

VALIC RETIREMENT SERVICES COMPANY
GOVERNMENTAL VOLUME SUBMITTER PLAN
Basic Plan Document

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ARTICLE I
DEFINITIONS

As used in this Plan, the following words and phrases shall have the meanings set forth herein unless a different meaning is clearly required by the context:

1.01 “Administrator” means the Employer or such person(s) or entity designated by the Employer pursuant to Section 2.02 to administer the Plan on behalf of the Employer.

1.02 “Adoption Agreement” means the separate Agreement which is executed by the Employer and accepted by the Insurer (or Trustee, if applicable) and sets forth the elective provisions of this Plan and Trust as specified by the Employer.

1.03 “Affiliated Employer” means the Employer and any other entity that is required to be aggregated with the Employer under the provisions of the Code (or the Regulations or other IRS guidance) applicable to qualified retirement plans under Section 401(a) and/or Section 403(a) of the Code.

1.04 “Aggregate Account” means with respect to each Participant, the value of all accounts maintained on behalf of a Participant, whether attributable to Employer or Employee contributions.

1.05 “Anniversary Date” means the anniversary date specified in the Adoption Agreement.

1.06 “Beneficiary” means any person to whom a share of a deceased Participant’s interest in the Plan is payable, subject to Sections 6.02 and 6.06.

1.07 “Code” means the Internal Revenue Code of 1986, as amended or replaced from time to time.

1.08 “Compensation” with respect to any Participant means one of the following definitions, as selected in the Adoption Agreement:

(a) Compensation on Form W-2. Compensation is defined as wages, as defined in Code Section 3401(a), and all other payments of Compensation to an Employee by the Employer (in the course of the Employer’s trade or business) for which the Employer is required to furnish the Employee a written statement under Code Sections 6041(d), 6051(a)(3) and 6052. Compensation must be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).

(b) Code Section 3401(a) Wages. Compensation is defined as wages within the meaning of Code Section 3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).

(c) 415 Safe-Harbor Compensation. Compensation is defined as wages, salaries, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining the Plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements, or other expense allowances under a nonaccountable plan (as described in Regulation Section 1.62-2(c)), and excluding the following:

(1) Employer contributions to a plan of deferred compensation which are not includible in the Employee’s gross income for the taxable year in which contributed, or Employer

contributions under a simplified employee pension plan to the extent such contributions are deductible by the Employee, or any distributions from a plan of deferred compensation;

(2) Amounts realized from the exercise of a nonqualified stock option, or when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

(3) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and

(4) Other amounts which received special tax benefits, or contributions made by the Employer (whether or not under a salary reduction agreement) towards the purchase of an annuity contract described in Section 403(b) of the Internal Revenue Code (whether or not the contributions are actually excludable from the gross income of the Employee).

In addition, if specified in the Adoption Agreement, Compensation for all Plan purposes shall also include any elective deferral (as defined in Code Section 402(g)(3)), and any amount which is contributed or deferred by the Employer at the election of the Employee and which is not includible in the gross income of the Employee by reason of Code Section 125 or 457, and 132(f)(4).

If specified in the Adoption Agreement, amounts under Code Section 125 include any amounts not available to a Participant in cash in lieu of group health coverage because the participant is unable to certify that he or she has other health coverage (deemed Code Section 125 compensation). An amount will be treated as an amount under Code Section 125 only if the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

The annual compensation of each Participant taken into account in determining allocations for any Plan Year shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code (the "annual compensation limit"). Annual compensation means Compensation during the Plan Year or such other consecutive 12-month period over which compensation is otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If a determination period consists of fewer than twelve (12) months, the "annual compensation limit" will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12).

Notwithstanding the previous paragraph, the "annual compensation limit" for "eligible participants" shall be the greater of (i) the "annual compensation limit" as described in the previous paragraph, or (ii) the amount of compensation that was allowed to be taken into account under the Plan as in effect on July 1, 1993. Therefore, if the Plan as in effect on July 1, 1993 determined benefits without any limit on compensation, then the "annual compensation limit" in effect under this Section 1.08 will not apply to any "eligible participant" in any future year. For purposes of this paragraph, an "eligible participant" is an individual who first became a participant in the Plan prior to the first day of the first Plan Year beginning after the earlier of: (i) the last day of the Plan Year by which a plan amendment to reflect the requirements of Section 13212 of the Omnibus Budget Reconciliation Act of 1993 was both adopted and effective; or (ii) December 31, 1995. However, this paragraph shall not apply unless (i) the Plan was in effect on July 1, 1993, and (ii) the Plan was amended to incorporate by reference the annual compensation limitation under Section 401(a)(17) of the Code, effective (with respect to all participants other than the "eligible participants") for Plan Years beginning after December 31, 1995 (or earlier, if the Plan so provided). Any reference in any other section of this Plan to the limitation under Code Section 401(a)(17) shall mean the "annual compensation limit" set forth in this Section 1.08, but taking into account the special provisions of this paragraph.

1.09 "Contract" means any annuity contract (group or individual) issued by the Insurer. In the event of any conflict between the terms of this Plan and the terms of any Contract purchased hereunder, the Plan provisions shall control.

1.10 “Designated Investment Alternative” means a specific investment identified by name by the Employer (or such other responsible party who has been given the authority to select investment options) as an available investment under the Plan in which Plan assets may be invested by the Insurer (or Trustee, if applicable) pursuant to the investment direction of the Participant.

1.11 “Directed Investment Option” means one or more of the following to be acquired or disposed of pursuant to the investment direction of a Participant:

- (a) a Designated Investment Alternative as defined in Section 1.10, or
- (b) any other investment permitted by the Plan and the Participant Direction Procedures as set forth in Section 4.09.

1.12 “Early Retirement Age” means the date at which the Participant satisfies the age or service requirement, selected in the Adoption Agreement, at which time a Participant’s Account shall become fully vested.

1.13 “Employee” means any person who is employed by the Employer, but excludes any person who is providing services as an independent contractor. The term Employee shall also include Leased Employees as provided in Code Sections 414(n) or 414(o).

Employees of Affiliated Employers will not participate unless the Affiliated Employer becomes a Participating Employer as defined in Section 9.01.

1.14 “Employer” means the entity specified in the Adoption Agreement, any Participating Employer (as defined in Section 9.01) which shall adopt this Plan, any successor which shall maintain this Plan and any predecessor which has maintained this Plan.

1.15 “Fiscal Year” means the Employer’s accounting year as set forth in the Adoption Agreement.

1.16 “Forfeiture” means that portion of a Participant’s Account that is not Vested, and occurs upon the distribution (or deemed distribution) of the entire Vested portion of a Participant’s Account.

In the case of a Terminated Participant whose Vested benefit is zero, such Terminated Participant shall be deemed to have received a distribution of such Terminated Participant’s Vested benefit upon termination of employment. In addition, the term Forfeiture shall also include amounts deemed to be Forfeitures pursuant to any other provision of this Plan.

1.17 “Former Participant” means a person who has been a Participant, but who has ceased to be a Participant for any reason.

1.18 “Hour of Service” means (1) each hour for which an Employee is directly or indirectly compensated or entitled to compensation by the Employer for the performance of duties during the applicable computation period; (2) each hour for which an Employee is directly or indirectly compensated or entitled to compensation by the Employer (irrespective of whether the employment relationship has terminated) for reasons other than performance of duties (such as vacation, holidays, sickness, jury duty, disability, lay-off, military duty or leave of absence) during the applicable computation period; (3) each hour for which back pay is awarded or agreed to by the Employer without regard to mitigation of damages. The same Hours of Service shall not be credited both under (1) or (2), as the case may be, and under (3). These hours will be credited to the Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made.

Notwithstanding the above, (i) no more than 501 Hours of Service are required to be credited to an Employee on account of any single continuous period during which the Employee performs no duties (whether or not such period occurs in a single computation period); (ii) an hour for which an Employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed is not required to be

credited to the Employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable worker's compensation, or unemployment compensation or disability insurance laws; and (iii) Hours of Service are not required to be credited for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee.

For purposes of this Section, a payment shall be deemed to be made by or due from the Employer regardless of whether such payment is made by or due from the Employer directly, or indirectly through, among others, a trust fund, or insurer, to which the Employer contributes or pays premiums and regardless of whether contributions made or due to the trust fund, insurer, or other entity are for the benefit of particular Employees or are on behalf of a group of Employees in the aggregate.

Hours of Service must be counted for the purpose of determining a Year of Service, a year of participation for purposes of accruing benefits, a 1-Year Break in Service, and employment commencement date (or reemployment commencement date).

Hours of Service will be credited for employment with all Affiliated Employers and for any individual considered to be a Leased Employee pursuant to Code Sections 414(n) or 414(o) and the Regulations thereunder.

Hours of Service will be determined on the basis of the method selected in the Adoption Agreement. If "actual hours" is selected, an Employee shall be credited on the basis of actual hours for which such Employee is paid or entitled to payment. If "days worked" is selected, an Employee shall be credited with ten (10) Hours of Service if under the Plan such Employee would be credited with at least one Hour of Service during the day. If "months worked" is selected, an Employee will be credited with one hundred ninety (190) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the month.

Hours of Service with any predecessor Employer which maintained this Plan shall be recognized. Hours of Service with any other predecessor Employer shall be recognized as specified in the Adoption Agreement.

1.19 "Insurer" means The Variable Annuity Life Insurance Company (VALIC) and any affiliate or subsidiary thereof, or any legal reserve insurance company which shall issue one or more Contracts under the Plan.

1.20 "Leased Employee" means any person (other than an Employee of the Employer) who pursuant to an agreement between the Employer and any other person ("leasing organization") has performed services for the Employer (or for the Employer and related persons determined in accordance with Code Section 414(n)(6)) on a substantially full-time basis for a period of at least one year, and such services are performed under primary direction or control by the Employer. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the Employer shall be treated as provided by the Employer.

A leased employee shall not be considered an Employee of the Employer if:

(a) such employee is covered by a money purchase pension plan providing:

(1) a nonintegrated employer contribution rate of at least ten percent (10%) of compensation, as defined in Code Section 415(c)(3), but including amounts contributed pursuant to a salary reduction agreement which are excludable from the employee's gross income under Code Sections 125, 402(e)(3), 402(h)(1)(B) or 403(b), or for Plan Years beginning on or after January 1, 2001, 132(f)(4), and

(2) immediate participation, and

(3) full and immediate vesting; and

(b) leased employees do not constitute more than twenty percent (20%) of the Employer's nonhighly compensated workforce.

1.21 “Month of Service” means a calendar month during which an Employee completes at least one Hour of Service.

1.22 “Normal Retirement Age” means the date at which the Participant satisfies the age or service requirement specified in the Adoption Agreement, at which time a Participant’s Account shall become fully Vested.

1.23 “1-Year Break in Service” means the applicable computation period specified in the Adoption Agreement during which an Employee has not completed more than one-half (1/2) of the number of Hours of Service specified in the Adoption Agreement for a Year of Service with the Employer. However, for purposes of provisions utilizing the elapsed time method, the term “1-Year Break in Service” means a 12-consecutive month period beginning on the severance from service date or any anniversary thereof and ending on the next succeeding anniversary of such date; provided, however, that the Employee during such 12-consecutive month period does not complete an Hour of Service.

Further, solely for the purpose of determining whether a Participant has incurred a 1-Year Break in Service, Hours of Service shall be recognized for “authorized leaves of absence” and “maternity and paternity leaves of absence.”

“Authorized leave of absence” means an unpaid, temporary cessation from active employment with the Employer pursuant to an established nondiscriminatory policy, whether occasioned by illness, military service, or any other reason.

A “maternity or paternity leave of absence” means an absence from work for any period by reason of the Employee’s pregnancy, birth of the Employee’s child, placement of a child with the Employee in connection with the adoption of such child, or any absence for the purpose of caring for such child for a period immediately following such birth or placement. For this purpose, Hours of Service shall be credited for the computation period in which the absence from work begins, only if credit therefore is necessary to prevent the Employee from incurring a 1-Year Break in Service, or, in any other case, in the immediately following computation period. The Hours of Service credited for a “maternity or paternity leave of absence” shall be those which would normally have been credited but for such absence, or, in any case in which the Administrator is unable to determine such hours normally credited, eight (8) Hours of Service per day. The total Hours of Service required to be credited for a “maternity or paternity leave of absence” shall not exceed the number of Hours of Service needed to prevent the Employee from incurring a 1-Year Break in Service.

1.24 “Participant” means any Employee who has satisfied the requirements of Section 3.01 and has not become a Former Participant.

1.25 “Participant Direction Procedures” means such instructions, guidelines or policies, the terms of which are incorporated herein, as shall be established pursuant to Section 4.09 and observed by the Administrator and applied and provided to Participants who have Participant Directed Accounts.

1.26 “Participant(’s) Account” means the account established and maintained by the Administrator for each Participant with respect to such Participant’s total interest under the Plan resulting from the Employer’s contributions. If this is a Profit Sharing Plan which includes assets transferred (other than by a rollover) from a Money Purchase Plan, then a separate accounting shall be maintained with respect to that portion of the Participant’s Account attributable to the Money Purchase Plan.

1.27 “Part-time Employee” means any Employee who normally works twenty (20) hours or less per week. For purposes of this definition, a teacher employed by a post-secondary institution is not considered part-time if the teacher normally teaches classroom hours of one-half or more of the number of classroom hours normally considered to be full time employment.

1.28 “Period of Service” means (except for periods of service which may be disregarded on account of the “rule of parity” described in Section 6.04(e)) the aggregate of all periods commencing with the Employee’s first day of employment or reemployment with the Employer or Affiliated Employer and ending on the date a “Break in

Service” begins. The first day of employment or reemployment is the first day the Employee performs an “Hour of Service.” An Employee will also receive credit for any Period of Severance of less than twelve (12) consecutive months. Fractional periods of a year will be expressed in terms of days.

For purposes of this Section, “Hour of Service” means each hour for which an Employee is paid or entitled to payment for the performance of duties for the Employer and “Break in Service” means a Period of Severance of at least twelve (12) consecutive months.

Periods of Service with any predecessor Employer which maintained this Plan shall be recognized. Periods of Service with any other predecessor Employer shall be recognized as specified in the Adoption Agreement.

Periods of Service with any Affiliated Employer shall be recognized.

1.29 “Period of Severance” means a continuous period of time during which the Employee is not employed by the Employer. Such period begins on the date the Employee retires, quits or is discharged, or if earlier, the twelve (12) month anniversary of the date on which the Employee was otherwise first absent from service.

In the case of an individual who is absent from work for maternity or paternity reasons, the 12-consecutive month period beginning on the first anniversary of the first day of such absence shall not constitute a Period of Severance. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence (a) by reason of the pregnancy of the individual, (b) by reason of the birth of a child of the individual, (c) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (d) for purposes of caring for such child for a period beginning immediately following such birth or placement.

1.30 “Plan” means this instrument (hereinafter referred to as the VALIC Retirement Services Company Governmental Volume Submitter Plan Basic Plan Document) including all amendments thereto, and the Adoption Agreement as adopted by the Employer.

This Plan is designed to qualify as a governmental plan as defined in Code Section 414(d). This Plan is established and maintained as a plan that is exempt from the requirements of Title I of the Employee Retirement Income Security Act (ERISA), as provided by Section 4 of such statute. While some provisions of the Plan may mirror provisions of ERISA, such provisions are included for the benefit of the Participants and are not intended to provide ERISA status or ERISA rights to Participants or their Beneficiaries.

1.31 “Plan Year” means the Plan’s accounting year as specified in the Adoption Agreement.

