

# SOLO 401(K) PROFIT SHARING PLAN ADOPTION AGREEMENT



**CAUTION:** Failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

## EMPLOYER INFORMATION

(An amendment to the Adoption Agreement is not needed solely to reflect a change in this Employer Information Section.)

### 1. EMPLOYER'S NAME, ADDRESS, TELEPHONE NUMBER AND TIN

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

Address: \_\_\_\_\_  
Street

\_\_\_\_\_ City State Zip

Telephone: \_\_\_\_\_

Taxpayer Identification Number (TIN): \_\_\_\_\_

## PLAN INFORMATION

2. PLAN NAME: \_\_\_\_\_

### 3. PLAN STATUS

a.  New Plan

b.  Amendment and restatement of existing Plan

**PPA RESTATEMENT** (leave blank if not applicable)

This is an amendment and restatement to bring a plan into compliance with the Pension Protection Act of 2006 ("PPA") and other legislative and regulatory changes (i.e., the 6-year pre-approved plan restatement).

4. EFFECTIVE DATE (Plan Section 1.25) (complete a. if new plan; complete a. AND b. if an amendment and restatement)  
**Initial Effective Date of Plan**

a. \_\_\_\_\_ (enter month day, year) (hereinafter called the "Effective Date" unless 4.b. is entered below)

**Restatement Effective Date.** If this is an amendment and restatement, the effective date of the restatement (hereinafter called the "Effective Date") is:

b. \_\_\_\_\_ (enter month day, year; may enter a restatement date that is the first day of the current Plan Year. Plan contains appropriate retroactive effective dates with respect to provisions for appropriate laws.)

5. PLAN YEAR (Plan Section 1.65) means the 12 consecutive month period ending on \_\_\_\_\_. However, if this is a new Plan, the Plan Year will be the period beginning on the Effective Date of the Plan and ending on the date specified herein.

### 6. CONDITIONS OF ELIGIBILITY (Plan Section 3.1)

An Eligible Employee will be eligible to participate in the Plan upon satisfaction of the following:

a. SERVICE REQUIREMENT  None  1 Year of Service

b. AGE REQUIREMENT  None  Age 21 (may not exceed 21)

### 7. EFFECTIVE DATE OF PARTICIPATION (ENTRY DATE) (Plan Section 3.2)

An Eligible Employee who has satisfied the eligibility requirements will become a Participant in the Plan as of:

a.  the date such requirements are met.

b.  the first day of the Plan Year quarter coinciding with or next following the date on which such requirements are met.

c.  the earlier of the first day of the Plan Year or the first day of the seventh month of the Plan Year coinciding with or next following the date on which such requirements are met.



# SOLO 401(K) PROFIT SHARING PLAN ADOPTION AGREEMENT



8. RECOGNITION OF SERVICE WITH OTHER EMPLOYERS (Plan Section 1.88)
- a.  No service with other employers shall be recognized (except as required by law).
  - b.  Prior service with \_\_\_\_\_ will be recognized for all purposes.
9. NORMAL RETIREMENT AGE ("NRA") (Plan Section 1.55) means the date a Participant attains age 59.5 years (*not to exceed 65 and, if this Plan includes transferred pension assets, may not be less than age 62 unless the Employer has evidence that the representative typical retirement age for the adopting Employer's industry is a lower age, but no less than age 55*).
10. SALARY REDUCTION ARRANGEMENT – ELECTIVE DEFERRALS  
Each Participant may elect to have Compensation deferred by up to the maximum amount allowed by law. Catch-Up Contributions and Roth Elective Deferrals. Participants may make (*select all that apply*):
- a.  Catch-Up Contributions
  - b.  Roth Elective Deferrals
11. IN-PLAN ROTH ROLLOVER CONTRIBUTIONS (Plan Section 12.11)
- a.  In-Plan Roth rollover contributions are NOT permitted
  - b.  In-Plan Roth rollover contributions may be elected by any Participant, under the existing in-service distribution provisions.
12. TRUSTEE(S) OR INSURER(S)
- a.  This Plan is funded exclusively with Contracts and the name of the Insurer is \_\_\_\_\_.
  - b.  Financial institution that is the sponsor of this prototype plan.  
 Check here if the financial institution has full trust powers.
  - c.  Sole proprietor, practitioner, partner or officer who signs this Adoption Agreement on behalf of the Employer.
  - d.  The following person or entity:

