assist in the administration of the Trust, including investment counsel, accountants, and those engaged for assistance in preparation of tax returns, such sums as the Trustee deems to be reasonable compensation for the services rendered by such persons. Such persons may rely upon and execute the written instructions of the Trustee, and shall not be obliged to inquire into the propriety thereof. No person may be employed or consulted by the Trustee to assist it in any capacity in the administration of the Trust or the management and control of Trust assets, including investment counsel, investment advisers, accountants, and those engaged for assistance in preparation of tax returns, unless—
  - 1) if any such employment or consultation is known to any interested party, the person is a signatory

to this Trust instrument as a party, subject to the prior approval of the U.S. House of Representatives Committee on Ethics,

- 2) such person, under all the facts and circumstances, would be determined to be independent of any interested party with respect to the trust arrangement pursuant to the requirements of § 102(f)(3)(A)(ii) of the Act,
- 3) such person is instructed by the Trustee to make no disclosure to the public or to any interested party which might identify the securities or other property which comprise the assets of the Trust or identify securities or other property which have been sold from the assets of the Trust, or of any other information which may not be disclosed by the Trustee, and
- 4) such person is instructed by the Trustee to have no direct communication with any interested party, and that any indirect communication with an interested party shall be made only through the Trustee pursuant to Article SEVENTH of this Trust;

(N) Except as specifically limited in this Trust agreement, to do all such acts, take all such proceedings, and exercise all such rights and privileges, although not otherwise specifically mentioned in this Article ELEVENTH, with relation to any such Trust property, as if the Trustee were the absolute owner thereof, and in connection therewith to make, execute, and deliver any instruments and to enter into any covenants or agreements binding the Trust.

**TWELFTH:** The Trustee shall not at any time be held liable for any action taken or not taken or for any loss or depreciation of the value of any property held in the Trust whether due to an error of judgment or otherwise where the Trustee has not acted in bad faith or with reckless indifference to the purposes of the trust or interests of the beneficiaries.

**THIRTEENTH:** No Trustee hereunder shall be required, in any jurisdiction, to furnish any bond or other security, or to obtain the approval of any court before applying, distributing, selling, or otherwise dealing with property.

- FOURTEENTH:** Except as provided in Article SIXTH of this Trust, the Trustee shall make no accounting to the Grantor until the date of termination of this Trust, and, at such time, it shall be required to make full and proper accounting and turn over to the Grantor all assets of the Trust then held by it the said Trustee.
- FIFTEENTH:** The Trustee shall be compensated in accordance with the table in the annexed Schedule B, or as provided for by the laws of the State of Wyoming.
- SIXTEENTH:** The Trustee (and any substitute or successor) shall have the right, by a duly acknowledged instrument delivered to the Grantor to resign as Trustee in which event the Grantor shall designate and appoint a substitute or successor Trustee (subject to the prior written approval of the U.S. House of Representatives Committee on Ethics) in his place and stead, which shall have all of the rights, powers, discretions, and duties conferred or imposed hereunder upon the original Trustee.
- SEVENTEENTH:** Any amendment of the terms of this Trust Agreement, including the appointment of a substitute or successor Trustee, shall require the prior written approval of the U.S. House of Representatives Committee on Ethics, upon a showing of necessity and appropriateness unless it relates to the testamentary provisions of this trust. Any such substitute or successor Trustee shall have all of the rights, powers, discretions, and duties conferred or imposed hereunder upon the original Trustee.

The validity, construction, and administration of this Trust shall be governed by the Act (and regulations thereunder) and the laws of the State of Wyoming.

Dated this: Jul 20, 2021

Tom Malinowski  
Tom Malinowski (Jul 20, 2021 18:41 EDT)

By: Tomasz P. Malinowski, as Grantor

The above TPM BLIND TRUST is accepted this: Aug 10, 2021

Aaron Sones  
Aaron Sones (Aug 10, 2021 12:08 PDT)