1.32 “Qualified Voluntary Employee Contribution Account” means the account established and maintained by the Administrator for each Participant with respect to such Participant’s total interest under the Plan resulting from the Participant’s tax-deductible qualified voluntary Employee contributions made pursuant to Section 4.08.

1.33 “Regulation” means the Income Tax Regulations as promulgated by the Secretary of the Treasury or such Secretary of the Treasury’s delegate, and as amended from time to time.

1.34 “Reclassified Employee” means an individual (including, but not limited to, independent contractors, persons the Employer pays outside of its payroll system and out-sourced workers) the Employer does not treat as an Employee for federal income tax withholding purposes under Code §3401(a), but who is later reclassified, pursuant to a binding determination by a court or a governmental entity (other than the Employer), as an Employee or a Leased Employee of the Employer.

1.35 “Retired Participant” means a person who has been a Participant, but who has become entitled to retirement benefits under the Plan.

1.36 “Retirement Date” means the date as of which a Participant retires for reasons other than Total and Permanent Disability, whether such retirement occurs on a Participant’s Early or Normal Retirement age, or on a later date (see Section 6.01).

1.37 “Rollover Account” means the account established and maintained by the Administrator for each Employee with respect to such Employee’s total interest in the Plan resulting from amounts transferred from another employer plan or individual retirement account in accordance with Section 4.06. A separate account will also be maintained for any prior voluntary (after-tax) Employee contributions of each Participant.

1.38 “Seasonal Employee” means any Employee who normally works on a full-time basis less than five (5) months in a year.

1.39 “Short Plan Year” means, if specified in the Adoption Agreement, that the Plan Year shall be less than a twelve (12) month period. If chosen, the following rules shall apply in the administration of this Plan. In determining whether an Employee has completed a Year of Service for benefit accrual purposes in the Short Plan Year, the number of the Hours of Service required shall be proportionately reduced based on the number of days in the Short Plan Year. In the event a Plan amendment changes a vesting computation period, the first vesting computation period established under such amendment shall begin before the last day of the preceding vesting computation period and an Employee who is credited with the requisite Hours of Service to be credited with a Year of Service for vesting purposes in both the vesting computation period under the Plan before the amendment and the first vesting computation period under the Plan as amended shall be credited with two (2) Years of Service for those vesting computation periods.

1.40 “Sick Leave Day” means a day (as determined under a separate plan or program maintained by the Employer or pursuant to applicable local or state law) for which the Employee is entitled to payment of one day’s compensation by the Employer, when the Employee is physically or mentally unable to perform his or her duties or is otherwise absent from work for medical reasons.

1.41 “Special Pay Day” means accrued but unused Sick Leave Days or Vacation Pay Days, but only if such Special Pay Day represents leave for which the Employee has no right to request a cash payment.

1.42 “Tax-exempt” means exempt from Federal income tax under Code Section 501(a).

1.43 “Temporary Employee” means any Employee who performs services under a contractual arrangement that is expected to last two (2) years or less.

1.44 “Terminated Participant” means a person who has been a Participant, but whose employment has been terminated for any reason including death, Total and Permanent Disability or normal or early retirement.

1.45 “Total and Permanent Disability” means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months. The permanence and degree of such impairment shall be supported by medical evidence. The determination shall be applied uniformly to all Participants.

1.46 “Trustee” (applies only to trustee portion of the Plan) means the person or entity, if any, named in the Adoption Agreement and any successors.

1.47 “Trust Fund” (applies only to trustee portion of the Plan) means the assets of the Plan held in the Plan’s Trust as the same shall exist from time to time.

1.48 “Vacation Pay Day” means a day (as determined under a separate plan or program maintained by the Employer or pursuant to applicable local or state law) for which the Employee is entitled to payment of one day’s compensation by the Employer when the Employee is absent from work for vacation or holiday. Excluded

from the term Vacation Pay Day is any day in which the Employee is entitled to the payment of compensation by the Employer while absent from work on account of jury duty, active military service, training or sabbatical.

1.49 “Valuation Date” means the Anniversary Date and each other date or dates deemed necessary or appropriate by the Administrator for the valuation of Participants’ Accounts during the Plan Year, which may include any day that the Insurer (or Trustee, if applicable), any transfer agent appointed by the Trustee or the Employer, or any stock exchange used by such agent, are open for business.

1.50 “Vested” means the nonforfeitable portion of any account maintained on behalf of a Participant.

1.51 “Volume Submitter Practitioner” means VALIC Retirement Services Company, a wholly-owned subsidiary of The Variable Annuity Life Insurance Company (“VALIC”).

1.52 “Voluntary Contribution Account” means the account established and maintained by the Administrator for each Participant with respect to such Participant’s total interest in the Plan resulting from the Participant’s nondeductible voluntary Employee contributions described in Section 4.07.

1.53 “Year of Service” means, except as otherwise specified in the Adoption Agreement and in the case of a Short Plan Year, the computation period of twelve (12) consecutive months, as herein set forth and in the Adoption Agreement, and during which an Employee has completed at least the number of Hours of Service specified in the Adoption Agreement.

The initial computation period shall begin with the date on which the Employee first performs an Hour of Service (employment commencement date). The computation period beginning after a 1-Year Break in Service shall be measured as elected in the Adoption Agreement. If an election is made to shift to the Plan Year, then after the initial computation period, the computation period shall shift to the current Plan Year which includes the anniversary of the date on which the Employee first performed an Hour of Service. An Employee who is credited with the number of Hours of Service specified in the Adoption Agreement in both the initial computation period and the first Plan Year which commences prior to the first anniversary of the Employee’s initial computation period, will be credited with two Years of Service.

Years of Service and breaks in service will be measured on the same computation period.

Years of Service with any predecessor Employer which maintained this Plan shall be recognized. Years of Service with any other predecessor Employer shall be recognized as specified in the Adoption Agreement.

Years of Service with any Affiliated Employer shall be recognized.

Notwithstanding any provision of the Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u).

ARTICLE II ADMINISTRATION

2.01 POWERS AND RESPONSIBILITIES OF THE EMPLOYER

(a) The Employer shall be empowered to appoint and remove the Insurer (or Trustee, if applicable), and Administrator from time to time as it deems necessary for the proper administration of the Plan to assure that the Plan is being operated for the exclusive benefit of the Participants and their Beneficiaries in accordance with the terms of the Plan and the Code.

(b) The Employer shall periodically review the performance of the Trustee, the Plan Administrator, or any other person to whom duties have been delegated or allocated by it under the provisions of this Plan or pursuant to procedures established hereunder. This requirement may be satisfied by formal periodic review by the Employer or by a qualified person specifically designated by the Employer, through day-to-day conduct and evaluation, or through other appropriate ways.

(c) Unless the Employer has elected to have a discretionary Trustee, the Employer (or its delegate) shall have the power and authority to select and monitor the investment alternatives under the Plan. Furthermore, unless the Employer elects under Section 4.09 to allow Participants to direct the investment of their Accounts, the Employer (or its delegate) shall direct the Insurer (or Trustee, if applicable) with respect to the investment of the assets of the Plan. If the Employer elects under Section 4.09 to allow Participants to direct the investment of their accounts, the Employer shall direct the Insurer (or Trustee, if applicable) with respect to the investment of any contributions which are forwarded to the Insurer (or Trustee) prior to the date on which the Participant completes the necessary paperwork with the Insurer or Trustee or takes such other action or actions as may be necessary to direct the investment of such amounts. Such direction shall be communicated to the Insurer (or Trustee) by means of an Employer-Directed Account Agreement between the Employer and the Insurer (or Trustee), which agreement will include a default investment option and a default beneficiary designation. This direction shall be effective only until such time as such Participant exercises his or her right to direct the investment of such amounts.

2.02 DESIGNATION OF ADMINISTRATIVE AUTHORITY

The Administrator of the Plan shall be the Employer unless the Employer appoints another person to serve as Administrator. Any person, including, but not limited to, the Employees of the Employer, shall be eligible to serve as an Administrator. Any person so appointed shall signify acceptance by filing written acceptance with the Employer. An Administrator may resign by delivering a written resignation to the Employer or be removed by the Employer by delivery of written notice of removal, to take effect at a date specified therein, or upon delivery to the Administrator if no date is specified.

The Employer, upon the resignation or removal of an Administrator, shall promptly designate in writing a successor to this position. If the Employer does not appoint an Administrator, the Employer will function as the Administrator.

2.03 ALLOCATION AND DELEGATION OF RESPONSIBILITIES

If more than one person is appointed as Administrator, the responsibilities of each Administrator may be specified by the Employer and accepted in writing by each Administrator. In the event that no such delegation is made by the Employer, the Administrators may allocate the responsibilities among themselves, in which event the Administrators shall notify the Employer and the Insurer (or Trustee, if applicable) in writing of such action and specify the responsibilities of each Administrator. The Insurer (or Trustee, if applicable) thereafter shall accept and rely upon any documents executed by the appropriate Administrator until such time as the Employer or the Administrators file with the Insurer (or Trustee, if applicable) a written revocation of such designation.

2.04 POWERS AND DUTIES OF THE ADMINISTRATOR

The primary responsibility of the Administrator is to administer the Plan for the exclusive benefit of the Participants and their Beneficiaries, subject to the specific terms of the Plan. The Administrator shall administer the Plan in accordance with its terms and shall have the power and discretion to construe the terms of the Plan and determine all questions arising in connection with the administration, interpretation, and application of the Plan. Any such determination by the Administrator shall be conclusive and binding upon all persons. The Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan shall continue to be deemed a qualified plan under the terms of Code Sections 401(a) or 403(a), as amended from time to time. The Administrator shall have all powers necessary or appropriate to accomplish its duties under this Plan.

The Administrator shall be charged with the duties of the general administration of the Plan, including, but not limited to, the following:

- (a) to determine in the Administrator's sole discretion, all questions relating to the eligibility of Employees to participate or remain a Participant hereunder and to receive benefits under the Plan;
- (b) to compute, certify, and direct the Insurer (or Trustee, if applicable) with respect to the amount and the kind of benefits to which any Participant shall be entitled hereunder;
- (c) to authorize and direct the Insurer (or Trustee, if applicable) with respect to all nondiscretionary or otherwise directed disbursements from the Plan assets;
- (d) to maintain all necessary records for the administration of the Plan;
- (e) to interpret the provisions of the Plan and to make and publish such rules for regulation of the Plan as are consistent with the terms hereof;
- (f) to compute and certify to the Employer from time to time the sums of money necessary or desirable to be contributed to the Plan;
- (g) to consult with the Employer and to direct the Insurer (or Trustee, if applicable) regarding the short- and long-term liquidity needs of the Plan in order to implement those objectives;
- (h) if the Employer elects to allow Participants to direct the investment of their accounts under the Plan, to act as the party responsible for communications with Participants, including, but not limited to, the receipt and transmitting of Participants' directions as to the investment of their accounts under the Plan and the formulation of policies, rules, and procedures pursuant to which Participants may give investment instructions with respect to the investment of their accounts;
- (i) to assist Participants regarding their rights, benefits, or elections available under the Plan; and
- (j) to determine the validity of, and take appropriate action with respect to, any domestic relations order received by it.

2.05 RECORDS AND REPORTS

The Administrator shall keep a record of all actions taken and shall keep all other books of account, records, and other data that may be necessary for proper administration of the Plan and shall be responsible for supplying all information and reports to the Internal Revenue Service, Participants, Beneficiaries and others as required by law.

2.06 APPOINTMENT OF ADVISERS

The Administrator may appoint counsel, specialists, advisers, and other persons as the Administrator deems necessary or desirable in connection with the administration of this Plan, including, but not limited to, advisers to assist with the administration and management of the Plan, and thereby to provide, among such other duties as the Administrator may appoint, assistance with maintaining Plan records and the providing of investment information to the Plan's Fiduciaries and to Plan Participants.

2.07 INFORMATION FROM EMPLOYER

To enable the Administrator to perform its functions, the Employer shall supply full and timely information to the Administrator on all matters relating to the Compensation of all Participants, their Hours of Service, their Years of Service or Periods of Service, their retirement, death, disability, or termination of employment, and such other pertinent facts as the Administrator may require; and the Administrator shall advise the Insurer (and/or the Trustee if applicable) of such of the foregoing facts as may be pertinent to the Insurer's (or the Trustee's) duties under the Plan. The Administrator may rely upon such information as is supplied by the Employer and shall have no duty or responsibility to verify such information. In turn, the Insurer (or Trustee) may rely upon such information as may be provided by the Administrator, and shall have no duty or responsibility to verify such information.

2.08 PAYMENT OF CONTRACT FEES

All fees and charges relating to any Contracts issued pursuant to the Plan shall be paid from the portion of the Participant's Account that is invested in such Contracts unless the Employer and the Insurer agree for such expenses to be paid by the Employer.

2.09 PAYMENT OF EXPENSES

Expenses of administration may be paid out of the Plan assets unless paid by the Employer. Such expenses shall include any expenses incident to the functioning of the Administrator, including, but not limited to, fees of accountants, counsel, and other specialists and their agents, and other costs of administering the Plan. Until paid, the expenses shall constitute a liability of the Plan. Contract fees shall be paid in accordance with Section 2.08.

2.10 MAJORITY ACTIONS

Except where there has been an allocation and delegation of administrative authority pursuant to Section 2.03, if there shall be more than one Administrator, they shall act by a majority of their number, but may authorize one or more of them to sign all papers on their behalf.

2.11 CLAIMS PROCEDURE

Claims for benefits under the Plan may be filed in writing with the Administrator. Notice of the disposition of a claim shall be provided to the claimant within ninety (90) days after the claim is filed. If the claim is denied, the claimant must follow the claims review procedures in Section 2.12 before the claimant may take any legal action against the Plan.

2.12 CLAIMS REVIEW PROCEDURE

Any Participant, former Participant, or Beneficiary of either, who has been denied a benefit by a decision of the Administrator pursuant to Section 2.11 shall be entitled to request the Administrator to give further consideration to a claim by filing with the Administrator a written request for review of the claim (i.e., an appeal). Such request, together with a written statement of the reasons why the claimant believes such claims should be allowed, shall be filed with the Administrator no later than sixty (60) days after receipt of the notification provided for in Section 2.11. A final decision as to the allowance of the claim shall be made by the Administrator and communicated to the claimant within ninety (90) days of receipt of the written appeal (unless there has been an

extension of up to ninety (90) days due to special circumstances, provided the delay and the special circumstances occasioning it are communicated to the claimant within the ninety (90) day period).

ARTICLE III ELIGIBILITY

3.01 CONDITIONS OF ELIGIBILITY

Any Employee who is not in an excluded classification of Employees (as set forth in the Adoption Agreement) shall be eligible to participate hereunder on the date such Employee has satisfied the age and service requirements specified in the Adoption Agreement. However, if this Plan is a restatement or amendment of a prior plan, any Employee who was a Participant in the Plan prior to the effective date of this amendment or restatement shall continue to be a Participant. No minimum age or service is required for contributions under Section G.3.b. of the Adoption Agreement, on behalf of Part-time, Seasonal and Temporary Employees.

For purposes of this section and any Adoption Agreement elections, the term “union employees” refers to Employees whose employment is governed by a collective bargaining agreement between the Employer and “employee representatives” under which retirement benefits were the subject of good faith bargaining. The term “non-resident aliens” refers to Employees who are non-resident aliens (within the meaning of Code Section 7701(b)(1)(B)) who received no earned income (within the meaning of Code Section 911(d)(2)) from the Employer which constitutes income from sources within the United States (within the meaning of Code Section 861(a)(3)). The term “reclassified employees” refers to workers who are treated by the Employer as Leased Employees or independent contractors but are later determined to be common law Employees of the Employer.

