

# ***Florian Financial Group LLC***

**Registered Investment Advisor**

**Robert M. Florian, CFP<sup>®</sup>, CLU<sup>®</sup>, CPA**

## **Investment Supervisory Services**

## **Agreement and Disclosures**

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# ***Florian Financial Group LLC***

## **Investment Supervisory Services Agreement and Disclosures**

This Agreement (“Agreement”) is entered into among \_\_\_\_\_ (“Client”) and Florian Financial Group LLC (“Adviser”), a registered investment adviser.

**Account Management.** Client is opening a discretionary advisory account (the “Account”) with Adviser. Client authorizes Adviser to buy, sell, or otherwise trade securities or other investments in the Account without discussing the transactions with Client in advance. Such securities may include, but are not limited to, common or preferred stock, convertible stocks or bonds, mutual funds, fixed or variable annuities, corporate, municipal, or government bonds, and notes or bills. Client also authorizes Adviser to take all necessary action to open and maintain the Account and to effect securities transactions for the Account. Adviser will make investment decisions for the Account according to the investment objectives and financial circumstances as relayed to Adviser by Client from time to time, which may include, without limitation, via questionnaires, correspondences, conversations and other modes of communication (collectively, “Client Disclosures”). Client understands that Adviser, in the performance of its obligations and duties under this Agreement, is entitled to rely upon the accuracy of information furnished by Client or on its behalf, without further investigation, and Client agrees promptly to inform Adviser if the information provided in such Client Disclosures becomes materially inaccurate. Client also agrees to consult with Adviser at least annually to provide updated information, if any, about Client’s financial circumstances and investment objectives.

**Custody.** Client has appointed or will appoint a separate custodian (the “Custodian”) to take possession of the cash, securities, and other assets in the Account. Adviser will have no access to the assets in the Account or to the income produced therefrom and will not be responsible for any acts or omissions of the Custodian. Client has directed or will direct the Custodian to send a statement indicating all amounts disbursed from the Account (including the amount of any fees paid to Adviser), all transactions occurring in the Account during the period covered by the statement, and a summary of the Account positions and portfolio value at the end of the period. Client has directed or will direct the Custodian to send copies of the Account statements to Adviser, along with an indication that the statements have been sent to Client.

**Fees.** The Account will be charged a quarterly investment advisory fee payable in advance. The first payment is due upon acceptance of this Agreement and will be based upon the opening value of the Account. The first payment will be prorated to cover the period from the date the Account is opened through the end of the next full calendar quarter. Thereafter, the fee will be based on the Account value on the last business day of the preceding calendar quarter and will be due the following business day. Additional assets of \$25,000 or above received into the Account after it is opened and within the first 60 days of the quarter, will be charged a pro rata fee based upon the number days remaining in the quarter. Withdrawals made during the quarter will not receive a reimbursement of fees as Adviser typically provides significant

planning services during this process. Adviser will impose no start-up, closing, or penalty fees in connection with the Account.

The Investment Supervisory fee schedule is as follows:

Up to \$300,000 of Investment Assets at	1.20%
\$300,001 to \$1,000,000 of Investment Assets at	0.86%
\$1,000,000 to \$2,000,000 of Investment Assets at	0.70%
Over \$2,000,000 of Investment Assets at	0.50%

Client may indicate by initialing one of the options below how to arrange payment of Adviser's fee. If left blank, Adviser will assume the first option is selected.

\_\_\_\_\_ Adviser is authorized to invoice the Custodian directly for its fees, although Adviser will send a copy of its bill to Client. Client will be responsible for verifying the accuracy of the fee calculation as the Custodian does not determine whether the fee is calculated properly. Client agrees to instruct Custodian to pay such fees directly to Adviser.

\_\_\_\_\_ Adviser is authorized to invoice Client directly for the payment of its fees. Any such payment will be made to Adviser by separate check, and under no circumstances will any fee be deducted from amounts held in the Account.

Client understands and agrees that the fee set forth shall continue until 30 days after Adviser has notified Client in writing of any change in the amount of the fee applicable to the Account. At such time, the new fee will become effective unless Client notifies Adviser in writing that the Account is to be closed. Client will be solely responsible for all transaction charges and any charge relating to the custody of securities in the Account.

**Non-Exclusive Relationship.** Client acknowledges and agrees that Adviser may act as an investment adviser to other clients and receive fees for such services. The advice given and the actions taken with respect to such clients and Adviser's own account may differ from advice given or the timing and nature of action taken with respect to Client's account. Client further recognizes that transactions in a specific security may not be accomplished for all clients' accounts at the same time or at the same price. Client also acknowledges that in managing the Account, Adviser may purchase or sell securities in which Adviser or Adviser's employees, directly or indirectly, have or may acquire a position or interest.

**Conflicts of Interest.** Client agrees that Adviser may refrain from rendering any advice or services concerning securities of companies of which any of Adviser, its officers, directors or employees or any of Adviser's affiliates, may have substantial economic interest, until Adviser is able to fully disclose any conflicts of interest to Client.