By: Aaron H. Sones, M.D.,  
on behalf of Jackson Hole Trust Company  
Title: CFO

## SCHEDULE A - LIST OF ASSETS

Ticker	Asset Name	Value
QUMU	QUMU CORP	\$0-\$15,000
TFFP	TFF PHARMACEUTICALS INC COM	\$0-\$15,000
VIVO	MERIDIAN BIOSCIENCE INC	\$15,001-\$50,000
APEN	APOLLO ENDOSURGERY INC COM	\$15,001-\$50,000
BLFS	BIOLOGIC LIFE SOLUTIONS INC	\$15,001-\$50,000
CMIU	CM LIFE SCIENCES II INC UNIT EX 022528	\$15,001-\$50,000
CMLFU	CM LIFE SCIENCES INC UNIT EXP 090125	\$15,001-\$50,000
CMLTU	CM LIFE SCIENCES III INC UNIT 1 CL A & 1/5 RED WT EXP	\$15,001-\$50,000
CNF	CNFINANCE HOLDINGS LIMITED	\$15,001-\$50,000
CSLT	CASTLIGHT HEALTH INC	\$15,001-\$50,000
DVN	DEVON ENERGY CORP NEW	\$15,001-\$50,000
ETWOWS	E2OPEN PARENT HOLDINGS INC	\$15,001-\$50,000
FSLY	FASTLY INC CL A	\$15,001-\$50,000
HNST	HONEST CO INC COM	\$15,001-\$50,000
HOLX	HOLOGIC INC	\$15,001-\$50,000
HRTX	HERON THERAPEUTICS INC	\$15,001-\$50,000
PROF	PROFOUND MED CORP COM NPV	\$15,001-\$50,000
PSIX	POWER SOLUTIONS INTERNATIONAL INC	\$15,001-\$50,000
PTON	PELOTON INTERACTIVE INC CL A COM	\$15,001-\$50,000
QDEL	QUIDEL CORP	\$15,001-\$50,000
SCWX	SECUREWORKS CORP CL A	\$15,001-\$50,000
TLT	ISHARES TR 20 YR TR BD ETF	\$15,001-\$50,000
YEXT	YEXT INC COM	\$15,001-\$50,000
DASH	DOORDASH INC CL A	\$50,001-\$100,000
AL	AIR LEASE CORP	\$50,001-\$100,000
CELC	CELICUTTY INC COM	\$50,001-\$100,000
EPD	ENTERPRISE PRODS PARTNERS L P COM	\$50,001-\$100,000
EQIX	EQUINIX INC COM	\$50,001-\$100,000
ETWO	E2OPEN PARENT HOLDINGS INC COM CL A	\$50,001-\$100,000
EVBG	EVERBRIDGE INC COM	\$50,001-\$100,000
LL	LUMBER LIQUIDATORS HOLDINGS INC	\$50,001-\$100,000
NEWR	NEW RELIC INC COM	\$50,001-\$100,000
NVGS	NAVIGATOR HOLDINGS LTD ORD SHS	\$50,001-\$100,000
ONTO	ONTO INNOVATION INC COM	\$50,001-\$100,000
OSUR	ORASURE TECHNOLOGIES INC	\$50,001-\$100,000
QDEL	QUIDEL CORP	\$50,001-\$100,000
BL	BLACKLINE INC COM	\$100,001-\$250,000
AMRC	AMERESCO INC	\$100,001-\$250,000
AOSL	ALPHA AND OMEGA SEMICONDUCTOR LTD	\$100,001-\$250,000
CDNA	CAREDIX INC	\$100,001-\$250,000
FIVN	FIVE9 INC COM USDO.001	\$100,001-\$250,000
PCRX	PACIRA BIOSCIENCES INC COM	\$100,001-\$250,000

**SCHEDULE B - TRUSTEE FEE SCHEDULE**

**[REDACTED]**

## **EXHIBIT A**

### **Schedule One**

Notwithstanding anything to the contrary in this Trust Agreement, the provisions of this Exhibit A shall control.

#### **1. Custodian**

Initially, **Jackson Hole Trust Company** shall serve as custodian of the trust's assets (together with any successor custodian appointed pursuant to this Section 1, the "Custodian").

With regard to trust assets over which the Custodian has custody and in addition to any other duties of the Custodian described herein or in the instrument governing the custody arrangement, the Custodian shall have the duty to provide in writing to the Trustee a list of the trust assets held by the Custodian, the value of such assets and any purchases or sales or other changes in such trust assets at least monthly and at any time the Custodian receives a written request from the Trustee for such information.

#### **2. Delegation**

The Trustee may delegate some or all of its authority hereunder, including, without limitation, its custodial responsibility of all or any portion of the trust's assets, to: (i) an Affiliate as permitted under Section 4; or (ii) a third-party, as the Trustee determines in accordance with and subject to the restrictions and liabilities set forth by law, by a writing delivered to the Trust Advisor and such person, persons or entities so appointed may, acting alone, exercise the authority of the Trustee as so delegated.

#### **3. Effect of Succession of Trustees**

Notwithstanding the foregoing, any corporation or association: (i) into which the Trustee may be merged or with which it may be consolidated; (ii) resulting from any merger, consolidation or reorganization to which the Trustee may be a party; or (iii) to which all or any part of the Trustee's fiduciary business, which includes the collective investment funds, for which the Trustee is the Trustee, may be transferred, will have all rights, powers and obligations of the Trustee under this Agreement, without the necessity of executing any instrument or performing any further act.