3.02 EFFECTIVE DATE OF PARTICIPATION

An Employee shall become a Participant as of the Effective Date of Participation specified in the Adoption Agreement. If said Employee is not employed on such date, but is reemployed before a 1-Year Break in Service has occurred, then such Employee shall become a Participant on the date of reemployment or, if later, the date the Employee would have otherwise entered the Plan had the Employee not terminated employment.

If an Employee, who has satisfied the Plan’s age and service requirements and would otherwise have become a Participant, shall change from an excluded classification of Employees to an included classification of Employees, such Employee shall become a Participant on the date such Employee is no longer in an excluded classification of Employees.

If an Employee, who has satisfied the Plan’s age and service requirements and would otherwise have become a Participant, shall become a member of an excluded classification of Employees and has not incurred a 1-Year Break in Service, such Employee shall become a Participant on the date such Employee again is not a member of an excluded classification of Employees. If such Employee does incur a 1-Year Break in Service, eligibility will be determined under the rules in Section 6.04(e).

3.03 DETERMINATION OF ELIGIBILITY

The Administrator shall determine the eligibility of each Employee for participation in the Plan. Such determination shall be conclusive and binding upon all persons, as long as the same is made pursuant to the Plan. Such determination shall be subject to review pursuant to Section 2.11.

3.04 TERMINATION OF ELIGIBILITY

In the event a Participant shall become a member of an excluded classification of Employees, such Former Participant shall continue to vest in the Plan for each Year of Service (or Period of Service if the Elapsed Time Method is used) completed until such time as the Participant’s Account shall be forfeited or distributed pursuant to the terms of the Plan. Additionally, the Former Participant’s interest in the Plan shall continue to share in the earnings.

3.05 ELECTION NOT TO PARTICIPATE

An Employee may, subject to the approval of the Employer, elect voluntarily not to participate in the Plan. The election not to participate must be communicated to the Employer, in writing, at least thirty (30) days before the beginning of a Plan Year. However, if the Employer elects, in Section G.3.b. of the Adoption Agreement, to make contributions for Part-time, Seasonal and Temporary Employees, such Employees may not elect not to participate. Furthermore, the foregoing election not to participate must be irrevocable and made either at Plan inception or when the Employee is first eligible to participate.

ARTICLE IV
CONTRIBUTION AND ALLOCATION

4.01 FORMULA FOR DETERMINING EMPLOYER'S CONTRIBUTION

(a) For a Money Purchase Plan –

On behalf of each Participant eligible to share in allocations, for each year of such Participant's participation in this Plan, the Employer shall contribute the amount specified in the Adoption Agreement. All contributions by the Employer shall be made in cash.

(b) For a Profit Sharing Plan –

For each Plan Year, the Employer, in its sole discretion, may contribute to the Plan such amount as specified in the Adoption Agreement, which may be either a discretionary amount (to be determined in the Employer's sole discretion) or a fixed dollar or percentage amount. All contributions by the Employer shall be made in cash.

(c) 414(h) pick up contributions –

If selected in the Adoption Agreement, eligible Employees who become Participants under this Plan in accordance with the provisions of Article III shall be deemed to have authorized the Employer to deduct from such Participant's Compensation, prior to its payment, a percentage of such Participant's Compensation, as a nonelective contribution to the Plan. The amount of the nonelective contribution shall be picked up by the Participant's Employer as provided for in Section 414(h)(2) of the Code. The Participant shall not have the option to receive this picked up contribution directly and such contributions shall be paid by the Employer directly to the Insurer (or Trustee, if applicable).

(d) Employer matching contributions –

If specified in the Adoption Agreement, the Employer shall make a matching contribution equal to the percentage of elective deferrals specified for each Participant eligible to share in the allocations of the matching contribution. The Employer must specify in the Adoption Agreement the plan to which the elective deferral contributions being matched shall be made.

(e) Contributions for Part-time, Seasonal and Temporary Employees –

If specified in the Adoption Agreement, the Employer shall make a contribution in the amount of 7.5% of Compensation, reduced by Employee Nonelective Contributions, for each Participant who is also a Part-time, Seasonal or Temporary Employee.

(f) Special Pay contributions –

If specified in the Adoption Agreement, the Employer shall make a nonelective "leave conversion" contribution for each Participant eligible to share in such contributions equal to the Participant's current daily rate of pay multiplied by the number of unused accumulated Special Pay days that the Participant has accumulated, as of the end of the Plan Year, in excess of the minimum number of Special Pay days set forth in the Adoption Agreement. The Employer may elect in the Adoption Agreement to make such Special Pay contributions on account of accumulated Vacation Pay Days, accumulated Sick Leave Days, or both Vacation Pay Days and Sick Leave Days. The Employer may also elect, in the Adoption Agreement, to convert unused accumulated Special Pay Days to employer Special Pay contributions each Plan Year (including the Plan Year in which the Participant terminates employment with the Employer), or solely in the Plan Year in which the Participant terminates employment.

(g) Offset for contributions to certain merged plans –

Notwithstanding any other provision of the Plan or the Adoption Agreement, if one or more qualified defined contribution plans (“Merged Plans”) is/are merged into (or onto) this Plan after the first day of a Plan Year, any Employer contribution obligation under this Section 4.01 and/or Section G of the Adoption Agreement for the Plan Year of the merger that is based on a Participant’s Compensation for the entire Plan Year shall be offset by any substantially similar Employer contributions that are made to, or on account of, the Merged Plans for such Plan Year.

4.02 TIME OF PAYMENT OF EMPLOYER’S CONTRIBUTION

The Employer shall pay to the Insurer (or Trustee, if applicable) its contribution to the Plan as soon as administratively feasible, but no later than the time required by law to be considered an Annual Addition (as defined in Section 4.04(d)) for the Plan Year to which the Employer contribution is attributed. For purposes of this section, contributions must be made to the Plan no later than the 15th day of the sixth calendar month (for Plan Years beginning after January 1, 2006 the tenth calendar month) following the end of the Plan Year with or within which the limitation year ends, or such other time as specified under Code Section 415 and the Regulations thereunder.

4.03 ALLOCATION OF CONTRIBUTIONS, FORFEITURES AND EARNINGS

(a) The Administrator shall establish and maintain an account in the name of each Participant to which the Administrator shall credit, as of each Anniversary Date, or other Valuation Date, all amounts allocated to each such Participant as set forth herein.

(b) The Employer shall provide the Administrator with all information required by the Administrator to make a proper allocation of the Employer’s contributions, if any, for each Plan Year. Within a reasonable period of time after the date of receipt by the Administrator of such information, the Administrator shall allocate such contribution as follows:

(1) For a Money Purchase Plan:

(i) The Employer’s contribution shall be allocated to each Participant’s Account in the manner set forth in Section 4.01 herein and as specified in the Adoption Agreement.

(ii) Except, however, if elected in the Adoption Agreement for any Plan Year, the Employer shall not contribute on behalf of a Participant who performs less than the Hours of Service set forth in the Adoption Agreement during any Plan Year. The Employer may not make such an election for Employer nonelective contributions (other than matching contributions) if the Employer has elected to make Special Pay contributions.

(2) For a Profit Sharing Plan:

(i) If the Employer elects (in the Adoption Agreement) a discretionary profit sharing contribution formula, the Employer’s contribution shall be allocated to each Participant’s Account in the same proportion that each such Participant’s Compensation for the Plan Year bears to the total Compensation of all Participants for such Plan Year. If the Employer elects (in the Adoption Agreement) a fixed profit sharing contribution formula, the Employer’s contribution shall be allocated in accordance with such formula. In the event that the Employer elects (in the Adoption Agreement) to make separate discretionary contributions for separate classifications of Participants, the Employer will annually notify the Trustee (or Insurer), in writing, of the amounts of the contribution(s), if any, that it is making for each classification of Participants described in the Adoption Agreement for the Plan Year. The Plan Administrator will allocate and credit for the Plan Year the Employer contribution (and forfeitures, if any) for a particular classification to the account of each Participant within

the classification who is entitled to a contribution for the Plan Year in the manner selected in the Adoption Agreement.

(ii) Except, however, if elected in the Adoption Agreement, a Participant who performs less than the Hours of Service set forth in the Adoption Agreement during any Plan Year shall not share in the Employer's contribution for that Plan Year. The Employer may not make such an election for Employer nonelective contributions (other than matching contributions) if the Employer has elected to make Special Pay Contributions.

(3) Notwithstanding anything herein to the contrary, any Participant who terminated employment during the Plan Year shall or shall not share in the allocations of the Employer's contributions and Forfeitures, based on whether the Participant completed the requirements set forth in the Adoption Agreement.

(c) Except as provided in Section 4.09(b), as of each Anniversary Date or other Valuation Date, before allocation of Employer contributions and Forfeitures, any earnings or losses (net appreciation or net depreciation) in the value of the Plan's assets (exclusive of assets segregated for distribution) shall be allocated in the same proportion that each Participant's and Former Participant's nonsegregated accounts bear to the total of all Participants' and Former Participants' nonsegregated accounts as of such date. If any nonsegregated account of a Participant has been distributed prior to the Anniversary Date or other Valuation Date subsequent to a Participant's termination of employment, no earnings or losses shall be credited to such account.

(d) Participants' Accounts shall be debited for annuity payments made, if any, and credited with any dividends or interest earned on Contracts.

(e) As of each Anniversary Date any amounts which became Forfeitures since the last Anniversary Date shall first be made available to satisfy any contribution that may be required pursuant to Section 6.09 or be used to pay any administrative expenses of the Plan. The remaining Forfeitures, if any, shall be treated in accordance with the Adoption Agreement. Provided, however, that in the event the allocation of Forfeitures provided herein shall cause the "Annual Addition" (as defined in Section 4.04) to any Participant's Account to exceed the amount allowable by the Code, the excess shall be reallocated in accordance with Section 4.04(a)(4). Except, however, if elected in the Adoption Agreement, a Participant who fails to satisfy the conditions set forth in the Adoption Agreement during any Plan Year shall not share in the Plan Forfeitures for that year.

(f) If a Former Participant is reemployed after five (5) consecutive 1-Year Breaks in Service, then separate accounts shall be maintained as follows:

(1) one account for nonforfeitable benefits attributable to pre-break service; and

(2) one account representing the Former Participant's employer derived account balance in the Plan attributable to post-break service.

4.04 MAXIMUM ANNUAL ADDITIONS

(a) (1) If the Participant does not participate in, and has never participated in another qualified plan maintained by the Employer, or a welfare benefit fund (as defined in Code Section 419(e)), maintained by the Employer, or an individual medical account (as defined in Code Section 415(1)(2)) maintained by the Employer, or a simplified employee pension, as defined in Code Section 408(k), maintained by the Employer which provides "Annual Additions," the amount of "Annual Additions" which may be credited to the Participant's Accounts for any "Limitation Year" shall not exceed the lesser of the "Maximum Permissible Amount" or any other limitation contained in this Plan. If the Employer contribution that would otherwise be

contributed or allocated to the Participant's accounts would cause the "Annual Additions" for the "Limitation Year" to exceed the "Maximum Permissible Amount," the amount contributed or allocated will be reduced so that the "Annual Additions" for the "Limitation Year" will equal the "Maximum Permissible Amount."

(2) Prior to determining the Participant's actual "415 Compensation" for the "Limitation Year," the Employer may determine the "Maximum Permissible Amount" for a Participant on the basis of a reasonable estimation of the Participant's "415 Compensation" for the "Limitation Year," uniformly determined for all Participants.

(3) As soon as is administratively feasible after the end of the "Limitation Year," the "Maximum Permissible Amount" for such "Limitation Year" shall be determined on the basis of the Participant's actual "415 Compensation" for such "Limitation Year."

(4) If pursuant to Section 4.04(a)(3) or Section 4.05, there is an "Excess Amount," the excess will be disposed of in one of the following manners, as uniformly determined by the Administrator for all Participants similarly situated.

(i) If the Participant is covered by the Plan at the end of the "Limitation Year," the "Excess Amount" in the Participant's Account will be used to reduce Employer contributions (including any allocation of Forfeitures) for such Participant in the next "Limitation Year," and each succeeding "Limitation Year" if necessary;

(ii) If, after the application of subparagraph (i) above, an "Excess Amount" still exists, and the Participant is not covered by the Plan at the end of a "Limitation Year," the "Excess Amount" will be held unallocated in a suspense account. The suspense account will be applied to reduce future Employer contributions (including allocation of any Forfeitures) for all remaining Participants in the next "Limitation Year," and each succeeding "Limitation Year" if necessary;

(iii) If a suspense account is in existence at any time during the "Limitation Year" pursuant to this section, it will not participate in the allocation of investment gains and losses. If a suspense account is in existence at any time during a particular "Limitation Year," all amounts in the suspense account must be allocated and reallocated to Participants' accounts before any Employer contributions or any Employee contributions may be made to the Plan for that "Limitation Year." "Excess Amounts" may not be distributed to Participants or Former Participants.

(b) (1) This subsection (b) applies if, in addition to this Plan, the Participant is covered under another qualified defined contribution plan maintained by the Employer, or a welfare benefit fund (as defined in Code Section 419(e)) maintained by the Employer, or an individual medical account (as defined in Code Section 415(l)(2)) maintained by the Employer, or a simplified employee pension as defined in Code Section 408(k) maintained by the Employer which provides "Annual Additions" during any "Limitation Year." The "Annual Additions" which may be credited to a Participant's accounts under this Plan for any such "Limitation Year" shall not exceed the "Maximum Permissible Amount" reduced by the "Annual Additions" credited to a Participant's accounts under the other plans and welfare benefit funds, individual medical accounts, and simplified employee pensions for the same "Limitation Year." If the "Annual Additions" with respect to the Participant under other defined contribution plans, welfare benefit funds, individual medical accounts and simplified employee pensions maintained by the Employer are less than the "Maximum Permissible Amount" and the Employer contribution that would otherwise be contributed or allocated to the Participant's accounts under this Plan would cause the "Annual Additions" for the "Limitation Year" to exceed this limitation, the amount contributed or allocated will be reduced so that the "Annual Additions" under all such plans and welfare benefit funds for the "Limitation Year" will equal the "Maximum Permissible Amount." If the "Annual Additions" with respect to the Participant under such other defined contribution plans, welfare benefit funds,

individual medical accounts and simplified employee pensions in the aggregate are equal to or greater than the “Maximum Permissible Amount,” no amount will be contributed or allocated to the Participant’s account under this Plan for the “Limitation Year.”

(2) Prior to determining the Participant’s actual “415 Compensation” for the “Limitation Year,” the Employer may determine the “Maximum Permissible Amount” for a Participant in the manner described in Section 4.04(a)(2).

(3) As soon as is administratively feasible after the end of the “Limitation Year,” the “Maximum Permissible Amount” for the “Limitation Year” will be determined on the basis of the Participant’s actual “415 Compensation” for the “Limitation Year.”

(4) If, pursuant to Section 4.04(b)(3) or Section 4.05, a Participant’s “Annual Additions” under this Plan and such other plans would result in an “Excess Amount” for a “Limitation Year,” the “Excess Amount” will be deemed to consist of the “Annual Additions” last allocated, except that “Annual Additions” attributable to a simplified employee pension will be deemed to have been allocated first, followed by “Annual Additions” to a welfare benefit fund or individual medical account, and then by “Annual Additions” to a plan subject to Code Section 412, regardless of the actual allocation date.