**Proxy Voting.** Unless the parties otherwise agree in writing, Adviser shall have no obligation or authority to take any action or render any advice with respect to the voting of proxies solicited by or with respect to issuers of securities held by an Account. Client (or the plan fiduciary in the case of an Account subject to the provisions of ERISA) expressly retains the authority and responsibility for, and Adviser is expressly precluded from rendering any advice or taking any action with respect to, the voting of any such proxies.

**Delegation.** In providing its services, Adviser or any of its affiliates may, subject to applicable laws and regulations, engage unaffiliated vendors or other contractors to aid it in fulfilling its duties under this Agreement or to provide ancillary enhancements or features of the services contemplated herein. Additionally, in performing its obligations under this Agreement, Adviser may, at its own discretion, delegate any or all of its discretionary investment, advisory, and other rights, powers, and functions hereunder to any of its affiliates or to any third parties, without Client's written consent; provided that Adviser shall always remain liable to Client for its obligations hereunder.

**Representations.** Adviser represents that it is registered as an investment adviser under the Investment Advisers Act of 1940 or any laws of any State and is authorized and empowered to enter into this Agreement.

Client represents and confirms that Client has full power and authority to enter into this Agreement; that the terms hereof do not violate any obligation by which Client is bound, whether arising by contract, operation of law, or otherwise; and this Agreement has been duly authorized and will be binding according to its terms.

If this Agreement is entered into by a trustee or other fiduciary, such trustee or fiduciary represents that the services to be provided by Adviser are within the scope of the services and investments authorized by the governing instruments of, and/or laws and regulations applicable to, Client and that such trustee or fiduciary is duly authorized to enter into and renew this Agreement. The trustee or fiduciary shall provide Adviser with copies of the governing instruments authorizing establishment of the Account. The trustee or fiduciary undertakes to advise Adviser of any material change in his or her authority or the propriety of maintaining the Account.

**ERISA Accounts.** If the Account is subject to the provisions of ERISA, Adviser acknowledges that it is a "fiduciary" as defined in that Act with respect to performing its duties under this Agreement. Adviser will obtain and maintain appropriate ERISA bonding for the Account. Client represents that employment of Adviser, and any instructions that have been given to Adviser with regard to the Account, are consistent with applicable plan and trust documents. Client agrees to furnish Adviser with copies of such governing documents. The person signing this Agreement on behalf of Client also acknowledges its status as a "named fiduciary" with respect to the control and management of the assets held in the Account, and agrees to notify Adviser promptly of any change in the identity of the named fiduciary with respect to the Account. Client also acknowledges that the Account may only be part of the plan's assets and, if such, that Adviser is not responsible for overall compliance of such investments with the requirements of ERISA or any other governing law or documents.

**Risk.** Client recognizes that there may be loss or depreciation of the value of any investment due to the fluctuation of market values. Client represents that no party to this Agreement has made any guarantee, either oral or written, that Client's investment objectives will be achieved. Adviser shall not be liable for any error in judgment and/or for any investment losses in the Account in the absence of malfeasance, gross negligence, or violation of applicable law. Nothing in this Agreement shall constitute a waiver of limitation of any rights that Client may have under applicable state or federal law, including without limitation the state and federal securities laws.

**Privacy and Data Security.** The information Client provides to Adviser, including personal information, is subject to the terms of the Adviser Privacy Policy, as may be amended from time to time. By entering into this Agreement, Client consents to Adviser recording and/or monitoring telephone calls and electronic communications with representatives and associated persons of Adviser without further notice. Client expressly authorizes Adviser representatives or associated persons to contact Client for purposes of evaluating the offering of advisory services, and other products and services by calling, writing, or e-mailing at the telephone number(s), mailing address(es), and/or e-mail address(es) Client provides in connection with Client's Account, including any additional or updated telephone numbers, mailing addresses, or e-mail addresses. The authorization in the preceding sentence will remain in effect unless and until Client specifically revokes it by notifying Adviser representatives or associated persons.

**Notice.** Any notice or other communication required or permitted to be given pursuant to this Agreement shall be deemed to have been duly given when delivered in person, or sent by telecopy, sent by overnight courier, or three days after mailing by registered mail (postage prepaid). All notices or communications to Adviser should be sent to Adviser's main address. All notices or communications to Client will be sent to the address contained in the Client Disclosures pertaining to the Account.

**Disclosure Document.** Client acknowledges receipt of Adviser's Part 2A of Form ADV: Firm Brochure, Part 2B of Form ADV: Brochure Supplement and Form CRS: Customer Relationship Summary. Client has the right to terminate this Agreement without penalty within five business days after entering into the Agreement. Client acknowledges that he/she has reviewed and understands the risk factors and the fees associated with the Account. Client acknowledges and agrees that Adviser may deliver forms electronically, including Part 2A of Form ADV: Firm Brochure, Part 2B of Form ADV: Brochure Supplement and Form CRS: Customer Relationship Summary.