#### **4. Employment of Services, Including Broker-Dealer and Other Services**

Conflicts of interest may arise by virtue of the powers granted to the Trustee in this Agreement. The Trustee is therefore expressly exempted from the adverse operation of any rule of law that might otherwise apply to the Trustee in the performance of its fiduciary duties by reason of conflict of interest. Notwithstanding any duty otherwise existing hereunder or at law or in equity, the Trustee shall have no greater burden to justify its acts as a fiduciary by reason of conflict of interest than it would have in the absence of any conflict.

The Trustee is authorized without notice to or consent by any beneficiary or court and without

any disclosure otherwise required pursuant all applicable law, to engage any corporation, partnership, limited liability company or other entity that is a subsidiary or affiliate of a corporate Trustee serving hereunder and/or any individual who is a partner, director, member, manager, officer or employee of any such subsidiary or affiliate (individually and collectively, an "Affiliate"), to act as agent of or render services to the trust, to delegate discretionary authority to any Affiliate and to pay customary fees and compensation to such Affiliate without reduction of any compensation paid to the Trustee. Subject to the Trust Advisor's direction with respect to any investment powers set forth below, the Trustee, and any Affiliate appointed by the Trustee, is hereby authorized:

- i. to appoint one or more Affiliates to manage in its or their sole discretion the investment of all or any portion of the trust's assets or to provide non-discretionary investment advice;
- ii. to appoint one or more Affiliates to act as custodian of all or any portion of the trust's assets and, in connection therewith, to cause such assets to be held in any jurisdiction by or in the name of any nominee of the Trustee or an Affiliate;
- iii. to engage one or more Affiliates to provide trust administration or recordkeeping services for the trust;
- iv. to use, engage or hire any Affiliates as broker, dealer, principal or agent in the purchase or sale of stocks, bonds or other securities or property for the account of the trust;
- v. to purchase from or sell to any Affiliate any stock, bonds or other securities or property and to engage in agency cross transactions with any Affiliate, in each case at such price and upon such terms as the Trustee and such Affiliate may deem advisable;
- vi. to invest any funds in the trust in any stocks, bonds, or other securities or property, real or personal, or whatsoever kind or nature, which may be distributed, underwritten, managed or issued by or through an Affiliate, and from which an Affiliate may receive fees or other compensation;
- vii. to make any investment or enter into any transaction which may directly or indirectly benefit any Affiliate or in which any Affiliate has an interest; and
- viii. to grant proxies to any affiliate or to exercise any voting or consent rights pertaining to any securities or other property held in the trust in a manner which may directly or indirectly benefit or advance the interests of any Affiliate.

## **5. Appointment of Trust Advisor**

### **5.1. Appointment**

Pursuant to Wyoming Statute § 4-10-718 (the “Statute”), there shall be a Trust Advisor to the Trust. The Trust Advisor is **Louis D. Tambaro, Esq.** The Trustee shall be treated as an excluded fiduciary under the provisions of Wyoming Statutes §§ 4-10-715 and 4-10-717, with the result that the Trustee shall be relieved of any duty or responsibility to review the actions of the Trust Advisor and shall not be liable for any loss resulting from any action or inaction of the Trust Advisor. The Trustee may, at any time, remove and replace the Trust Advisor with a corporate fiduciary or an individual.

### **5.2. Powers of the Trust Advisor**

The Trust Advisor shall have the following powers in relation to the investments and/or the selection of the investment manager and the investment policy to be followed by the Trustee:

#### **5.2.1 Direct Investment Decisions**

The Trust Advisor shall have the authority to direct the Trustee’s investment decisions. For purposes of this Trust, the term “investment decisions” shall mean with respect to any property (including, but not limited to securities and foreign currency), the retention, purchase, sale, exchange, tender, or other transaction affecting the ownership thereof or rights therein.

#### **5.2.2 Authority to Appoint**

The Trust Advisor shall have the authority to appoint any investment manager to manage all or a part of the assets of the Trust or terminate the appointment of any such investment manager. The fact that an investment manager is in any way affiliated with a person or entity that renders legal or other professional services, including services as a Trustee or Trust Advisor, to a trust hereunder shall not be deemed a conflict of interest, and the Trustee may pay fees for such services without prior approval of any court or any Beneficiary, whether or not there is a Trustee to approve such payment.

#### **5.2.3 Investment Objectives/Asset Allocation**

The Trust Advisor shall have the authority to assist the Trust to determine the overall investment objectives for the Trust including the desired rate of return and the level of acceptable risk and to thereafter determine the appropriate allocation of the assets of the Trust between different classes of assets, markets, currencies, and investment management styles in order to meet the investment objectives.

### **5.3. Actions of the Trustee**

The Trustee, upon being directed to do so by the Trust Advisor, shall take such actions as may be necessary to implement any decision made by the Trust Advisor pursuant to the terms of this Trust regarding any investment manager or any investment of the Trust in any property, including

any security, fund, or product.