(5) If an “Excess Amount” was allocated to a Participant on an allocation date of this Plan which coincides with an allocation date of another plan, the “Excess Amount” attributed to this Plan will be the product of:

(i) the total “Excess Amount” allocated as of such date, times;

(ii) the ratio of (1) the “Annual Additions” allocated to the Participant for the “Limitation Year” as of such date under this Plan to (2) the total “Annual Additions” allocated to the Participant for the “Limitation Year” as of such date under this and all the other qualified defined contribution plans.

(6) Any “Excess Amount” attributed to this Plan will be disposed in the manner described in Section 4.04(a)(4).

(c) For purposes of applying the limitations of Code Section 415, the transfer of funds from one qualified plan to another is not an “Annual Addition.” In addition, the following are not Employee contributions for the purposes of Section 4.04(d)(1):

(1) rollover contributions (as defined in Code Sections 402(c)(4), 403(a)(4), 403(b)(8), 408(d)(3) and 457(e)(16)); and

(2) Employee contributions to a simplified employee pension excludable from gross income under Code Section 408(k)(6).

(d) For purposes of this Section, the following terms shall be defined as follows:

(1) “Annual Additions” means the sum credited to a Participant’s accounts for any Limitation Year of:

(i) Employer contributions (including elective deferrals and Employee nonelective contributions that are picked up pursuant to Section 414(h) of the Code);

(ii) Employee (after-tax) contributions;

(iii) Forfeitures;

(iv) amounts allocated, after March 31, 1984, to an individual medical account, as defined in Code Section 415(l)(2), which is part of a pension or annuity plan maintained by the Employer;

(v) amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Code Section 419A(d)(3)) under a welfare benefit fund (as defined in Code Section 419(e)) maintained by the Employer; and

(vi) allocations under a simplified employee pension.

Except, however, the 415 Compensation percentage limitation referred to in paragraph (e)(7)(ii) below shall not apply to:

(1) any contribution for medical benefits (within the meaning of Code Section 419A(f)(2)) after separation from service which is otherwise treated as an “Annual Addition,” or

(2) any amount otherwise treated as an “Annual Addition” under Code Section 415(l)(1).

For this purpose, any “Excess Amount” applied under Sections 4.04(a)(4) and 4.04(b)(6) in the “Limitation Year” to reduce Employer contributions shall be considered “Annual Additions” for such “Limitation Year.”

(2) “415 Compensation” means a Participant’s Compensation as elected in the Adoption Agreement. However, regardless of any selection made in the Adoption Agreement, 415 Compensation shall include any elective deferral (as defined in Code Section 402(g)(3)), and any amount which is contributed or deferred by the Employer at the election of the Employee and which is not includible in the gross income of the Employee by reason of Sections 125, 457, and 132(f)(4). Any exclusions from Compensation selected in the Adoption Agreement shall not apply for purposes of the definition of 415 Compensation.

(3) “Defined Contribution Dollar Limitation” means \$40,000 (as adjusted for increases in the cost-of-living under Code Section 415(d)).

(4) “Employer” means the Employer that adopts this Plan and all Affiliated Employers, except that for purposes of this Section, Affiliated Employers shall be determined pursuant to the modification made by Code Section 415(h).

(5) “Excess Amount” means the excess of the Participant’s “Annual Additions” for the “Limitation Year” over the “Maximum Permissible Amount.”

(6) “Limitation Year” means the Compensation year (a twelve (12) consecutive month period) as elected by the Employer in the Adoption Agreement. All qualified plans maintained by the Employer must use the same Limitation Year. If the Limitation Year is amended to a different twelve (12) consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made.

(7) “Maximum Permissible Amount” means the maximum “Annual Addition” that may be contributed or allocated to a Participant’s account under the Plan for any “Limitation Year.” Except to the extent permitted under Section 414(v) of the Code, if applicable, the Annual Addition that may be contributed or allocated to a Participant’s account under the Plan for any Limitation Year shall not exceed the lesser of:

- (i) the “Defined Contribution Dollar Limitation” or
- (ii) 100 percent of the Participant’s 415 Compensation for the Limitation Year.

The compensation limit referred to in (ii) shall not apply to any contribution for medical benefits after separation from service (within the meaning of Section 401(h) or Section 419A(f)(2) of the Code) which is otherwise treated as an Annual Addition.

If a short “Limitation Year” is created because of an amendment changing the “Limitation Year” to a different twelve (12) consecutive month period, the Maximum Permissible Amount will not exceed the “Defined Contribution Dollar Contribution” multiplied by the following fraction:

$$\frac{\text{Number of months in the short “Limitation Year”}}{12}$$

(e) The limitations, adjustments and other requirements prescribed in this section shall at all times comply with the provisions of Code Section 415 and the Regulations thereunder.

4.05 ADJUSTMENT FOR EXCESSIVE ANNUAL ADDITIONS

If as a result of:

- (a) the allocation of Forfeitures,
- (b) a reasonable error in estimating a Participant’s annual 415 Compensation,
- (c) a reasonable error in determining the amount of elective deferrals (within the meaning of Code Section 402(g)(3)) that may be made with respect to a Participant,
- (d) or other facts and circumstances to which Regulation Section 1.415-6(b)(6) shall be applicable, the “Annual Additions” under this Plan would cause the maximum provided in Section 4.04 to be exceeded, the Administrator shall treat the excess in accordance with Section 4.04(a)(4).

4.06 TRANSFERS AND ROLLOVERS FROM OTHER EMPLOYER PLANS

(a) As specified in the Adoption Agreement and with the consent of the Administrator, amounts may be transferred or rolled over on behalf of any Employee from other employer plans or individual retirement accounts, provided that the employer plan or account from which such funds are transferred permits the transfer to be made and, in the opinion of legal counsel for the Employer, the transfer or rollover will not jeopardize the qualified status of the Plan (or the Tax-exempt status of the related Trust, if applicable) or create adverse tax consequences for the Employer. The amounts transferred or rolled over shall be set up in a separate account herein referred to as a Rollover Account. Such account shall be fully Vested at all times and shall not be subject to Forfeiture for any reason. No amounts attributable to deductible Employee contributions (as defined in Code Section 219) may be rolled over or transferred to this Plan.

(b) Amounts in a Rollover Account shall be held by the Insurer (or Trustee, if applicable) pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Employee, in whole or in part, except as provided in Paragraphs (c), (d), (e) of this Section.

(c) Amounts attributable to elective contributions (as defined in Regulation Section 1.401(k)-1(g)(3), or for Plan Years beginning on or after January 1, 2006, Regulations section 1.401(k)-6), including amounts treated as elective contributions, which are transferred from another

employer plan in a plan-to-plan transfer shall be subject to the distribution limitations provided for in Regulation Section 1.401(k)-1(d).

(d) A separate account will be maintained by the Administrator for any transferred voluntary Employee contributions of each Participant, and earnings and losses on such voluntary Employee contributions will be allocated to the separate account. A Participant may, upon a written request submitted to the Administrator, withdraw all or a portion of such transferred voluntary Employee contributions at any time. Such written request must be consistent with and satisfy all notice requirements of Code Section 402(f) and the Regulations thereunder.

(e) At Normal Retirement Age, or such other date when the Employee or the Employee's Beneficiary shall be entitled to receive benefits as set forth in the Plan and Adoption Agreement, the fair market value of the Rollover Account shall be used to provide additional benefits to the Employee or the Employee's Beneficiary. If elected in the Adoption Agreement, distributions of rollovers may be made at any time, even if there is no distributable event which permits distribution of other accounts. Any distributions of amounts held in a Rollover Account shall be made in a manner which is consistent with and satisfies the provisions of Section 6.05, including, but not limited to, all notice requirements of Code Section 402(f). Furthermore, such amounts shall be considered as part of an Employee's benefit in determining whether an involuntary cash-out of benefits without such Employee's consent may be made.

(f) For purposes of this section, the term "employer plan" shall mean any tax-qualified plan under Code Section 401(a), 403(a), 403(b), or 457(b) maintained by a state or local governmental entity. The term "amounts transferred or rolled over from other employer plans" shall mean:

(1) amounts transferred to this Plan directly from another employer plan by means of a trustee-to-insurer (or trustee-to-trustee or insurer-to-insurer) transfer; and

(2) eligible rollover distributions payable to or received by an Employee from another employer plan which are eligible for tax-free rollover to an employer plan and which are directly transferred to this Plan or are transferred by the Employee to this Plan within sixty (60) days following such Employee's receipt thereof. .

(g) Prior to accepting any transfers to which this section applies, the Administrator may require the Employee to establish that the amounts to be transferred to this Plan meet the requirements of this section and may also require the Employee to provide an opinion of counsel satisfactory to the Employer that the amounts to be transferred meet the requirements of this section.

(h) If the Employer has elected in the Adoption Agreement to allow rollovers from other plans, the Employer, operationally and on a nondiscriminatory basis, may limit the source of rollover contributions that may be accepted by this Plan.

4.07 VOLUNTARY EMPLOYEE CONTRIBUTIONS (EMPLOYEE AFTER-TAX CONTRIBUTIONS)

(a) If this is an amendment or restatement of a plan that previously permitted voluntary nondeductible (after-tax) Employee contributions, then such voluntary Employee contributions shall be held in a separate account as defined in Section 1.52.

(b) The balance in each Participant's Voluntary Contribution Account shall be fully Vested at all times and shall not be subject to Forfeiture for any reason.

(c) A Participant may elect to withdraw nondeductible voluntary Employee contributions from such Participant's Voluntary Contribution Account and the actual earnings thereon in a manner which is consistent with and satisfies the provisions of Section 6.05, including, but not limited to, all notice requirements of Code Section 402(f). If the Administrator maintains sub-accounts with respect to

nondeductible voluntary Employee contributions (and earnings thereon) which were made on or before a specified date, a Participant shall be permitted to designate which sub-account shall be the source for the withdrawal. No Forfeitures shall occur solely as a result of an Employee's withdrawal of nondeductible voluntary Employee contributions.

(d) At Normal Retirement Age, or such other date when the Participant or such Participant's Beneficiary shall be entitled to receive benefits, the fair market value of the Voluntary Contribution Account shall be used to provide additional benefits to the Participant or the Participant's Beneficiary.

4.08 QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTIONS

(a) If this is an amendment or restatement of a Plan that previously permitted deductible voluntary Employee contributions, then each Participant who made a qualified voluntary employee contribution within the meaning of Code Section 219(e)(2) as it existed prior to the enactment of the Tax Reform Act of 1986, shall have such Participant's contribution held in a separate Qualified Voluntary Employee Contribution Account which shall be fully Vested at all times. Such contributions, however, shall not be permitted if they are attributable to taxable years beginning after December 31, 1986.

(b) A Participant may, upon written request delivered to the Administrator, make withdrawals from such Participant's Qualified Voluntary Employee Contribution Account. Any distribution shall be made in a manner which is consistent with and satisfies the provisions of Section 6.05, including, but not limited to, all notice requirements of Code Section 402(f).

(c) At Normal Retirement Age, or such other date when the Participant or the Participant's Beneficiary shall be entitled to receive benefits, the fair market value of the Qualified Voluntary Employee Contribution Account shall be used to provide additional benefits to the Participant or the Participant's Beneficiary.

4.09 DIRECTED INVESTMENT ACCOUNT

(a) If elected in the Adoption Agreement, except as provided below, all Participants may direct the investment of all or a portion of their individual account balances within limits set by the Employer. Participants may direct the Insurer (or Trustee, if applicable) in writing to invest their account in specific assets, specific funds or other investments permitted under the Plan and the Participant Direction Procedures. That portion of the interest of any Participant which is subject to investment direction of such Participant will be considered a Participant Directed Investment Account. With respect to Participants under age 18 (or the applicable age of majority), the Administrator may direct that such Participant's accounts be invested in the Designated Investment Option available under the Plan that has the lowest risk of loss.

(b) As of each Valuation Date, all Participant Directed Investment Accounts shall be charged or credited with the net earnings, gains, losses and expenses as well as any appreciation or depreciation in the market value using publicly listed fair market values when available or appropriate as follows:

(1) To the extent that the assets in a Participant Directed Investment Account are accounted for as pooled assets or investments, the allocation of earnings, gains and losses of each Participant's Account shall be based upon the total amount of funds so invested, in a manner proportionate to the Participant's share of such pooled investment.

(2) To the extent that the assets in the Participant Directed Account are accounted for as segregated assets, the allocation of earnings, gains and losses from such assets shall be made on a separate and distinct basis.

(c) Any information regarding investments available under the Plan, to the extent not required to be described in the Participant Direction Procedures, may be provided to the Participant in one

or more written documents which are separate from the Participant Direction Procedures and are not thereby incorporated by reference into this Plan.

(d) The Administrator may, at its discretion, include in or exclude by amendment or other action from the Participant Direction Procedure such instructions, guidelines or policies as it deems necessary or appropriate to ensure proper administration of the Plan, and may interpret the same accordingly.

ARTICLE V
TRUSTEE AND CUSTODIAN
(APPLICABLE ONLY TO TRUSTEED PLAN
OR PORTION OF PLAN ASSETS HELD IN TRUST OR CUSTODIAL ACCOUNT)

5.01 BASIC RESPONSIBILITIES OF THE TRUSTEE

In the event this a Trusteed Plan, the Trustee shall have the responsibilities in this Article V with respect to any assets which are not held in Annuity Contracts subject to the terms of Article X. If a discretionary Trustee is selected in the Adoption Agreement, then the Trustee has full discretion and authority with regard to the investment of the Plan assets, except with respect to assets under the control or direction of an investment manager, the Employer, the Administrator or a Participant. If a nondiscretionary Trustee is selected in the Adoption Agreement, then the Trustee will not have any discretion or authority with regard to the Plan assets, but must act solely as a directed Trustee of funds contributed. A nondiscretionary Trustee is authorized and empowered with the following rights, powers, and duties, each of which the nondiscretionary Trustee exercises solely as directed Trustee in accordance with the written direction of the investment manager, the Employer, the Administrator or a Participant. If the nondiscretionary Trustee should be directed but is not, the Employer is responsible for providing necessary direction.

The nondiscretionary Trustee has no duty to review or to make recommendations regarding investments made at the written direction of the investment manager, Employer or Participant. The nondiscretionary Trustee must retain any investment obtained at the written direction of the investment manager, Employer or Participant until further directed in writing to dispose of such investment. The nondiscretionary Trustee is not liable in any manner or for any reason for making, retaining or disposing of any investment pursuant to any written direction described in this paragraph. Furthermore, to the extent permitted by law, the Employer agrees to indemnify and to hold the nondiscretionary Trustee harmless from any damages, costs or expenses, including reasonable counsel fees, which the nondiscretionary Trustee may incur as a result of any claim asserted against the nondiscretionary Trustee arising out of the nondiscretionary Trustee's compliance with any written direction described in this paragraph.

(a) The Trustee shall have the power to invest, manage, and control the Plan assets subject, however, to the direction of the Employer, the Administrator, a Participant or any agent of the Employer as to all or a portion of the assets of the Plan as follows:

(1) To the extent and in the manner permitted by the Participant Direction Procedures, if permitted in the Adoption Agreement, a Participant may direct the Trustee with respect to the investment or reinvestment of the Participant's Accounts under the Plan in such pooled investments (including, but not limited to the pooled funds of the Trustee) as are made available by agreement between the Trustee and the Employer.

(2) The Employer may by written agreement or designation appoint at its option an investment adviser or other agent to provide direction to the Trustee with respect to any or all of the Plan assets. Such appointment shall be given by the Employer in writing in a form acceptable to the Trustee and shall specifically identify the Plan assets with respect to which the agent shall have authority to direct the investment.