Name(s): \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

## STANDARD PROVISIONS. The following elections, which are referenced in the Basic Plan Document, apply to this Plan.

1. Valuation Date means the last day of the Plan Year and any other dates deemed necessary or appropriate by the Administrator, which may include any day that the Trustee, any transfer agent appointed by the Trustee (or Insurer) or the Employer, and any stock exchange used by such agent are open for business (daily valuation).
2. The Employer will be the Plan Administrator.
3. This Plan shall be governed by the laws of the state or commonwealth where the Employer's (or, in the case of a corporate Trustee or Insurer, such Trustee's or Insurer's) principal place of business is located.
4. All Employees, except union employees and non-resident aliens (both as defined in Plan Section 1.28), are eligible to participate for all purposes of the Plan.
5. To the extent applicable, the Hours of Service method shall be used to compute eligibility for Employees based on actual hours for which an Employee is paid or entitled to payment. "Year of Service" means the computation period of twelve (12) consecutive months during which an Employee has completed at least 1,000 Hours of Service. Employees whose records of actual Hours of Service are not maintained or available (e.g., salaried employees) will be credited with one hundred ninety (190) Hours of Service for each month they would be credited with at least one (1) Hour of Service during the month. The eligibility computation period after the initial eligibility computation period shall shift to the Plan Year. The vesting computation period shall be the Plan Year.
6. Normal Retirement Date means the Anniversary Date coinciding with or next following a Participant's Normal Retirement Age.
7. There are no early retirement provisions.
8. Compensation with respect to any Participant means wages, tips and other compensation on Form W-2 and shall be based on the Plan Year. Compensation for any Self-Employed Individual, however, shall be equal to Earned Income.
9. Compensation shall be adjusted by (a) including compensation not currently includible in the Participant gross income by reason of the application of Code §§ 401(k), 125 (cafeteria plan), 132(f)(4) (qualified transportation fringe), 402(h)(1)(B) (simplified employee pension plan), 414(h)(2) (employer pickup contributions under a governmental plan), 403(b) (tax sheltered annuity) or 457(b) (eligible deferred compensation plan); (b) excluding reimbursements or other expense allowances, fringe benefits (cash or non-cash), moving expenses, deferred compensation (other than deferrals specified in (a) above) and welfare benefits; and (c) excluding Compensation paid during the determination period while not a

# SOLO 401(K) PROFIT SHARING PLAN ADOPTION AGREEMENT



Participant in the Plan. Military Differential Pay will be treated, for Plan Years beginning after December 31, 2008, as Compensation for all Plan benefit purposes. 415 Compensation and Plan Compensation will include (to the extent provided in Plan Section 1.40), post-severance regular pay, leave cash-outs and payments from nonqualified unfunded deferred compensation plans.

10. The ADP and/or ACP safe harbor provisions, Qualified Automatic Contribution Account provisions, Eligible Automatic Contribution Account provisions, and SIMPLE provisions shall not apply. The ADP and ACP ratio for Nonhighly Compensated Employees will be based on current year ratio.
11. The Employer may make matching contributions equal to a discretionary percentage, to be determined by the Employer, of the Participants' Elective Deferrals (including, if permitted under the Plan, Roth Elective Deferrals and/or Catch-up Contributions). In applying the matching contribution, only Elective Deferrals up to a discretionary percentage of a Participant's Compensation or a discretionary dollar amount, the percentage or dollar amount to be determined by the Employer on a uniform basis to all Participants, will be taken into account. This matching contribution shall be made on a payroll period basis to any Participant who is employed on the last day of the Plan Year or who terminates with at least 500 Hours of Service.
12. The Employer may make a discretionary profit sharing contribution for a Plan Year, the amount to be determined in the discretion of the Employer and allocated in the same ratio as each Participant's Compensation bears to the total of such Compensation of all Participants eligible to share in the allocations for the Plan Year. A Participant is eligible to share in the contribution for the Plan Year if the Participant is employed on the last day of the Plan Year or terminates employment with at least 500 Hours of Service during the Plan Year.
13. All contributions shall be 100% vested at all times.
14. Distributions will be made as soon as administratively feasible following termination of employment in lump-sums only. Partial withdrawals or installments are only permitted for required minimum distributions under Code §401(a)(9). No annuities will be allowed. All distributions will be in cash or property that is specifically allocated and identifiable with respect to a Participant.
15. Distributions upon the death of a Participant prior to receiving any benefits shall be made pursuant to the election of the Participant or Beneficiary.
16. No involuntary distributions shall be made.
17. Hardship distributions are allowed from all Accounts subject to the parameters set forth in Plan Section 12.10 (e.g. distributions from a Participant's Elective Deferral Account are limited to the portion of such Account attributable to such Participant's Elective Deferrals (and earnings attributable thereto up to December 31, 1988)).
18. In-service distributions are allowed at age 59 1/2 from all Accounts.
19. Loans are permitted from all Accounts, in accordance with the terms of the Participant loan program.
20. The Participants shall direct the Trustee with respect to the investments of all Accounts.
21. Rollovers may be accepted from all Eligible Employees. Distributions from a Participant's Rollover Account may be made at any time.
22. After-tax voluntary Employee contributions are not allowed.
23. Required minimum distributions shall be made at the later of age 70 1/2 or retirement, except for 5% owners.
24. Qualified reservist distributions are not permitted.
25. HEART Act provisions – continued benefit accruals will not apply and the Plan does not permit distributions for deemed severance of employment.
26. WRERA provisions – required minimum distributions (RMDs) for 2009 were suspended unless a Participant or Beneficiary elected to receive such distributions.
27. Non-spousal rollovers are permitted effective for distributions after December 31, 2006.
28. There are no elections made on an Appendix A (Special Effective Dates and other permitted elections).