#### **5.4. Limitations on Trust Advisor's Authority**

The Trust Advisor's authority over the Trust shall be limited to investment decisions as set forth in this Schedule One. Notwithstanding any other provision of this Trust, the Trust Advisor shall not be authorized to: (a) withdraw any investments from the Trust; (b) add any further assets to it; (c) open or create any new accounts of the Trust; or (d) alter any of the beneficial interests of the Trust.

#### **5.5. Standard of Conduct**

To the extent not prohibited by applicable law, no Trust Advisor shall be treated as acting under a fiduciary duty but, in all events, the Trust Advisor must act in good faith. Furthermore, the Trust Advisor shall be under no duty or requirement to monitor any Trustee or investment advisor hereunder and shall not be liable to anyone for failure to do so and shall be under no duty or requirement to exercise or not exercise the powers conferred upon the Trust Advisor hereunder and shall not be liable to anyone for doing so, all in the absence of an affirmative showing by clear and convincing evidence of bad faith by the Trust Advisor to any of the beneficiaries.

#### **5.6. Limitation of Liability**

##### **5.6.1 Special Trustee Liability Provision**

Some persons may be hesitant to serve as Trustee hereunder because of a concern about potential liability. Therefore, with respect to any Trust created hereunder: (a) no Trustee shall incur any liability by reason of any error of judgment, mistake of law, or action of any kind taken or omitted to be taken in connection with the administration of any Trust created hereunder if in good faith reasonably believed by such Trustee to be in accordance with the provisions and intent hereof, except for matters involving such Trustee's bad faith or reckless indifference to the purposes of the Trust or the interests of the beneficiaries proved by clear and convincing evidence; (b) no Trustee shall have any fiduciary responsibility to observe, monitor or evaluate the actions of any other Trustee and shall not be liable to any party for the failure to seek to remedy a breach of trust, or in a recurring situation to request instructions from a court having jurisdiction over the Trust, even if a Trustee may be guilty of a gross violation of fiduciary duties hereunder; (c) each Trustee shall be fully indemnified by the trust estate against any claim or demand by any trust beneficiary or trust creditor, except for any claim or demand based on such Trustee's bad faith or reckless indifference to the purposes of the Trust or the interests of the beneficiaries proved by clear and convincing evidence; and (d) no Trustee shall be obligated to ascertain before distributing amongst the beneficiaries the whole or any part of the trust assets whether any person whose parents are not married to each other at the time of birth or who claims through such a person is or may be entitled to an interest in the trust assets nor shall a Trustee be liable to any such person of whose existence the Trustee has no notice or who claims through such a person. Expenses incurred by a Trustee in defending any such claim or demand shall be paid by the trust estate in advance of the final disposition of such claim or demand, provided the Trustee agrees to repay such amount if it shall

ultimately be determined that such Trustee is not entitled to be indemnified as authorized by this paragraph. The Trustee shall have a lien or charge on the trust assets and may retain and pay out of the assets of the trust estate all amounts necessary to give effect to the indemnities.

#### **5.6.2 Release**

The Trustee is released from all obligations in relation to the Trust arising after the date the Trustee retires or ceases to be the Trustee except that the Trustee is still obligated, at the cost of the Trust, to vest the assets and liabilities of the Trust in the current Trustee, and to deliver all books and records relating to the Trust to the current Trustee.

#### **5.6.3 Reliance Upon Advice**

The Trustee may employ and rely upon advice given by accountants, attorneys, investment bankers, and other expert advisors and employ agents, clerks and other employees and pay reasonable compensation to such advisors or employees in addition to fees otherwise payable to the Trustee, notwithstanding any rule of law otherwise prohibiting such dual compensation. The Trustee shall not be liable for any loss to the Trust arising by reason of any improper investment or any act made by an agent employed by any Trustee except bad faith or reckless indifference to the purposes of the Trust or the interests of the beneficiaries proved by clear and convincing evidence on the part of the Trustee who is sought to be made liable.

### **6. Appointment of Investment Advisor**

The Trustee and Trust Advisor hereby delegate to the Investment Advisor the investment management functions for the trust investment accounts.

Accordingly, Investment Advisor shall have full authority to : (a) purchase, sell, exchange and otherwise trade in any and all securities, contracts and other investments as the Investment Advisor, in its sole discretion, may select; (b) establish, maintain and deal through accounts with one or more securities brokerage firms, dealers or banks as the Investment Advisor may select; and (c) take such further actions and execute and deliver such further documents or instruments that the Investment Advisor deems necessary or appropriate to carry out its responsibilities. The trust investment accounts shall be invested in accordance with the Investment Advisor's investment style, subject to the asset allocation selected by, and investment guidelines, as applicable, provided by, the Trustee or Trust Advisor.