(3) In the event that the Trustee shall be directed by a Participant (pursuant to the Participant Direction Procedures), the Employer, or other agent appointed by the Employer with respect to the investment of any or all Plan assets, the Trustee shall have no liability with respect to the investment of such assets, but shall be responsible only to execute such investment instruction as so directed.

(4) The Trustee shall be entitled to rely fully on the written instructions of a Participant pursuant to the Participant Direction Procedures, the Employer, or any fiduciary or nonfiduciary agent of the Employer, in the discharge of such duties, and shall not be liable for any loss or other liability resulting from such direction (or lack of direction) of the investment of any part of the Plan assets.

(5) The Trustee may delegate the duty to execute such instructions to any nonfiduciary agent, which may be an affiliate of the Trustee or any Plan representative.

(6) The Trustee may refuse to comply with any direction from the Participant in the event the Trustee, in its sole and absolute discretion, deems such instructions improper by virtue of applicable law. The Trustee shall not be responsible or liable for any loss or expense which may result from the Trustee's refusal or failure to comply with any directions from the Participant.

(7) Any costs and expenses related to compliance with the Participant's directions shall be borne by the Participant Directed Investment Account, unless paid by the Employer.

(i) At the direction of the Administrator, the Trustee shall have the power to pay benefits required under the Plan to be paid to Participants, or, in the event of their death, to their Beneficiaries;

(ii) The Trustee shall maintain records of receipts and disbursements and furnish to the Employer and/or Administrator for each Plan Year a written annual report per Section 5.06; and

(iii) If there shall be more than one Trustee, they shall act by a majority of their number, but may authorize one or more of them to sign papers on their behalf.

5.02 INVESTMENT POWERS AND DUTIES OF THE TRUSTEE

The Trustee shall have the following investment powers and duties, which shall be exercisable in the Trustee's sole discretion (if the Trustee is a discretionary Trustee), or at the direction of the Employer, the Administrator, a designated investment manager or a Participant (if the Trustee is a directed, nondiscretionary Trustee):

(a) The Trustee shall, except as otherwise provided in this Plan, invest and reinvest the Trust Fund to keep the Trust Fund invested without distinction between principal and income and in such securities or property, real or personal, wherever situated, as the Trustee shall deem advisable, including, but not limited to, stocks, common or preferred, bonds and other evidences of indebtedness or ownership, and real estate or any interest therein. The Trustee shall at all times in making investments of the Trust Fund consider, among other factors, the short and long-term financial needs of the Plan on the basis of information furnished by the Employer. In making such investments, the Trustee shall not be restricted to securities or other property of the character expressly authorized by the applicable law for trust investments; however, the Trustee shall give due regard to any limitations imposed by the Code so that at all times this Plan may qualify as a qualified Plan and Trust.

(b) The Trustee may employ a bank or trust company pursuant to the terms of its usual and customary bank agency agreement, under which the duties of such bank or trust company shall be of a custodial, clerical and record-keeping nature.

(c) With respect to assets in a Participant's Directed Investment Account, the Participant or Beneficiary shall direct the Trustee with regard to any voting, tender and similar rights associated with the ownership of such assets, (i.e., the "Stock Right(s)") as follows:

(1) Each Participant or Beneficiary shall direct the Trustee to vote or otherwise exercise such Stock Rights in accordance with the provisions, conditions and terms of any such Stock Right(s);

(2) Such directions shall be provided to the Trustee by the Participant or Beneficiary in accordance with the procedure as established by the Administrator. The Trustee shall vote or

otherwise exercise such Stock Right(s) with respect to which it has received directions to do so under this Section; and

(3) To the extent to which a Participant or Beneficiary does not instruct the Trustee to vote or otherwise exercise such Stock Right(s), such Participants or Beneficiaries shall be deemed to have directed the Trustee that such Stock Rights remain nonvoted and unexercised.

(d) The Trustee may from time to time transfer to a common, collective, or pooled trust fund maintained by any corporate Trustee hereunder pursuant to Revenue Ruling 81-100, all or such part of the Trust Fund as the Trustee may deem advisable, and such part or all of the Trust Fund so transferred shall be subject to all the terms and provisions of the common, collective, or pooled trust fund which contemplate the commingling for investment purposes of such trust assets with trust assets of other trusts. The Trustee may withdraw from such common, collective, or pooled trust fund all or such part of the Trust Fund as the Trustee may deem advisable.

(e) Amounts attributable to contributions for Part-time, Seasonal and Temporary Employees pursuant to Section 4.01(e) shall be held in a separate account that is subject to general fiduciary standards, and these amounts shall be credited with the actual earnings of the assets held in such account.

5.03 OTHER POWERS OF THE TRUSTEE

The Trustee, in addition to all powers and authorities under common law, statutory authority and other provisions of this Plan, shall have the following powers and authorities, except as otherwise provided in this Plan, exercisable at the Trustee's sole discretion (if the Trustee is a discretionary trustee), or at the direction of the Employer, the Administrator, or designated investment manager or Participant (if the Trustee is a directed nondiscretionary Trustee):

(a) To purchase, or subscribe for, any securities or other property and to retain the same. In conjunction with the purchase of securities, margin accounts may be opened and maintained;

(b) To sell, exchange, convey, transfer, grant options to purchase, or otherwise dispose of any securities or other property held by the Trustee, by private contract or at public auction. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety of any such sale or other disposition, with or without advertisement;

(c) To vote upon any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities, or other property. However, the Trustee shall not vote proxies relating to securities for which it has not been assigned full investment management responsibilities. In those cases where another party has such investment authority or discretion, the Trustee will deliver all proxies to said party who will then have full responsibility for voting those proxies;

(d) To cause any securities or other property to be registered in the Trustee's own name or in the name of one or more of the Trustee's nominees, and to hold any investments in bearer form, but the books and records of the Trustee shall at all times show that all such investments are part of the Trust Fund;

(e) To borrow or raise money for the purposes of the Plan in such amount, and upon such terms and conditions, as the Trustee shall deem advisable; and for any sum so borrowed, to issue a promissory note as Trustee, and to secure the repayment thereof by pledging all, or any part, of the Trust Fund; and no person lending money to the Trustee shall be bound to see to the application of the money lent or to inquire into the validity, expediency, or propriety of any borrowing;

- (f) To keep such portion of the Trust Fund in cash or cash balances as the Trustee may, from time to time, deem to be in the best interests of the Plan, without liability for interest thereon;
- (g) To accept and retain for such time as it may deem advisable any securities or other property received or acquired by it as Trustee hereunder, whether or not such securities or other property would normally be purchased as investments hereunder;
- (h) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (i) To settle, compromise, or submit to arbitration any claims, debts, or damages due or owing to or from the Plan, to commence or defend suits or legal or administrative proceedings, and to represent the Plan in all suits and legal and administrative proceedings;
- (j) To employ suitable agents and counsel and to pay their reasonable expenses and compensation, and such agent or counsel may or may not be agent or counsel for the Employer;
- (k) To apply for and procure from the Insurer as an investment of the Trust Fund such Contracts as the Administrator shall deem proper; to exercise, at any time or from time to time, whatever rights and privileges may be granted under such Contracts; to collect, receive, and settle for the proceeds of all such Contracts as and when entitled to do so under the provisions thereof;
- (l) To invest funds of the Trust in time deposits or savings accounts bearing a reasonable rate of interest in the Trustee's bank;
- (m) To invest in Treasury Bills and other forms of United States government obligations;
- (n) To sell, purchase and acquire put or call options if the options are traded on and purchased through a national securities exchange registered under the Securities Exchange Act of 1934, as amended, or, if the options are not traded on a national securities exchange, are guaranteed by a member firm of the New York Stock Exchange;
- (o) To deposit monies in federally insured savings accounts or certificates of deposit in banks or savings and loan associations;
- (p) To pool all or any of the Trust Fund, from time to time, with assets belonging to any other qualified employee pension benefit trust created by the Employer or any Affiliated Employer, and to commingle such assets and make joint or common investments and carry joint accounts on behalf of this Plan and such other trust or trusts, allocating undivided shares or interests in such investments or accounts or any pooled assets of the two or more trusts in accordance with their respective interests;
- (q) To appoint an agent or agents to assist the Trustee in carrying out any investment instructions of Participants and any fiduciary or responsible party;
- (r) To do all such acts and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustee may deem necessary to carry out the purposes of the Plan.
- (s) To invest in shares of investment companies registered under the Investment Company Act of 1940.
- (t) Directed Investment Account. If elected in the Adoption Agreement, each Participant may direct the Trustee to separate and keep separate all or a portion of such Participant's interest in the Plan; and further each Participant is authorized and empowered, in such Participant's sole and absolute discretion, to give directions to the Trustee in such form as the Trustee may require concerning the

investment of the Participant's Directed Investment Account, which directions must be followed by the Trustee. Neither the Trustee nor any other persons including the Administrator or otherwise shall be under any duty to question any such direction of the Participant or to review any securities or other property, real or personal, or to make any suggestions to the Participant in connection therewith, and the Trustee shall comply as promptly as practicable with directions given by the Participant hereunder. Any such direction may be of a continuing nature or otherwise and may be revoked by the Participant at any time in such form as the Trustee may require. The Trustee may refuse to comply with any direction from the Participant in the event the Trustee, in its sole and absolute discretion, deems such directions improper by virtue of applicable law, and in such event, the Trustee shall not be responsible or liable for any loss or expense which may result. Any costs and expenses related to compliance with the Participant's directions shall be borne by the Participant Directed Investment Account.

Notwithstanding anything hereinabove to the contrary, the Trustee shall not invest any portion of a Participant Directed Investment Account in "collectibles" within the meaning of that term as employed in Code Section 408(m).

5.04 DUTIES OF THE TRUSTEE REGARDING PAYMENTS

At the direction of the Administrator, the Trustee shall, from time to time, in accordance with the terms of the Plan, make payments out of the Plan assets. The Trustee shall not be responsible in any way for the application of such payments.

5.05 TRUSTEE'S COMPENSATION AND EXPENSES AND TAXES

The Trustee shall be paid such reasonable compensation as set forth in the Trustee's fee schedule (if the Trustee has such a schedule) or as agreed upon in writing by the Employer and the Trustee. An individual serving as Trustee who already receives full-time pay from the Employer shall not receive compensation from this Plan. In addition, the Trustee shall be reimbursed for any reasonable expenses, including reasonable counsel fees incurred by it as Trustee. Such compensation and expenses shall be paid from the Trust Fund unless paid or advanced by the Employer. All taxes of any kind and all kinds whatsoever that may be levied or assessed under existing or future laws upon, or in respect of, the Trust Fund or the income thereof, shall be paid from the Trust Fund.

5.06 ANNUAL REPORT OF THE TRUSTEE

Within a reasonable period of time after the later of the Anniversary Date or receipt of the Employer's contribution for each Plan Year, the Trustee, or its agent, shall furnish to the Employer and Administrator a written statement of account with respect to the Plan Year for which such contribution was made setting forth:

- (a) the net income, or loss, of the Trust Fund;
- (b) the gains, or losses, realized by the Trust Fund upon sales or other disposition of the assets;
- (c) the increase, or decrease, in the value of the Trust Fund;
- (d) all payments and distributions made from the Trust Fund; and
- (e) such further information as the Trustee and/or Administrator deems appropriate. The Employer, forthwith upon its receipt of each such statement of account, shall acknowledge receipt thereof in writing and advise the Trustee and/or Administrator of its approval or disapproval thereof. Failure by the Employer to disapprove any such statement of account within sixty (60) days after its receipt thereof shall be deemed an approval thereof. The approval by the Employer of any statement of account shall be binding as to all matters embraced therein as between the Employer and the Trustee to the same extent as if the account of the Trustee had been settled by judgment or decree in an action for a judicial settlement of its account in a court of competent jurisdiction in which the Trustee, the Employer and all persons having

or claiming an interest in the Plan were parties; provided, however, that nothing herein contained shall deprive the Trustee of its right to have its accounts judicially settled if the Trustee so desires.

5.07 RESIGNATION, REMOVAL AND SUCCESSION OF TRUSTEE

(a) The Trustee may resign at any time by delivering to the Employer, at least sixty (60) days before its effective date, a written notice of resignation.

(b) The Employer may remove the Trustee by mailing by registered or certified mail, addressed to such Trustee at the Trustee's last known address, at least sixty (60) days before its effective date, a written notice of such Trustee's removal.

(c) Upon the death, resignation, incapacity, or removal of any Trustee, a successor may be appointed by the Employer; and such successor, upon accepting such appointment in writing and delivering same to the Employer, shall, without further act, become vested with all the estate, rights, powers, discretions, and duties of the predecessor with like respect as if such Trustee were originally named as a Trustee herein. Until such a successor is appointed, the remaining Trustee or Trustees shall have full authority to act under the terms of the Plan.

(d) The Employer may designate one or more successors prior to the death, resignation, incapacity, or removal of a Trustee. In the event a successor is so designated by the Employer and accepts such designation, the successor shall, without further act, become vested with all the estate, rights, powers, discretions, and duties of such successor's predecessor with the like effect as if such successor were originally named as Trustee herein immediately upon the death, resignation, incapacity, or removal of the predecessor.

(e) Whenever any Trustee hereunder ceases to serve as such, the Trustee shall furnish to the Employer and Administrator a written statement of account with respect to the portion of the Plan Year during which the individual or entity served as Trustee. This statement shall be either (i) included as part of the annual statement of account for the Plan Year required under Section 5.06 or (ii) set forth in a special statement. Any such special statement of account should be rendered to the Employer no later than the due date of the annual statement of account for the Plan Year. The procedures set forth in Section 5.06 for the approval by the Employer of annual statements of account shall apply to any special statement of account rendered hereunder and approval by the Employer of any such special statement in the manner provided in Section 5.06 shall have the same effect upon the statement as the Employer's approval of an annual statement of account. No successor to the Trustee shall have any duty or responsibility to investigate the acts or transactions of any predecessor who has rendered all statements of account required by Section 5.06 and this subsection.

5.08 TRUSTEE INDEMNIFICATION

To the extent permitted by law, the Employer agrees to indemnify and save harmless the Trustee against any and all claims, losses, damages, expenses and liabilities the Trustee may incur in the exercise and performance of the Trustee's powers and duties hereunder, unless the same are determined to be due to gross negligence or willful misconduct.

5.09 VALUATION OF THE TRUST FUND

The Administrator shall direct the Trustee, as of each Valuation Date, to determine the net worth of the assets comprising the Trust Fund as it exists on the Valuation Date prior to taking into consideration any contribution to be allocated for that Plan Year. In determining such net worth, the Trustee shall value the assets comprising the Trust Fund at their fair market value as of the Valuation Date.

5.10 METHOD OF VALUATION

In determining the fair market value of securities held in the Trust Fund which are listed on a registered stock exchange, the Administrator shall direct the Trustee to value the same at the prices they were last traded on such exchange preceding the close of business on the Valuation Date. If such securities were not traded on the Valuation Date, or if the exchange on which they are traded was not open for business on the Valuation Date, then the securities shall be valued at the prices at which they were last traded prior to the Valuation Date. Any unlisted security held in the Trust Fund shall be valued at its bid price next preceding the close of business on the Valuation Date, which bid price shall be obtained from a registered broker or an investment banker. In determining the fair market value of assets other than securities for which trading or bid prices can be obtained, the Trustee may appraise such assets itself or employ one or more appraisers for that purpose and rely on the values established by such appraiser or appraisers.