The adopting Employer may rely on an opinion letter issued by the Internal Revenue Service as evidence that the Plan is qualified under Code §401 except to the extent provided in Rev. Proc. 2011-49 or subsequent guidance.

An Employer who has ever maintained or who later adopts any plan (including a welfare benefit fund, as defined in Code §419(e), which provides post retirement medical benefits allocated to separate accounts for Key Employees, as defined in Code §419A(d)(3), or an individual medical account, as defined in Code §415(l)(2)) in addition to this Plan may not rely on the opinion letter issued by the Internal Revenue Service with respect to the requirements of Code §§415 and 416. If the Employer who adopts or maintains multiple plans wishes to obtain reliance with respect to the requirements of Code §§415 and 416, application for a determination letter must be made to Employee Plans Determinations of the Internal Revenue Service.

The Employer may not rely on the opinion letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the opinion letter issued with respect to the Plan and in Rev. Proc. 2011-49 or subsequent guidance.

This Adoption Agreement may be used only in conjunction with basic Plan document #10. This Adoption Agreement and the basic Plan document shall together be known as Trust Company of America Defined Contribution Prototype Plan and Trust #10-007.

# SOLO 401(K) PROFIT SHARING PLAN ADOPTION AGREEMENT



The adoption of this Plan, its qualification by the IRS, and the related tax consequences are the responsibility of the Employer and its independent tax and legal advisors.

Trust Company of America will notify the Employer of any amendments made to the Plan or of the discontinuance or abandonment of the Plan. Furthermore, in order to be eligible to receive such notification, the Employer agrees to notify Trust Company of America of any change in address. In addition, this Plan is provided to the Employer either in connection with investment in a product or pursuant to a contract or other arrangement for products and/or services. Upon cessation of such investment in a product or cessation of such contract or arrangement, as applicable, the Employer is no longer considered to be an adopter of this Plan and Trust Company of America no longer has any obligations to the Employer that relate to the adoption of this Plan.

With regard to any questions regarding the provisions of the Plan, adoption of the Plan, or the effect of an opinion letter from the IRS, call or write (this information must be completed by the sponsor of this Plan or its designated representative):

Name: Trust Company of America  
Address: 7103 South Revere Parkway  
Centennial, CO 80112  
Telephone: 303.705.6000

The Employer and Trustee (or Insurer), by executing below, hereby adopt this Plan:

EMPLOYER: \_\_\_\_\_

By: \_\_\_\_\_ DATE SIGNED \_\_\_\_\_

TRUSTEE (OR INSURER):

The signature of the Trustee or Insurer appears on a separate agreement or Contract – See Entity Account Application

OR

\_\_\_\_\_  
[name of Trustee]

\_\_\_\_\_  
TRUSTEE OR INSURER DATE SIGNED

- END FORM -

# SOLO 401(K) PROFIT SHARING PLAN ADOPTION AGREEMENT



## General Instructions

Use these instructions to complete the Solo 401(k) Adoption Agreement.

**Purpose of this form.** The Adoption Agreement is completed by the employer and is required to establish a TCA by E\*TRADE Solo 401(k) Plan and Trust. The Adoption Agreement must be completed prior to opening Solo 401(k) accounts managed through your designated Investment Advisor. *Note: For assistance in completing the Adoption Agreement, consult your attorney or tax advisor.*

**Important:** Review any pre-selected options carefully. If an item has pre-selected options, these are the only options currently supported by TCA by E\*TRADE. If you already have a solo 401(k) plan, use your existing document to help make elections.