Any such exercise of power by the Investment Advisor shall not require any consultation with or action on the part of the Trustee or Trust Advisor; provided, however, that the Investment Advisor shall promptly notify the Trustee and Trust Advisor of any such actions taken by it directly. To the extent that the Trust Advisor delivers written direction to the Trustee or Investment Advisor to instruct or authorize any other person to act directly with respect to trust assets upon the written direction of the Trust Advisor or any other person other than the Trustee, neither the Trustee nor the Investment Advisor shall not be liable for any such direction or for the actions taken pursuant to any such direction.

With regard to trust assets over which the Investment Advisor has investment responsibility (other than trust assets for which the Trustee or its affiliate acts as custodian consisting of marketable securities publicly traded on a national or international exchange) and in addition to the Investment Advisor's duties herein, the Investment Advisor shall have the duty to: (i) provide in writing to the Trustee the value of the trust assets at least annually and at any time such Investment Advisor receives a written request from the Trustee.

Notwithstanding any other provision hereof, the Trust Advisor may direct the Trustee as to the selection of one or more of the broker/dealers or other agents or parties for the purpose of processing trades or other transactions involving trust assets or custody or other services in connection with the administration of the trust. Such direction shall be made by a writing signed by the Trust Advisor and delivered to the Trustee, which writing shall be in a form acceptable to the Trustee. By providing such direction, the Trust Advisor also authorizes the Trustee: (i) to provide statements and personal and other information to such broker/dealer or agent or other party as the Trustee in its sole discretion deems appropriate; and (ii) to receive information from such broker/dealer or other party and to rely solely on the accuracy and completeness of the information received without the need for independent verification. The Trustee shall not be responsible for overseeing or reviewing the actions of any such broker/dealer or agent or other party, and such responsibility shall reside solely with the Trust Advisor.

Initially, the position of Investment Advisor shall be held by **Anthony J.R. Cook, of AllianceBernstein Holding L.P.**, so long as he is willing and able to act.

The Investment Advisor shall be entitled to resign at any time by delivery of a separate writing to the then-acting Trustee as well as the grantor, or upon the grantor's death or incapacity, to those adult persons over the age of eighteen (18) then eligible to receive distributions of income (whether discretionary or mandatory) from the trust, or if none, to the parent or legal guardian of each minor beneficiary then eligible to receive distributions of income (whether discretionary or mandatory) from the trust. The Investment Advisor may also be removed with or without cause by a majority of those adult persons over the age of eighteen (18) then eligible to receive distributions of income (whether discretionary or mandatory) from the trust, or if none, a majority of the parents or legal guardians of the minor beneficiaries then eligible to receive distributions of income (whether discretionary or mandatory) from the trust, provided that a successor Investment Advisor is appointed by such persons, in writing, at the time of such removal. In the event any Trustee of the trust, or any affiliate thereof, receives notice from a regulatory agency or becomes aware that an individual or entity serving as the Investment Advisor of the trust is restricted or prohibited from trading and/or exercising investment discretion over assets listed and traded on a nationally-recognized stock exchange, or otherwise is restricted or prohibited from exercising the functions of Investment Advisor hereunder by applicable law, regulatory action, court order or by internal policy of the Trustee or its affiliates, upon written notice of the Trustee such Investment Advisor shall be deemed to be disqualified from acting as Investment Advisor as of the effective time set forth in said notice and a successor Investment Advisor shall be appointed to act with respect to the applicable trust assets by such persons entitled to remove and replace an Investment Advisor hereunder.

If, upon the resignation or unwillingness or inability to serve or disqualification of the Investment Advisor no successor Investment Advisor qualifies to act, a majority of those adult persons over the age of eighteen (18) then eligible to receive distributions of income (whether discretionary or mandatory) from the trust, or if none, to the parent or legal guardian of each minor beneficiary then eligible to receive distributions of income (whether discretionary or mandatory) from the trust shall have the right to appoint any person or persons (whether individual, corporate or other entity) in whatever number shall be determined to be appropriate, to serve as successor Investment Advisor, and shall provide notice to the Trustee.

If at any time during the continuance of the trust: (i) a successor Investment Advisor fails to be appointed or fails to accept its appointment in writing within 30 days after the resignation, removal, disqualification or unwillingness to serve of the Investment Advisor, (ii) there shall be no Investment Advisor of such trust, or (iii) if the Investment Advisor of such trust shall fail to communicate in writing to the Trustee his, her or its direction as to the exercise of its Investment Powers, within twenty (20) days after the Trustees shall have sent to such Investment Advisor, by certified mail (or by any other means for which the sender shall have evidence of receipt by the addressee), at its last known address, a written request for such direction (notwithstanding that the Trustees shall be under no obligation to request any such direction), then the corporate Trustee shall petition the court currently having jurisdiction over the trust for an order which accepts the resignation of the corporate Trustee and appoints a successor thereto. The corporate Trustee shall have no liability for the actions or omissions of any successor Trustee so appointed by the court. Any Trustee so appointed shall have all of the powers and discretions conferred in this trust upon the original Trustee and any and all costs incurred by the corporate Trustee related to such proceeding, including but not limited to attorney's fees and court costs, shall be considered an expense of the trust. During such time as there is no Investment Advisor serving hereunder or qualified to serve hereunder, the Trustee shall have no responsibility or duty to exercise any Investment Power and shall not be held liable for any act or omission relating to the exercise or non-exercise of said Investment Powers.