5.11 USE OF CUSTODIAL ACCOUNT

In the event that the Employer elects, in Section D.1.b. of the Adoption Agreement, to have all or a portion of the Plan's assets held in trust by a nondiscretionary Trustee, the Employer may, in lieu of or in addition to appointing a Trustee and creating a trust, appoint a bank (as defined in Code Section 408(n)), or another person who meets the requirements for a non-bank custodian under Code Section 401(f)(2), to serve as the custodian ("Custodian") of such assets, and may direct the Custodian to hold such assets in an account ("Custodial Account") that, but for the fact that it is not a trust, would otherwise constitute a qualified trust under Code Section 401(a). If the Employer makes the election described in this Section 5.11, the Custodial Account shall, for all purposes under the Plan, be treated as the Plan's Trust Fund (as described in Section 1.47), and the Custodian shall, for all purposes under the Plan, be treated as the nondiscretionary trustee of such Trust Fund. Consequently, any reference in the Plan to the Trustee shall be treated as a reference to the Custodian of the Custodial Account, and the Custodian shall have all the powers, duties and responsibilities of a nondiscretionary Trustee as set forth under Article V; provided, however, that the Custodian shall not have the power to, and shall not be permitted to, invest the assets of the Trust Fund in a common, collective or pooled trust fund maintained by a corporate Trustee, as described in Section 5.02(d).

ARTICLE VI
DETERMINATION AND DISTRIBUTION OF BENEFITS

6.01 DETERMINATION OF BENEFITS UPON RETIREMENT

Upon the Participant's attainment of Normal Retirement Age or Early Retirement Age, all amounts credited to a Participant's Account shall become fully Vested. However, a Participant may postpone the termination of employment with the Employer to a later date, in which event the participation of such Participant in the Plan, including the right to receive allocations pursuant to Section 4.03, shall continue until such Participant's Retirement Date. Upon a Participant's Retirement Date, or as soon thereafter as is practicable, all amounts credited to such Participant's Account shall be distributable in accordance with Section 6.05.

6.02 DETERMINATION OF BENEFITS UPON DEATH

(a) Upon the death of a Participant before the Participant's Retirement Date or other termination of employment, all amounts credited to such Participant's Account shall, if elected in the Adoption Agreement, become fully Vested. The Administrator shall direct the Insurer (or Trustee, if applicable), in accordance with the provisions of Sections 6.06 and 6.07, to distribute the value of the deceased Participant's Vested accounts to the Participant's Beneficiary.

(b) Upon the death of a Former Participant, the Administrator shall direct, in accordance with the provisions of Sections 6.06 and 6.07, the Insurer (or Trustee, if applicable), to distribute the value of any remaining Vested amounts credited to the accounts of such deceased Former Participant to such Former Participant's Beneficiary.

(c) The Administrator may require such proper proof of death and such evidence of the right of any person to receive payment of the value of the account of a deceased Participant or Former Participant as the Administrator may deem desirable. The Administrator's determination of death and of the right of any person to receive payment shall be conclusive.

(d) The designation of a Beneficiary shall be made on a form satisfactory to the Administrator. A Participant may at any time revoke a designation of a Beneficiary or change a Beneficiary by filing written notice of such revocation or change with the Administrator. In the event no valid designation of Beneficiary exists at the time of the Participant's death, the death benefit shall be payable to the Participant's estate.

(e) In the event of any conflict between the terms of this Plan and the terms of any Contract issued hereunder, the Plan provisions shall control.

6.03 DETERMINATION OF BENEFITS IN EVENT OF DISABILITY

In the event of a Participant's Total and Permanent Disability prior to the Participant's Retirement Date or other termination of employment, all amounts credited to such Participant's Account shall, if elected in the Adoption Agreement, become fully Vested. In such event, the Administrator, in accordance with the provisions of Sections 6.05 and 6.07, shall direct the Insurer (or Trustee, if applicable) to distribute to such Participant all Vested amounts credited to such Participant's Account in a manner consistent with Section 6.05, including, but not limited to, all notice requirements of Code Section 402(f).

6.04 DETERMINATION OF BENEFITS UPON TERMINATION

(a) Distribution of the funds due to a Terminated Participant shall be made on the occurrence of an event which would result in the distribution had the Terminated Participant remained in the employ of the Employer (upon the Participant's death, Total and Permanent Disability, or Retirement Date). However, at the election of the Participant, the Administrator shall direct the Insurer (or Trustee, if applicable) to cause the entire Vested portion of the Terminated Participant's Account to be payable to such

Terminated Participant provided the conditions, if any, set forth in the Adoption Agreement have been satisfied.

Any distribution under this paragraph shall be made in a manner which is consistent with and satisfies the provisions of Section 6.05, including but not limited to, the notice requirements under Code Section 402(f).

(b) The Vested portion of any Participant's Account shall be a percentage of such Participant's Account determined on the basis of the Participant's number of Years of Service (or twelve month Periods of Service if the Elapsed Time Method is elected) according to the vesting schedule specified in the Adoption Agreement. Notwithstanding any other provision of this Plan to the contrary, contributions for Part-time, Seasonal and Temporary Employees pursuant to Section 4.01(e), Special Pay contributions and Employee non-elective contributions, shall be 100% immediately vested.

(c) Notwithstanding the vesting schedule above, upon any termination of the Plan or in the case of a profit sharing plan the complete discontinuance of contributions to the Plan, all amounts credited to the account of any affected Participant shall become 100% Vested and shall not thereafter be subject to Forfeiture.

(d) If this is an amended or restated Plan, then notwithstanding the vesting schedule specified in the Adoption Agreement, the Vested percentage of a Participant's Account shall not be less than the Vested percentage attained as of the later of the effective date or adoption date of this amendment and restatement. The computation of a Participant's nonforfeitable percentage of such Participant's interest in the Plan shall not be reduced as the result of any direct or indirect amendment to this Article.

(e) This subsection (e) applies if break in service rules have been selected in the Adoption Agreement.

(1) If any Former Participant shall be reemployed by the Employer before a 1-Year Break in Service occurs, the Former Participant shall continue to participate in the Plan in the same manner as if such termination had not occurred.

(2) If any Former Participant shall be reemployed by the Employer, and such Former Participant had received a distribution of the entire Vested interest prior to reemployment, the forfeited account shall not be reinstated.

(3) If any Former Participant is reemployed after a 1-Year Break in Service has occurred, Years of Service (or Periods of Service) shall include Years of Service (or Periods of Service) prior to the 1-Year Break in Service subject to the following rules:

(i) Any Former Participant who under the Plan does not have a nonforfeitable right to any interest in the Plan resulting from Employer contributions shall lose credits if the consecutive 1-Year Breaks in Service equal or exceed the greater of (A) five (5) or (B) the aggregate number of pre-break Years of Service (or Periods of Service);

(ii) After five (5) consecutive 1-Year Breaks in Service, a Former Participant's Vested Account balance attributable to pre-break service shall not be increased as a result of post-break service;

(iii) A Former Participant who is reemployed and who has not had Years of Service (or Periods of Service) before a 1-Year Break in Service disregarded pursuant to (i) above, shall participate in the Plan as of the date of reemployment.

(iv) If a Former Participant completes a Year of Service (a 1-Year Break in Service previously occurred, but employment had not terminated), the Former Participant shall participate in the Plan retroactively from the first day of the Plan Year during which one (1) Year of Service (or Period of Service) is completed.

(f) In determining Years of Service (or Periods of Service) for purposes of vesting under the Plan, Years of Service (or Periods of Service) shall be excluded as specified in the Adoption Agreement.

6.05 DISTRIBUTION OF BENEFITS

(a) The Trustee (or Insurer) will make Plan distributions in the form of cash except where (1) the Plan is a restated Plan and under the prior Plan, distribution in the form of property (“in-kind distribution”) is a Protected Benefit, or (2) the Employer is terminating the Plan, and in the reasonable judgment of the Administrator, some or all Plan assets may not within a reasonable time for making final distributions of Plan assets, be liquidated to cash or may not be so liquidated without undue loss in value. Under clause (2), the Administrator will direct the Trustee (or Insurer) to make Plan termination distributions to Participants and Beneficiaries in cash, in-kind or in a combination of these forms, in a reasonable and nondiscriminatory manner which may take into account the preferences of the distributees. All in-kind distributions will be made based on the current fair market value of the property, as determined by the Administrator.

(b) The portion of a Participant’s benefit derived from Employer contributions will generally not be paid without the Participant’s consent. If elected in the Adoption Agreement, the Administrator will distribute such benefit in a lump-sum without such Participant’s consent. If any portion of the Participant’s benefit is derived from contributions made for Part-time, Seasonal or Temporary Employees pursuant to Section 4.01(e), no distribution will be made without the Participant’s consent if the Participant’s Vested Interest is greater than the cash-out limit in effect under Code Section 411(a)(11)(A) for the Plan Year which includes the date of distribution. If, in the Adoption Agreement, the Employer elects to distribute a terminated Participant’s Vested account without the Participant’s consent, but only if the Participant’s Vested account balance does not exceed \$1,000, then the value of the Participant’s Vested account shall be determined by including the portion of the account balance that is attributable to rollover contributions (and earnings allocable thereto) within the meaning of Code Sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16).

For distributions on or after March 28, 2005, in the event of a mandatory distribution greater than \$1,000 in accordance with the provisions of this Section 6.05(b) (or any other section of the Plan relating to involuntary distributions), if the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Administrator will direct the Trustee (or Insurer) to pay the distribution in a direct rollover to an individual retirement plan designated by the Administrator. In such event, the Administrator shall:

- (1) Select and enter into a written agreement with an IRA service provider that is willing to accept small account distributions as rollovers;
- (2) Select a default IRA investment that meets regulatory requirements;
- (3) Execute the necessary documents to establish an IRA on the Participant’s behalf; and
- (4) Ensure that Participants are provided with a detailed written explanation of the default IRA, including a description of the investment, the fees associated with the IRA, notification that the distribution may be transferred by the Participant to another individual retirement plan, as well as the name, address, and phone number of a plan contact for additional information.

(c) The Participant's consent shall not be required for any distribution required under Section 6.14, below.

(d) Notwithstanding any provision in the Plan to the contrary, distributions shall be made in accordance with Section 6.14 and shall otherwise comply with Code Section 401(a)(9) and the Regulations thereunder.

(e) All Contracts purchased for purposes of the payment of benefits under this Plan shall be non-transferable.

(f) If a distribution is made at a time when a Participant who has not terminated employment is not fully Vested in the Participant's Account and the Participant may increase the Vested percentage in such account:

(1) A separate account shall be established for the Participant's interest in the Plan as of the time of the distribution, and

(2) At any relevant time the Participant's Vested portion of the separate account shall be equal to an amount ("X") determined by the formula:

$$X \text{ equals } P(\text{AB plus } (R \times D)) - (R \times D)$$

For purposes of applying the formula: P is the Vested percentage at the relevant time, AB is the account balance at the relevant time, D is the amount of distribution, R is the ratio of the account balance at the relevant time to the account balance after distribution, and the relevant time is the time at which, under the Plan, the vested percentage in the account cannot increase .

(g) The Administrator, pursuant to the election of the Participant, shall direct the Insurer (or Trustee, if applicable) to distribute to a Participant or the Participant's Beneficiary any amount to which the Participant or Beneficiary is entitled under the Plan in one or more of the following methods which are permitted pursuant to the Adoption Agreement:

(1) One lump -sum payment in cash;

(2) Payments in monthly, quarterly, semiannual, or annual cash installments after first having:

(i) purchased a nontransferable annuity Contract for such payment, or,

(ii) if a trustee Plan, segregated the aggregate amount thereof in a separate savings account or certificate of deposit in a bank or savings and loan association, money market certificate or other liquid short-term security. The period over which such payment is to be made shall not extend beyond the Participant's life expectancy (or the life expectancy of the Participant and the Participant's designated Beneficiary);

(3) Payments in the form of an annuity. However, such annuity may not be in any form that will provide for payments over a period extending beyond either the life of the Participant (or the lives of the Participant and the Participant's designated Beneficiary) or the life expectancy.

6.06 DISTRIBUTION OF BENEFITS UPON DEATH

(a) If the Participant dies before his entire Vested Account is distributed to him, his remaining Vested interest in the Plan shall be distributed to his designated Beneficiary by either of the following methods, as elected by the Participant (or, if no election has been made prior to the Participant's

death, by the Participant's Beneficiary) subject to the rules specified in Section 6.06(b) and the selections made in the Adoption Agreement:

- (1) One lump-sum payment in cash;
- (2) In the form of an annuity over the life expectancy of the Participant's Beneficiary.
- (3) In the form of installments. In the event the death benefit is payable in
- (4) installments, then, upon the death of the Participant, the Administrator may direct that the death benefit be segregated and invested separately, and that the funds accumulated in the segregated account be used for the payment of the installments.

(b) Notwithstanding the above, if the Participant's Vested account balance as of the date of death does not exceed the amount selected in the Adoption Agreement (for involuntary distributions), the entire Vested account balance shall be distributed as soon as administratively practicable in a single lump sum subject to the mandatory rollover to IRA provisions of Section 6.05(b). The value of a Participant's Vested account balance shall be determined by including the portion of the account balance that is attributable to rollover contributions (and earnings allocable thereto) within the meaning of Code Sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16).

(c) Notwithstanding any provision in the Plan to the contrary, distributions upon the death of a Participant shall be made in accordance with Section 6.14 and shall otherwise comply with Code Section 401(a)(9) and the Regulations thereunder.

(d) In the event that less than 100% of a Participant's interest in the Plan is distributed to such Participant's spouse, the portion of the distribution attributable to the Participant's Voluntary Contribution Account shall be in the same proportion that the Participant's Voluntary Contribution Account bears to the Participant's total interest in the Plan.

6.07 TIME OF SEGREGATION OR DISTRIBUTION

Except as limited by Sections 6.05 and 6.06, whenever the Insurer (or Trustee, if applicable) is to make a distribution or commence a series of payments on or as of an Anniversary Date, the distribution or series of payments may be made or begun on such date or as soon thereafter as is practicable.

6.08 DISTRIBUTION FOR MINOR BENEFICIARY

In the event a distribution is to be made to a minor Beneficiary, then the Administrator may direct that such distribution be paid to the legal guardian or to the custodian for such Beneficiary under the applicable state Uniform Transfers (Gifts) to Minors Act, if such is permitted by the laws of the state in which said Beneficiary resides. Such a payment to the legal guardian or custodian of a minor Beneficiary shall fully discharge the Insurer (or Trustee, if applicable), Employer, and Plan from further liability on account thereof.

6.09 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN

In the event that all, or any portion, of the distribution payable to a Participant or the Participant's Beneficiary hereunder shall, at the later of the Participant's attainment of age 62 or Normal Retirement Age, remain unpaid solely by reason of the inability of the Administrator, after sending a registered letter, return receipt requested, to the last known address, and after further diligent effort, to ascertain the whereabouts of such Participant or Beneficiary, the amount so distributable shall escheat to the State under State laws. In the event a Participant or Beneficiary is located subsequent to the benefit being escheated, such benefit shall be restored, first from Forfeitures, if any, and then from an additional Employer contribution, if necessary.