You must **complete all required fields and provide all required additional forms and documentation** to expedite processing and to avoid requests for additional information.

**Print or type all entries.** Print clearly in all CAPITAL LETTERS to complete this form. To type entries, a fillable PDF of this form can be found online at [www.trustamerica.com/advisor-forms](http://www.trustamerica.com/advisor-forms).

## Section: Employer Information

**1 - Employer's Name, Address, Telephone and Taxpayer Identification Number.** Enter all identifying information for your business establishing the Solo 401(k) Plan. Enter the tax identification number assigned to the business. **Do not use your Social Security Number.** *Note: If your employer does not have a Federal Tax Identification Number, you or your tax advisor may obtain one online or by telephone. The required forms and instructions are available on the IRS website at [www.irs.gov](http://www.irs.gov).*

## Section: Plan Information

**2 - Plan Name.** Enter the plan name. It should include the complete plan name including the employer's business name. *Example: For ABC Corporation, the Plan name should be the ABC Corporation Solo 401(k) Plan.*

**3 - Plan Status.** Check "a" if a new plan and "b" if restatement of existing plan. The "PPA restatement" box also must be checked if this is a restatement for compliance with PPA.

**4 - Effective Date.** Determine the correct type of effective date and then enter the date. Complete "a" if new plan; complete "a + b" if an amendment and restatement.

- **New plans.** The Effective Date will default to the date this Adoption Agreement is signed unless a different date is entered. If the

employer's fiscal year is the calendar year and the Plan is established in 2015, the earliest possible Effective Date would be January 1, 2015.

- **Amendment and restatement.** For existing plans that are being amended to TCA by E\*TRADE's document, including PPA restatements.

**5 - Plan Year.** Enter the last day of your Plan Year.

## 6 - Conditions of Eligibility.

**6(a) – Service Requirement.** If desired, please check box indicating a service requirement of "1 year of service". If no box is checked, there will not be a service requirement for your Plan.

**6(b) – Age Requirement.** The TCA by E\*TRADE plan sets age 21 as the "Age Requirement".

**7 - Effective Date of Participation.** Under the TCA by E\*TRADE plan document, eligible employees become participants as of "the date such requirements are met."

**8 – Recognition of Service with Other Employers.** The TCA plan document does not allow your plan to recognize service with other employers (except as required by law).

**9 – Normal Retirement Age ("NRA".)** The TCA plan document establishes age 59.5 as the normal retirement age.

**10 – Salary Reduction Arrangement – Elective Deferrals.** The TCA by E\*TRADE plan document allows both Catch-Up Contributions and Roth Elective Deferrals.

**11 – In-Plan Roth Rollover Contributions.** The TCA plan document does not permit in-plan Roth rollovers.

**12 – Trustee(s) or Insurer(s).** The sole proprietor, practitioner, partner or officer who signs this Adoption Agreement on behalf of the Employer will be the Trustee.

## Section: Standard Provisions

Please review the standard provisions, 1 through 28, and the other provisions under which your Solo K Plan will be governed.

## Section: Signature – page 4

It is important for you to read and acknowledge you understand the elections made in this Adoption Agreement and the Solo K Supporting Plan Documentation. Please print and keep a copy for your records of the adoption agreement, terms and conditions, and supporting Plan Documentation which are made available by your advisor and at

# SOLO 401(K) PROFIT SHARING PLAN ADOPTION AGREEMENT



[www.trustamerica.com/tca](http://www.trustamerica.com/tca) and  
[www.trustamerica.com/advisor-forms](http://www.trustamerica.com/advisor-forms).

The Solo K Supporting Plan Documentation includes the following documents:

- Basic Plan Document #10;
- IRS opinion letter dated September 30, 2014;
- TCA by E\*TRADE Solo K Participant Loan Program; and
- TCA by E\*TRADE Solo K Plan Rollover Policy.

It is also important that you have consulted with and relied on your own advisors regarding the completion of this Adoption Agreement and the legal and tax implications of adopting this plan.

**Date and Sign.** Read over the signature section carefully (p.4). The Employer must sign and date the Adoption Agreement, and in doing so, agrees to be bound by the terms of the Adoption Agreement and the Solo K Supporting Plan Documentation as it is updated from time to time.

Return your completed Plan documents, along with the Solo 401(k) Plan Account Application(s) to your Investment Advisor or your client representative. Questions regarding this form should be directed to your Investment Advisor.