Whenever, pursuant to the terms of this Agreement, Trustee acts or fails to act at the direction of any person authorized by the terms of this Agreement to direct Trustee in the exercise of Trustee's powers as to any particular matter, then notwithstanding any other provision of this Agreement or otherwise existing provision of law or in equity, (i) as provided by law, Trustee shall not be liable for any loss resulting from such acts except in cases of willful misconduct and (ii) to the extent any such action concerns a matter outside the scope of applicable law, Trustee shall have no liability under this Agreement except for Trustee's own willful misconduct.

By accepting an appointment to serve or act hereunder, such Investment Advisor shall be deemed to have consented to submit to the jurisdiction of each court in which jurisdiction and venue are proper to review the administration of the trust and to be made parties to any proceedings in each such court that place in issue the decisions or actions of the Investment Advisor. The Investment Advisor shall exercise the Investment Advisor's functions in a fiduciary capacity and in a way that the Investment Advisor reasonably believes to be in accordance with the purposes of this Agreement. The Investment Advisor shall be deemed to have acted within the scope of its

authority, to have exercised reasonable care, diligence, and prudence, and to have acted impartially as to all persons interested unless the contrary be proven by affirmative clear and convincing evidence, and in the absence of such proof shall not be liable for loss arising from depreciation or reduction in value of any property authorized to be held or acquired. The Trustee and Investment Advisor shall not be liable for the acts or defaults of each other or any other Trustee.

To the extent the provisions of this Agreement restrict, modify, or eliminate the duties and liabilities of Trustee that would otherwise apply at law, in equity or otherwise, such provisions shall supersede and replace such otherwise applicable duties and liabilities.

#### **7. Resignation and Removal of Trustee and Appointment of Successor**

Any Trustee may resign by a separate writing delivered to the grantor or, after the grantor's death or incapacity, to each of those adult persons over the age of eighteen (18) then eligible to receive distributions of income (whether discretionary or mandatory) from the trust, such resignation to be effective upon a successor Trustee being appointed. If there are no adult beneficiaries then eligible to receive distributions of income (whether discretionary or mandatory) from the trust, the instrument of resignation shall be delivered to the parent or legal guardian of each minor beneficiary then eligible to receive distributions of income (whether discretionary or mandatory) from the trust.

If, upon the resignation of the Trustee, no successor Trustee designated by this trust instrument qualifies to act, a majority of the adult persons then eligible to receive distributions of income (whether discretionary or mandatory) from the trust or, if none, a majority in number of the minor beneficiaries (each such beneficiary acting through his parent or legal guardian) then eligible to receive distributions of income (whether discretionary or mandatory) from the trust, may appoint a successor Trustee (other than the grantor).

Any Trustee may be removed, with or without cause, by the grantor or, if the grantor is incapable of acting, by a majority in number of the adult persons then eligible to receive distributions of income (whether discretionary or mandatory) from the trust or, if none, by a majority in number of the minor beneficiaries (each such beneficiary acting through his parent or legal guardian) then eligible to receive distributions of income (whether discretionary or mandatory) from the trust. If, upon the removal of the Trustee, no successor Trustee designated by this trust instrument qualifies to act, the individuals with authority to remove the Trustee shall appoint a successor Trustee (other than the grantor), provided, however, that such successor Trustee may not be related or subordinate to the person or persons making such appointment within the meaning of section 672(c) of the Internal Revenue Code of 1986, as amended.

If no successor Trustee has qualified within 30 days after the resignation or removal of the Trustee, the resigned or removed Trustee may appoint such a successor or may bring an appropriate action in a court of competent jurisdiction for the appointment of such a successor. The costs and expenses of any such action, including but not limited to the compensation and expenses of attorneys and guardians, shall be paid from principal or income, or both, of the trust, as the Trustee in its sole discretion determines.

Any appointment of a successor Trustee pursuant to this trust instrument shall be made by a separate acknowledged instrument delivered to the Trustee so appointed, shall be effective at such time as may be specified in such instrument, and shall be revocable until such time. A successor Trustee shall qualify by filing its consent to act with the trust records.

Notwithstanding any otherwise applicable law or in equity, no successor Trustee shall be required to examine the acts of any prior Trustee, and any successor Trustee shall be responsible only for those assets which are actually delivered to such Trustee.