6.10 IN-SERVICE DISTRIBUTION

For Profit Sharing Plans, if elected in the Adoption Agreement, at such time as the conditions specified in the Adoption Agreement have been satisfied, the Administrator, at the election of the Participant, shall direct the distribution of up to the entire amount then credited to the accounts maintained on behalf of the Participant. However, no such distribution from the Participant's Account shall occur prior to 100% Vesting. In the event that the Administrator makes such a distribution, the Participant shall continue to be eligible to participate in the Plan on the same basis as any other Employee. Any distribution made pursuant to this section shall be made in a manner consistent with Section 6.05, including, but not limited to, the notice requirements of Code Section 402(f) and the Regulations thereunder. The provisions of the paragraph shall not apply to contributions made pursuant to Section G.3.b. of the Adoption Agreement on behalf of Part-time, Seasonal and Temporary Employees.

Notwithstanding any provision of this Plan to the contrary, to the extent that any optional form of benefit under this Plan permits a distribution prior to the Participant's retirement, death, Total and Permanent Disability, or severance from employment, and prior to Plan termination, the optional form of benefit is not available with respect to benefits attributable to assets (including the post-transfer earnings thereon) and liabilities that are transferred, within the meaning of Code Section 414(l), to this Plan from a Money Purchase Pension Plan qualified under Code Section 401(a) (other than any portion of those assets and liabilities attributable to voluntary Employee contributions).

6.11 ADVANCE DISTRIBUTION FOR HARDSHIP

(a) For Profit Sharing Plans, if elected in the Adoption Agreement, the Administrator, at the election of the Participant, shall direct the distribution to any Participant in any one Plan Year up to the lesser of 100% of the Participant's Account valued as of the last Anniversary Date or other Valuation Date or the amount necessary to satisfy the immediate and heavy financial need of the Participant. Any distribution made pursuant to this section shall be deemed to be made as of the first day of the Plan Year or, if later, the Valuation Date immediately preceding the date of distribution, and the account from which the distribution is made shall be reduced accordingly. Withdrawal under this section shall be authorized only if the distribution is on account of:

- (1) Medical expenses described in Code Section 213(d) incurred by the Participant, the Participant's spouse, or any of the Participant's dependents (as defined in Code Section 152) or expenses necessary for these persons to obtain medical care;
- (2) The purchase (excluding mortgage payments) of a principal residence for the Participant;
- (3) Funeral expenses for a member of the Participant's family;
- (4) Payment of tuition and related educational fees for the next twelve (12) months of post-secondary education for the Participant, the Participant's spouse, children, or dependents; or
- (5) The need to prevent the eviction of the Participant from the Participant's principal residence or foreclosure on the mortgage of the Participant's principal residence.

(b) No such distribution shall be made from the Participant's Account until such account has become fully Vested.

(c) Any distribution made pursuant to this section shall be made in a manner which is consistent with and satisfies the provisions of Section 6.05, including, but not limited to, all notice requirements of Code Section 402(f).

(d) The provisions of the paragraph shall not apply to contributions made pursuant to Section G.3.b. of the Adoption Agreement on behalf of Part-time, Seasonal and Temporary Employees.

6.12 LIMITATIONS ON BENEFITS AND DISTRIBUTIONS UNDER DOMESTIC RELATIONS ORDERS

All rights and benefits, including elections, provided to a Participant in this Plan shall be subject to the rights afforded to any “alternate payee” under a “domestic relations order as defined in Code Section 414(p).” Furthermore, if elected in the Adoption Agreement, a distribution to an “alternate payee” shall be permitted if such distribution is authorized by a “domestic relations order,” even if the affected Participant is not yet entitled to a distribution under the terms of the Plan.

6.13 DIRECT ROLLOVER

(a) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee’s election under this Section, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee’s designated beneficiary, or for a specified period of ten (10) years or more; any distribution that is required under Section 401(a)(9) of the Code; or any distribution which is made on account of hardship. However, the portion of any eligible rollover distribution that consists of after-tax employee contributions which are not includible in gross income may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(c) An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code or a qualified trust described in Section 401(a) of the Code, or an annuity contract described in Section 403(b) of the Code that accepts the distributee’s eligible rollover distribution. An eligible retirement plan shall also mean an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. This definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relations order.

(d) A distributee includes a Participant or Former Participant. In addition, the Participant’s or Former Participant’s surviving spouse and the Participant’s or Former Participant’s spouse or former spouse who is the alternate payee under a domestic relations order, as defined in Code Section 414(p), are distributees with regard to the interest of the spouse or former spouse.

(e) A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

6.14 REQUIRED MINIMUM DISTRIBUTIONS

(a) Except as otherwise provided in Subsection (g) below, the provisions of this section will apply for purposes of determining required minimum distributions for calendar years beginning with the

2003 calendar year. The requirements of this section will take precedence over any inconsistent provisions of the Plan. All distributions required under this section will be determined and made in accordance with the Regulations under Section 401(a)(9) and the minimum distribution incidental benefit requirement of Section 401(a)(9)(G) of the Code. Notwithstanding the other provisions of this section, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the plan that relate to Section 242(b)(2) of TEFRA.

(b) The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(1) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then except as provided in subsection (f), below, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70-1/2, if later.

(2) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then except as provided in subsection (f), below, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(3) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(4) If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this subsection (b), other than paragraph (b)(1), will apply as if the surviving spouse were the Participant.

For purposes of this subsection (b) and subsection (d), unless paragraph (b)(4) applies, distributions are considered to begin on the Participant's required beginning date. If paragraph (b)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under paragraph (b)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under paragraph (b)(1)), the date distributions are considered to begin is the date distributions actually commence.

Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with subsections (c) and (d) of this section. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Regulations.

(c) During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

(1) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9, Q&A-2 of the

Regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or

(2) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9, Q&A-3 of the Regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

Required minimum distributions will be determined under this subsection (c) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(d) (1) If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:

(i) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(ii) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(iii) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(2) If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(3) Except as provided in subsection (f) below, if the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in paragraphs (d)(1) and (d)(2).

(4) If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(5) If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under paragraph (b)(1), paragraphs (d)(3) – (5) will apply as if the surviving spouse were the Participant.

(e) Definitions.

(1) "Designated Beneficiary" means the individual who is designated as the Beneficiary under Section 6.02 of the Plan and is the designated Beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-4 of the Regulations.

(2) "Distribution calendar year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under subsection (b). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

(3) "Life expectancy" means life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9, Q&A-1 of the Regulations.

(4) "Participant's account balance" means the account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(5) "Required beginning date" means April 1st of the calendar year following the later of:

(i) the calendar year in which the Participant attains age 70-1/2; or

(ii) the calendar year in which the Participant retires.

(f) For purposes of paragraphs (b)(1), (b)(2) and (d)(3) of this Section 6.14, Participants or beneficiaries may elect on an individual basis whether the 5-year rule or the life expectancy rule applies to distributions after the death of a Participant who has a designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under paragraphs (b)(1) or (b)(2), or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, the surviving spouse's) death. If neither the Participant nor the beneficiary makes an election under this paragraph, distributions will be made in accordance with paragraphs (b)(1) or (b)(2) and (d)(3).

(g) Minimum Distributions Prior to 2003

(1) Required minimum distributions for calendar year 2002 shall be made pursuant to the proposed regulations under Code Section 401(a)(9) published in the Federal Register on

January 17, 2001 (the “2001 Proposed Regulations”) unless the previous plan document provided that required minimum distributions for 2002 were to be made pursuant to the Final and Temporary regulations under Code Section 401(a)(9) published in the Federal Register on April 17, 2002, (the “2002 Final and Temporary Regulations”).

ARTICLE VII
AMENDMENT AND TERMINATION

7.01 AMENDMENT BY EMPLOYER

(a) The Employer shall have the right at any time to amend the Adoption Agreement, but limited to changes to the choice of options in the Adoption Agreement. The Employer may also add certain IRS sample or model amendments or other required good faith amendments which specifically provide that their adoption will not cause its Plan to be treated as individually designed. The Employer may specify or change the effective date of a provision as permitted under the Plan and correct obvious and unambiguous typographical errors and/or cross-references that merely correct a reference but that do not in any way change the original intended meaning of the provisions. However, no such amendment shall authorize or permit any part of the Plan's assets (other than such part as is required to pay administration expenses) to be used for or diverted to purposes other than for the exclusive benefit of the Participants or their Beneficiaries or estates; no such amendment shall cause any reduction in the account balance of any Participant or cause or permit any portion of the Plan's assets to revert to or become property of the Employer; and no such amendment which affects the rights, duties or responsibilities of the Insurer (or Trustee, if applicable) and Administrator may be made without the Insurer's (or Trustee's, if applicable) and Administrator's written consent. Any such amendment shall become effective upon delivery of a new duly executed Adoption Agreement, provided that the Insurer (or Trustee, if applicable) shall, in writing, consent to the terms of such amendment.

(b) Any other amendment of the Plan or the non-elective portions of the Adoption Agreement by the Employer shall result in this Plan's being treated as an individually-designed plan for which the Employer will have to apply to the appropriate key district of the Internal Revenue Service for a determination letter if the Employer wants assurance that the Plan meets the requirements of the Code.

7.02 AMENDMENT BY VOLUME SUBMITTER PRACTITIONER

(a) Effective as of the date of the advisory letter, the Volume Submitter Practitioner may, from time to time, amend the plan (without the Employer's consent) in order to conform the Plan to any requirement for qualification of the Plan (and the related Trust, if applicable) under the sections of the Code applicable to "governmental plans," as defined in Section 414(d) of the Code. Such amendments may address changes in the Code, the related Treasury regulations, revenue rulings, or other statements published by the Internal Revenue Service. The Volume Submitter Practitioner may not amend the Plan in any manner which would modify any election made by the Employer under the Plan without the Employer's written consent. Furthermore, the Volume Submitter Practitioner may not amend the Plan in any manner which would violate the proscriptions of Section 7.01(a), above. The Volume Submitter Practitioner's authority to amend the plan shall cease as of the date the Internal Revenue Service requires the Employer to file a Form 5300 as an individually designed plan because of substantial modifications of the specimen plan. If the Employer is required to obtain a determination letter in order to have reliance (for example, because the Employer has modified the specimen plan), the Volume Submitter Practitioner's authority to amend the Plan shall be conditioned on the Employer's plan being covered by a favorable determination letter.

(b) The Volume Submitter Practitioner shall furnish each adopting Employer with a copy of the approved Plan, copies of any subsequent amendments, and the most recently issued IRS advisory letter. The Volume Submitter Practitioner shall maintain, or have maintained on its behalf, a record of the names, business addresses and taxpayer identification numbers of all Employers that have adopted the Plan, and shall make reasonable and diligent efforts to ensure that adopting Employers have received and are aware of all Plan amendments and that such Employees adopt new documents as necessary. If the Volume Submitter Practitioner reasonably concludes that an Employer's plan may no longer be a qualified plan, the Volume Submitter Practitioner shall (i) notify the Employer accordingly, (ii) advise the Employer about the adverse tax consequences that may result from loss of the plan's qualified status, and (iii) inform the Employer about the availability of the Employee Plans Compliance Resolution System (EPCRS).

7.03 TERMINATION

(a) The Employer shall have the right at any time to terminate the Plan by delivering to the Insurer (or trustee, if applicable) and Administrator advanced written notice of such prospective termination. Upon termination of the Plan or, in the case of a profit sharing plan the complete discontinuance of contributions to the Plan, all amounts credited to the affected Participants' Accounts shall become 100% Vested and shall not thereafter be subject to Forfeiture, and all unallocated amounts, including Forfeitures, shall be allocated to the accounts of all Participants in accordance with the provisions hereof.

(b) Upon the termination of the Plan, the Employer shall direct the distribution of the assets to Participants in a manner which is consistent with and satisfies the provisions of Section 6.05. Distributions to a Participant shall be made in any form otherwise permitted by the Plan.

(c) Notwithstanding the foregoing, in the event this is a Money Purchase Plan which provides that Forfeitures must be used to reduce Employer contributions, any Forfeitures which cannot be reallocated may revert to the Employer. However, this provision shall not apply until the end of the fifth calendar year following the date the Plan provision was adopted.

ARTICLE VIII
MISCELLANEOUS

8.01 EMPLOYER ADOPTIONS

(a) Any state or local governmental entity may, with the approval of the Volume Submitter Practitioner, become the Employer hereunder by executing the Adoption Agreement in a form satisfactory to the Insurer (or Trustee, if applicable) and it shall provide such additional information as the Insurer (or Trustee, if applicable) may require.

(b) Except as otherwise provided in this Plan, the adoption of this Plan by the Employer and the participation of its Participants shall be separate and apart from that of any other employer and its participants hereunder.

8.02 PARTICIPANT'S RIGHTS

This Plan shall not be deemed to constitute a contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon the Employee as a Participant of this Plan.

8.03 ALIENATION

(a) Subject to the exceptions provided below, no benefit which shall be payable to any person (including a Participant or the Participant's Beneficiary) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized except to such extent as may be required by law.

(b) This provision shall not apply to the extent a Participant or Beneficiary is indebted to the Plan by reason of a loan made pursuant to Section 11.01. At the time a distribution is to be made to or for a Participant's or Beneficiary's benefit, such proportion of the amount to be distributed as shall equal such indebtedness shall be paid to the Plan, to apply against or discharge such indebtedness. Prior to making a payment, however, the Participant or Beneficiary must be given written notice by the Administrator that such indebtedness is to be so paid in whole or part from the Participant's Account. If the Participant or Beneficiary does not agree that the indebtedness is a valid claim against the Participant's Vested Account, the Participant or Beneficiary shall be entitled to a review of the validity of the claim in accordance with procedures provided in Sections 2.11 and 2.12.

(c) This provision shall not apply to amounts set aside or otherwise distributed to an "alternate payee" under a "domestic relations order," as defined in Code Section 414(p). The Administrator shall establish a written procedure to administer distributions under such domestic relations orders. Further, to the extent provided under a domestic relations order, a former spouse of a Participant shall be treated as the spouse or surviving spouse for all purposes under the Plan.

(d) Notwithstanding any provision of this section to the contrary, an offset to a Participant's accrued benefit against an amount that the Participant is ordered or required to pay the Plan with respect to a judgment, order, or decree issued, or a settlement entered into, on or after August 5, 1997, shall be permitted in accordance with Code Section 401(a)(13)(C) and (D).

8.04 CONSTRUCTION OF PLAN

This Plan and Trust shall be construed and enforced according to the Code and the laws of the State or Commonwealth in which the Employer's principal office is located, other than its laws respecting choice of law.

8.05 GENDER AND NUMBER

Wherever any words are used herein in the masculine, feminine or neutral gender, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

8.06 LEGAL ACTION

In the event any claim, suit, or proceeding is brought regarding the Plan established hereunder to which the Insurer (or Trustee, if applicable) or the Administrator may be a party, and such claim, suit, or proceeding is resolved in favor of the Insurer (or Trustee, if applicable) or Administrator, they shall be entitled to be reimbursed from the Plan assets for any and all costs, attorney's fees, and other expenses pertaining thereto incurred for which the Insurer (or Trustee) or the Administrator shall have become liable.

8.07 PROHIBITION AGAINST DIVERSION OF FUNDS

(a) Except as provided below and otherwise specifically permitted by law, it shall be impossible by operation of the Plan (or of the Trust, if any) by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any part of the corpus or income of any Plan assets maintained pursuant to the Plan or any funds contributed thereto to be used for, or diverted to, purposes other than the exclusive benefit of Participants, Retired Participants, or their Beneficiaries.

(b) In the event the Employer shall make a contribution under a mistake of fact, the Employer may demand repayment of such contribution at any time within one (1) year following the time of payment and the Insurer (or Trustee, if applicable) shall return such amount to the Employer within the one (1) year period. Earnings of the Plan attributable to the contributions may not be returned to the Employer but any losses attributable thereto must reduce the amount so returned.