**Source of Funds.** Client represents and warrants that none of the funds Client deposits in the Account are derived from, or will be used to promote the conduct of, any crime or other illegal activity. Client covenants not to deposit (or direct the deposit of) any funds in the Account that comes from, or that will be used to promote the conduct of, any crime or other illegal activity. Client represents that no individual or entity has an interest in any funds Client uses for deposits or in any funds or securities in the Account other than Client or any other individual Client has disclosed to Adviser.

**Force Majeure.** Adviser shall not be liable for (i) force majeure or other events beyond the control of Adviser, including, without limitation, any failure, default, or delay in performance resulting from computer or other electronic or mechanical equipment failure, unauthorized access, theft, operator errors, government restrictions, exchange or market rulings or suspension of trading, strikes, failure of common carrier or utility services, severe weather, or breakdown in communications not reasonably within the control of Adviser or other causes commonly known as “acts of god”, whether or not any such cause was reasonably foreseeable, or (ii) general market conditions unrelated to any violation of this Agreement by Adviser.

**Bankruptcies, Litigation, and Class Actions.** Client acknowledges and agrees that neither Adviser nor any of its affiliates shall be responsible for making any filings in connection with any bankruptcy proceedings, litigation, or class action lawsuits involving securities held or that were held in the Account.

**Term and Termination.** Other than as specifically set forth herein, either party may terminate this Agreement upon thirty (30) days advance written notice to the other party; provided that, Client, on the one hand, and Adviser, on the other, shall have the right to terminate this at any time without notice if the other party becomes insolvent or makes an assignment (as such term is interpreted under the Investment Adviser’s Act) of this Agreement without the other party’s consent. In the event of any termination of this Agreement, any fees payable to Adviser shall be prorated through the effective date of such termination and the obligation of Client for payment of such fees shall continue following such termination. Upon the effective date of termination, Adviser will have no further obligation under this Agreement to advise Client with respect to any services to be provided pursuant to this Agreement. Notwithstanding the foregoing, if Client terminates this Agreement within five business days of its signing, Client will receive a full refund of all fees and expenses.

**Successors and Assignment.** This Agreement shall be binding upon and inure to the benefit of the parties named herein and their respective successors and permitted assigns. This Agreement cannot be assigned or transferred in any manner by any party without the written consent of all parties receiving or rendering services under the Agreement.

**Counterparts; Facsimile or Email Signatures.** This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same instrument. Delivery by a party of executed counterparts of this Agreement by facsimile, portable data file or PDF or other electronic means shall constitute execution and delivery of such counterpart to the same extent as if such counterpart were executed and delivered personally by such party.

**Severability.** If any provision of this Agreement shall be held invalid, illegal or unenforceable in any jurisdiction, such provision shall be ineffective to the extent of such invalidity, illegality or unenforceability, and the validity, legality or enforceability of the other provisions hereof shall not be affected thereby.

**Amendments.** Adviser shall have the right to amend this Agreement by modifying or rescinding any of its existing provisions or by adding new provisions. Any such amendment shall

be effective 30 days after Adviser has notified Client in writing of any change or such later date as is established by Adviser.

**Arbitration.** Any dispute or controversy arising under or in connection with this Agreement shall be resolved by binding arbitration. The arbitration shall be held in the City of Buffalo, New York and, except to the extent inconsistent with this Agreement, shall be conducted in accordance with the rules of the American Arbitration Association for the arbitration of commercial disputes then in effect at the time of the arbitration, and otherwise in accordance with principles which would be applied by a court of law or equity. The arbitrator shall be acceptable to both parties to the arbitration proceeding. If the parties cannot agree on an acceptable arbitrator, the dispute shall be heard by a panel of three arbitrators one appointed by each of the parties and the third appointed by the other two arbitrators. Any expense of arbitration shall be borne by the party who incurs such expense and joint expenses shall be shared equally. The parties hereto hereby waive, to the fullest extent permitted by applicable law, any objection which it or they may now or hereafter have to such jurisdiction and any defense of inconvenient forum.

**Headings.** The headings of the sections of this Agreement are for convenience of reference only and shall not in any way affect the meaning or interpretation of this Agreement.

**Effective Date.** This Agreement shall be effective on the date set forth opposite the signature of Client below.

**Governing Law.** Except as otherwise preempted by any federal laws, this Agreement and the rights and obligations of the parties hereunder shall be governed by the internal laws of the State of New York, without reference to its conflicts of laws principles.

**Entire Agreement.** This Agreement contains the entire agreement of the parties relating to the matters addressed herein, superseding any and all prior agreements, whether written or oral.

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Please sign last page where indicated.

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If more than one, all principals to the account must sign. If any signatory is a fiduciary, the capacity in which he or she is acting should be indicated.

Client Signature

FLORIAN FINANCIAL GROUP LLC

\_\_\_\_\_

\_\_\_\_\_

Name (Print)

Name (Print)

\_\_\_\_\_

\_\_\_\_\_

Title or Capacity

Title

\_\_\_\_\_

\_\_\_\_\_

Client Signature

\_\_\_\_\_

Name (Print)

\_\_\_\_\_

Title or Capacity

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

\_\_\_\_\_

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