Notwithstanding any otherwise applicable law or in equity, unless the Trustee has written notice of an event affecting the beneficial interests in the trust, the Trustee shall incur no liability for acting as though such event had not occurred.

#### **8. Fees of the Trustee and the Investment Advisor**

Notwithstanding any other provision hereof or otherwise applicable law or in equity, the Trustee or any Affiliate thereof shall be entitled, without notice to or consent by any beneficiary or court and without any disclosure otherwise required pursuant to applicable law, to receive fees or compensation for its services hereunder in accordance with its schedule of rates in effect at the time the services are rendered, without reduction for any other fees or compensation, direct or indirect, payable to or received by any co-Trustee, investment manager, advisor, other agent, service provider, or any Affiliate, including but not limited to administration, custody, distribution or "12-b-1" fees or shareholder servicing fees and notwithstanding that such compensation may exceed the compensation for such services in effect from time to time under the laws of the State of Wyoming.

The Trustee shall pay out of the income or principal or both, as it in its sole discretion determines, the charges and expenses of the Trustee. The Trustee shall pay out of the income or principal or both, as it in its sole discretion determines, the charges and expenses of the Investment Advisor reported by the Investment Advisor to the Trustee and notwithstanding any duty otherwise existing at law or in equity, the Trustee shall have no obligation to inquire into the reasonableness of any such charges or expenses.

#### **9. General Investment and Investment in Trustee's Proprietary Products**

The Trustee, at the direction of the Investment Advisor, is authorized to invest in or retain any securities or other property, real or personal (within or without the United States), including without limitation: any security as defined by the Securities Act of 1933, any contract of sale of a commodity for future delivery within the meaning of the Commodity Exchange Act, shares or interests in any private investment fund, private equity or venture capital fund, hedge fund, common trust fund, joint venture, general or limited partnership, limited liability company, statutory or common law trust, real estate investment trust or an open-end (including any mutual fund) or closed-end management type investment company or unit investment trust, whether registered under the Investment Company Act of 1940 or unregistered, any money market instrument, bank deposit account (including but not limited to savings, time, certificate of deposit

and transaction accounts), precious metal, foreign exchange, structured product, insurance contract, options, options on futures and variable forward contracts, swaps, caps, collars and other derivative instruments of a financial nature, notwithstanding the fact that the Trustee, investment manager or custodian, its respective parent or any affiliate, provides services (whether as manager, issuer, underwriter, distributor, custodian, advisor, agent, or otherwise) with respect to any such investment and further notwithstanding that the Trustee, investment manager, custodian or its respective parent or any Affiliate may receive compensation with respect to any such investment (in addition to Trustee's compensation), so long as the total compensation received is reasonable, and neither the Trustee nor the Investment Advisor shall have any duty to make all such disclosures pursuant to any applicable law. To the extent permitted by local law, this provision is intended to be a specific override of any contrary provision of law prohibiting such additional fees or otherwise requiring either a reduction in the Trustee's compensation or investment advisory or other fees or commissions or an election between such compensation and such additional fees or commissions. Any diversification requirement under applicable law that would otherwise apply, including one imposed by a Prudent Investor Act, is expressly negated, and shall not apply to the trust.

#### **10. Situs**

The situs of the trusts created hereunder shall be Wyoming.

The Trustee shall have the power to remove all or part of the trust property or to change the situs of administration of the trust from one jurisdiction to another (including outside the United States) and to elect, by a separate writing filed with the trust records, that the law of such other jurisdiction shall thereafter govern the administration of the trust, provided that the Trustee shall not make such an election if it would alter any beneficial interest under the trust.

#### **11. Governing Law and Selection of Forum**

The trust instrument shall be construed under, and all matters pertaining to the validity and construction of the trust instrument and the trusts created thereunder shall be governed by Wyoming law. The administration of the trusts created by the trust instrument shall be governed by Wyoming law.

**CERTIFICATION OF INDEPENDENCE  
OF TRUSTEE OF QUALIFIED BLIND TRUST**

Trust Name: **TPM BLIND TRUST**

With respect to the trust of **TOMASZ P. MALINOWSKI** ("Grantor"), which has been submitted to the United States House of Representatives Committee on Ethics for approval as a blind trust pursuant to § 102(f) of the Ethics in Government Act of 1978, as amended (the "Act"), the undersigned proposed Trustee of such trust, or the person in addition to the Trustee who is designated in the trust instrument as an investment adviser, or an officer or employee of the undersigned, is eligible to serve in such a capacity in accordance with § 102(f)(3)(A) of the Act:

1. The undersigned is:

- (x) a financial institution;
- ( ) an attorney;
- ( ) a certified public accountant;
- ( ) a broker under the definition set forth in § 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. § 78c(a)(4)); or
- ( ) an investment advisor who, other than with respect to his or her involvement with this trust, is generally involved in his or her role as such an advisor in the management or control of trusts.