8.08 EMPLOYER'S, ADMINISTRATOR'S AND TRUSTEE'S PROTECTIVE CLAUSE

Neither the Employer nor the Administrator (nor the Trustee, if applicable) nor their successors, shall be responsible for the validity of any Contract issued hereunder or for the failure on the part of the Insurer to make payments provided by any such Contract, or for the action of any person which may delay payment or render a Contract null and void or unenforceable in whole or in part.

8.09 INSURER'S PROTECTIVE CLAUSE

The Insurer who shall issue Contracts hereunder shall not have any responsibility for the validity of this Plan or for the tax or legal aspects of this Plan. The Insurer shall be protected and held harmless in acting in accordance with any written direction of the Employer or Administrator (or Trustee, if applicable), and shall have no duty to see to the application of any funds paid to the Administrator (or Trustee, if applicable), nor be required to question any actions directed by the Employer or Administrator. In the event of any conflict between the terms of this Plan and the terms of any Contract issued hereunder, the Plan provisions shall control.

8.10 RECEIPT AND RELEASE FOR PAYMENTS

Any payment to any Participant, the Participant's legal representative, Beneficiary, or to any guardian or committee appointed for such Participant or Beneficiary in accordance with the provisions of this Plan, shall, to the

extent thereof, be in full satisfaction of all claims hereunder against the Insurer (or Trustee, if applicable) and the Employer, either of whom may require such Participant, legal representative, Beneficiary, guardian or committee, as a condition precedent to such payment, to execute a receipt and release thereof in such form as shall be determined by the Insurer or Employer. Any authorization of, or request for, payment directed to the Insurer shall be signed by the Administrator and/or Participant or Beneficiary.

8.11 ACTION BY THE EMPLOYER

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter or thing, it shall be done and performed by a person duly authorized by its legally constituted authority.

8.12 RESPONSIBLE PARTIES AND ALLOCATION OF RESPONSIBILITY

(a) The “responsible parties” of this Plan are (1) the Employer, (2) the Administrator and, if there is a discretionary Trustee, the Trustee. The responsible parties shall have only those specific powers, duties, responsibilities, and obligations as are specifically given them under the Plan, including but not limited to any agreement allocating or delegating their responsibilities, the terms of which are incorporated herein by reference. Unless otherwise indicated herein or pursuant to such agreement(s), the Employer shall have the duties specified in Article II hereof, as the same may be allocated or delegated thereunder, including but not limited to the responsibility for making the contributions provided for under Section 4.01, and shall have the authority:

- (1) to appoint and remove the Insurer (or Trustee); and
- (2) to amend or terminate, in whole or in part, the Plan.

(b) The Administrator shall have the responsibility for the administration of the Plan, including but not limited to the items specified in Article II of the Plan, as the same may be allocated or delegated thereunder.

(c) The Trustee (if any) shall have the responsibility of management and control of the Plan assets that are not held in Contracts, including but not limited to the acquisition and disposition of Plan assets except to the extent it shall act under the direction of the Employer, the Administrator, or Participants pursuant to Article II and Article V of the Plan.

Each responsible party warrants that any directions given, information furnished, or action taken by it shall be in accordance with the provisions of the Plan, authorizing or providing for such direction, information or action. Furthermore, each responsible party may rely upon any such direction, information or action of another responsible party as being proper under the Plan, and is not required under the Plan to inquire into the propriety of any such direction, information or action. It is intended under the Plan that each responsible party shall be responsible for the proper exercise of its own powers, duties, responsibilities and obligations under the Plan as specified or allocated hereunder. No responsible party shall guarantee the Plan assets in any manner against investment loss or depreciation in asset value. Any person or group may serve in more than one responsible party capacity.

8.13 HEADINGS

The headings and subheadings of this Plan have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

8.14 APPROVAL BY INTERNAL REVENUE SERVICE

Notwithstanding anything herein to the contrary, if, pursuant to an application timely filed by or on behalf of the Plan, the Commissioner of Internal Revenue Service or the Commissioner’s delegate should determine that the Plan does not initially qualify as a qualified plan under Code Sections 401 and 501, and such determination is

not contested, or if contested, is finally upheld, then if the Plan is a new plan, it shall be void ab initio and all amounts contributed to the Plan, by the Employer, less expenses paid, shall be returned within one year of the date the initial qualification is denied and the Plan shall terminate, and the Insurer (or Trustee, if applicable) shall be discharged from all further obligations. If the disqualification relates to an amended plan, then the Plan shall operate as if it had not been amended and restated. For purposes of this section, an application is timely filed if filed by such date as the Secretary of the Treasury may prescribe for plans maintained by governmental employers.

8.15 UNIFORMITY

All provisions of this Plan shall be interpreted and applied in a uniform, nondiscriminatory manner.

ARTICLE IX
PARTICIPATING EMPLOYERS

9.01 ELECTION TO BECOME A PARTICIPATING EMPLOYER

Notwithstanding anything herein to the contrary, with the consent of the Employer and Insurer (or Trustee, if applicable), any Affiliated Employer that is also a state or local governmental entity may adopt this Plan and all of the provisions hereof, and participate herein and be known as a Participating Employer, by a properly executed document evidencing said intent and will of such Participating Employer.

9.02 REQUIREMENTS OF PARTICIPATING EMPLOYERS

(a) Each Participating Employer shall be required to select the same Adoption Agreement provisions as those selected by the Employer other than the Plan Year, the Fiscal Year, and such other items that must, by necessity, vary among employers.

(b) Each such Participating Employer shall be required to use the same Insurer (or Trustee, if a trustee Plan) as provided in this Plan.

(c) The Insurer (or Trustee, if applicable) may, but shall not be required to, commingle, hold and invest as one fund all contributions made by Participating Employers, as well as all increments thereof.

(d) The transfer of any Participant from or to an Employer participating in this Plan, regardless of whether the Participant is an Employee of the Employer or a Participating Employer, shall not affect such Participant's rights under the Plan, and all amounts credited to such Participant's Account as well as accumulated service time with the transferor or predecessor, and length of participation in the Plan, shall continue to the credit of such Participant.

(e) Any expenses of the Plan which are to be paid by the Employer shall be paid by each Participating Employer in the same proportion that the total amount standing to the credit of all Participants employed by such Employer bears to the total standing to the credit of all Participants.

9.03 DESIGNATION OF AGENT

Each Participating Employer shall be deemed to be a part of this Plan; provided, however, that with respect to all of its relations with the Insurer (or Trustee, if applicable) and Administrator for purposes of this Plan, each Participating Employer shall be deemed to have designated irrevocably the Employer as its agent. Unless the context of the Plan clearly indicates the contrary, the word "Employer" shall be deemed to include each Participating Employer as related to its adoption of the Plan.

9.04 EMPLOYEE TRANSFERS

It is anticipated that an Employee may be transferred between Participating Employers, and in the event of any such transfer, accumulated service and eligibility shall be carried with the Employee involved. No such transfer shall effect a termination of employment hereunder, and the Participating Employer to which the Employee is transferred shall thereupon become obligated hereunder with respect to such Employee in the same manner as was the Participating Employer from whom the Employee was transferred.

9.05 PARTICIPATING EMPLOYER'S CONTRIBUTION AND FORFEITURES

Any contribution or Forfeiture subject to allocation during each Plan Year shall be allocated among all Participants of all Participating Employers in accordance with the provisions of this Plan. On the basis of the information furnished by the Administrator, the Insurer (or Trustee, if applicable) may keep separate books and records concerning the affairs of each Participating Employer hereunder and as to the accounts and credits of the Employees of each Participating Employer. The Insurer (or Trustee, if applicable) may, but need not, register

Contracts so as to evidence that a particular Participating Employer is the interested Employer hereunder, but in the event of an Employee transfer from one Participating Employer to another, the employing Employer shall immediately notify the Insurer (or Trustee, if applicable) thereof.

9.06 AMENDMENT

This Plan may be amended by the Employer at any time without any action by each and every Participating Employer hereunder. However, the Employer may only amend this Plan with the consent of the Insurer (or Trustee, if applicable) where such consent is necessary in accordance with the terms of this Plan.

9.07 DISCONTINUANCE OF PARTICIPATION

Any Participating Employer shall be permitted to discontinue or revoke its participation in the Plan at any time. At the time of any such discontinuance or revocation, satisfactory evidence thereof and of any applicable conditions imposed shall be delivered to the Insurer (or Trustee, if applicable). The Insurer (or Trustee, if applicable) shall thereafter transfer, deliver and assign Contracts and other fund assets allocable to the Participants of such Participating Employer to such new Insurer (or Trustee, if applicable) as shall have been designated by such Participating Employer, in the event that it has established a separate pension plan for its Employees. If no successor is designated, the Insurer (or Trustee, if applicable) shall retain such assets for the Employees of said Participating Employer pursuant to the provisions of Article VII hereof. In no such event shall any part of the corpus or income of the fund as it relates to such Participating Employer be used for or diverted for purposes other than for the exclusive benefit of the Employees of such Participating Employer.

9.08 ADMINISTRATOR'S AUTHORITY

The Administrator shall have authority to make any and all necessary rules or regulations, binding upon all Participating Employers and all Participants, to effectuate the purpose of this Article.

ARTICLE X
CONTRACTS
(APPLIES ONLY TO ANNUITY CONTRACTS OR
PORTION OF PLAN FUNDED WITH ANNUITY CONTRACTS)

10.01 PURCHASE OF CONTRACTS

The benefits provided under this Plan may be funded through the purchase of Contracts issued by The Variable Annuity Life Insurance Company (VALIC) or any other authorized Insurer. The provisions of this Article shall apply to any such Contracts which, as determined by the Employer, will not be held by the Trustee. The Employer shall pay within a reasonable period of time all contributions which are made to this Plan to the Insurer for the purchase of such Contracts.

10.02 EMPLOYER DESIGNATED AS OWNER

Each Contract shall designate the Employer as sole owner, with rights reserved to said Employer to exercise those rights or options contained therein that apply to the owner of the Contract. All such Contracts shall be held by the Employer who shall have the power and right to take such actions with respect to such Contracts as shall be in accordance with this Plan for purposes of providing benefits to Participants. The Employer shall be treated as trustee to the extent that the Contracts are treated as trusts pursuant to Code Section 401(f).

10.03 TYPE OF CONTRACT(S)

The Employer shall have the right to determine whether to have fixed or combination fixed and variable Contracts and whether to have group or individual Contracts. The Employer shall base its decision on which Contract(s) would be more beneficial for the Participants and on the administrative tasks imposed by each Contract. Such decision shall be in the sole discretion of the Employer.

10.04 VOTING RIGHTS

The Employer shall solicit and act in accordance with the instructions of the Participant in regard to any voting rights which pertain to a Contract for variable accumulation of benefits. During the accumulation period, Participants will have the right to instruct the Employer with respect to the votes attributable to any Vested interest they have in the Contract. All other votes entitled to be cast during the accumulation period may be cast by the Employer in its sole discretion. During the annuity period, every Participant will have the right to instruct the Employer with respect to all votes attributable to the amount of assets established in the appropriate separate account to meet the annuity obligations related to such Participant. The Insurer will provide all notices and proxy materials to the Employer for distribution to the Participants. The Employer may cast all votes for which instructions were not received in accordance with the Employer's sole discretion.

10.05 CERTIFICATE OF PARTICIPATION

The Insurer shall issue a certificate of participation and/or a Contract, as applicable, to each Participant. Each such certificate of participation shall set forth in substance the benefits or other rights to which such Participant is entitled under the Contract.

10.06 INSURER INDEMNIFICATION

To the extent permitted by law, the Employer agrees to indemnify and hold harmless the Insurer against any and all claims, losses, damages, expenses and liabilities the Insurer may incur in the exercise and performance of the Insurer's duties hereunder, unless the same are determined to be due to gross negligence or willful misconduct on the part of the Insurer.

ARTICLE XI
LOANS, AUDITS AND TRANSFERS

11.01 LOANS TO PARTICIPANTS

(a) If specified in the Adoption Agreement, the Administrator (or Trustee, if applicable) may authorize loans to Participants or Beneficiaries under the following circumstances:

- (1) loans shall be made available to all Participants on a reasonably equivalent basis;
- (2) loans shall bear a reasonable rate of interest;
- (3) loans shall be adequately secured;
- (4) loans shall provide for periodic repayment over a reasonable period of time, as defined in subsection (d) below; and
- (5) loans shall not be made for an amount less than the minimum loan amount stated in the Contracts.

(b) Loans shall be evidenced by a legally enforceable agreement that specifies the amount and date of the loan and the repayment schedule. Such agreement must be either:

- (1) in a written paper document or
- (2) in an electronic medium under a system that is accessible to participants, and under which (i) only participants may make the loan request, (ii) participants are provided with an opportunity to review, confirm, modify or rescind their request, and (iii) the participant receives either a written or electronic confirmation of the request.

(c) Loans shall be permitted from all contribution sources, including rollovers.

(d) Loans made pursuant to this section (when added to the outstanding balance of all other loans made by the Plan to the Participant) shall be limited to the lesser of:

- (1) \$50,000 reduced by the excess (if any) of the highest outstanding balance of loans from the Plan to the Participant during the one year period ending on the day before the date on which such loan is made, over the outstanding balance of loans from the Plan to the Participant on the date on which such loan was made, or
- (2) the greater of (i) one-half (1/2) of the present value of the non-forfeitable accrued benefit of the Employee under the Plan, or (ii) \$10,000.

For purposes of this limit, all plans of the Employer shall be considered one plan.

(e) Loans shall provide for level amortization with payments to be made not less frequently than quarterly over a period not to exceed five (5) years. However, loans used to acquire any dwelling unit which, within a reasonable time, is to be used (determined at the time the loan is made) as a principal residence of the Participant shall provide for periodic repayment over a reasonable period of time that may exceed five (5) years. Loan repayments must be suspended under this Plan as permitted under Code Section 414(u)(4).

(f) An assignment or pledge of any portion of a Participant's interest in the Plan and a loan, pledge, or assignment with respect to any Contract purchased under the Plan, shall be treated as a loan under this Section.

(g) Notwithstanding anything in this Plan to the contrary, if a Participant or Beneficiary defaults on a loan made pursuant to this section that is secured by the Participant's interest in the Plan, then a Participant's interest may be offset by the amount subject to the security to the extent there is a distributable event permitted by the Code or Regulations.

(h) A Participant loan program shall be established which must include, but need not be limited to, the following:

- (1) the identity of the person or positions authorized to administer the Participant loan program;
- (2) a procedure for applying for loans;
- (3) the basis on which loans will be approved or denied;
- (4) limitations, if any, on the types and amounts of loans offered, including what constitutes a hardship or financial need if selected in the Adoption Agreement;
- (5) the procedure under the program for determining a reasonable rate of interest;
- (6) the types of collateral which may secure a Participant loan; and
- (7) the events constituting default and the steps that will be taken to preserve Plan assets.

(i) Such Participant loan program shall be contained in a separate written document. Furthermore, such Participant loan program may be modified or amended in writing from time to time without the necessity of amending this Section. In the event of any conflict between the terms of this Plan and a separate loan program, the terms of the Plan will control.

11.02 TRANSFER OF INTEREST

Notwithstanding any other provision contained in this Plan, the Insurer (or Trustee, if applicable) at the direction of the Administrator may transfer the Vested interest, if any, of a Participant's Account to another trust or Contract forming part of a pension, profit sharing, or stock bonus plan meeting the requirements of Code Section 401(a) or 403(a), provided that the trust or Contract to which such transfers are made permits the transfer to be made.