2. The undersigned and any other entity designated in the trust instrument to perform fiduciary duties:

- (a) Is independent of and not associated with any interested party so that the Trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party (an "interested party" is defined in § 102(f)(3)(E) of the Act);
- (b) Is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and
- (c) Is not a relative of any interested party (a "relative" is defined in § 109(16) of the Act).

3. The undersigned certifies that any officer or employee of the undersigned person or entity who is involved in the management or control of the trust:

- (a) Is independent of and not associated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;
- (b) Is not a partner of, or involved in any joint venture or other investment with,

any interested party; and

- (c) Is not a relative of any interested party.

Certified by:

  
Aaron Sones (Aug 10, 2021 12:08 PDT)

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Name of Trustee: Aaron H. Sones, M.D., on behalf of Jackson Hole Trust Company  
Address: 185 W Broadway, Suite 101  
P.O. Box 1150, Jackson, WY 83001

Dated: August 10, 2021

**CERTIFICATION OF INDEPENDENCE  
OF TRUST ADVISOR OF QUALIFIED BLIND TRUST**

Trust Name: **TPM BLIND TRUST**

With respect to the trust of **TOMASZ P. MALINOWSKI** ("Grantor"), which has been submitted to the United States House of Representatives Committee on Ethics for approval as a blind trust pursuant to § 102(f) of the Ethics in Government Act of 1978, as amended (the "Act"), the undersigned proposed Trust Advisor of such trust, or the person in addition to the Trust Advisor who is designated in the trust instrument as officer or employee of the undersigned, is eligible to serve in such a capacity in accordance with § 102(f)(3)(A) of the Act:

1. The undersigned is:

- a financial institution;
- an attorney;
- a certified public accountant;
- a broker under the definition set forth in § 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. § 78c(a)(4)); or
- an investment advisor who, other than with respect to his or her involvement with this trust, is generally involved in his or her role as such an advisor in the management or control of trusts.

2. The undersigned and any other entity designated in the trust instrument to perform fiduciary duties:

- (a) Is independent of and not associated with any interested party so that the Trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party (an "interested party" is defined in § 102(f)(3)(E) of the Act);
- (b) Is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and
- (c) Is not a relative of any interested party (a "relative" is defined in § 109(16) of the Act).

3. The undersigned and any officer or employee of the undersigned person or entity who is involved in, or who will be involved in the management or control of the trust:

- (a) Is independent of and not associated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

- (b) Is not a partner of, or involved in any joint venture or other investment with, any interested party; and
- (c) Is not a relative of any interested party (a “relative” is defined in § 109(16) of the Act).

Certified by:

*Louis D. Tambaro*  
Louis D. Tambaro (Aug 10, 2021 11:58 EDT)

Name of Trust Advisor:

**Louis D. Tambaro, Esq.**

Address:

**2 Northfield Court, Freehold, NJ 07728**

Dated: August 10, 2021

**CERTIFICATION OF INDEPENDENCE  
OF INVESTMENT ADVISOR OF QUALIFIED BLIND TRUST**

Trust Name: **TPM BLIND TRUST**

With respect to the trust of **TOMASZ P. MALINOWSKI** ("Grantor"), which has been submitted to the United States House of Representatives Committee on Ethics for approval as a blind trust pursuant to § 102(f) of the Ethics in Government Act of 1978, as amended (the "Act"), the undersigned proposed Investment Advisor of such trust, or the person in addition to the Investment Advisor who is designated in the trust instrument as officer or employee of the undersigned, is eligible to serve in such a capacity in accordance with § 102(f)(3)(A) of the Act:

1. The undersigned is:

- ( ) a financial institution;
- ( ) an attorney;
- ( ) a certified public accountant;
- ( ) a broker under the definition set forth in § 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. § 78c(a)(4)); or
- (x) an investment advisor who, other than with respect to his or her involvement with this trust, is generally involved in his or her role as such an advisor in the management or control of trusts.

2. The undersigned and any officer or employee of the undersigned person or entity who is involved in, or who will be involved in the management or control of the trust:

- (a) Is independent of and not associated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;
- (b) Is not a partner of, or involved in any joint venture or other investment with, any interested party; and
- (c) Is not a relative of any interested party (a "relative" is defined in § 109(16) of the Act).

Certified by:



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Anthony J.R. Cook (Jul 20, 2021 17:20 EDT)

Name of Investment Advisor: **Anthony J.R. Cook, AllianceBernstein Holding L.P.**  
Address: **1345 Avenue of the Americas, 36<sup>th</sup> Fl., New York, NY 10105**

Dated: July 20, 2021