

Young Life 401(k) Plan

As Amended and Restated Effective January 1, 2020

Greenberg Traurig, LLP
Denver, Colorado 80202
(303) 572-6500
www.gtlaw.com

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(as amended and restated effective January 1, 2020)

By executing this Plan, the Employer continues a Plan and Trust intended to conform to and qualify under Code § 401 and § 501 for the exclusive benefit of the Employer's Employees and the Employees' Beneficiaries. The Employer is continuing the Plan for the purpose of providing retirement benefits to Employees.

The Employer adopts this Plan as a restated Plan in substitution for, and in amendment of, its existing retirement plan. The provisions of this Plan, as a restated Plan, shall apply to all Participants as of the restated Effective Date.

The name of the Plan as adopted by the Plan Sponsor shall be the Young Life 401(k) Plan. The Plan Sponsor is adopting this Plan in substitution for, and as an amendment of, an existing retirement plan, the original plan being established as of January 1, 1998.

The Young Life Pension Plan, which was originally effective January 1, 1975, is being frozen effective as of December 31, 2019, being converted from a money purchase pension plan into a profit sharing plan, and being merged into the Plan effective as of December 31, 2019 (the "Merger Date"). The terms of the merged plans prior to the Merger Date are contained in the prior plan documents.

ARTICLE 1 DEFINITIONS

1.1 *Account* shall mean the separate account or one of the separate accounts which the Trustee shall maintain for a Participant under the Plan.

1.2 *Accounting Date* shall mean the last day of the Plan Year.

1.3 *Accrued Benefit* shall mean the total amount in all of the Participant's Accounts held in the Plan.

1.4 *Aggregate Contributions* shall have the meaning assigned to it by Section 4.11.

1.5 *Annual Additions* shall have the meaning assigned to it by Section 4.11.

1.6 *Automatic Contribution Safe Harbor Account* shall have the meaning assigned to it by Section 4.1.

1.7 *Beneficiary* shall mean a person designated by a Participant who is or may become entitled to a benefit under the Plan. A Beneficiary who becomes entitled to a benefit under the Plan shall remain a Beneficiary under the Plan until the Trustee has fully distributed the Participant's benefit to such Beneficiary.

1.8 *Cash or Deferred Arrangement* shall have the meaning assigned to it by Section 4.11.

1.9 *Catch-Up Contribution* shall mean an additional elective contribution in accordance with Code § 414(v) and not exceeding the limitation prescribed by Code § 414(v).

1.10 **Code** shall mean the Internal Revenue Code of 1986, as amended.

1.11 **Compensation** shall mean gross pay before deductions received from the Employer during the calendar month while the Employee was a Participant. Compensation includes salary reduction contributions to the Plan and to any cafeteria plan, flexible spending account plan, qualified transportation fringe benefit plan, or dependent care assistance plan. Compensation includes amounts excludable from gross income because the amounts are treated as a minister's housing allowance. Compensation shall include Employer contributions which are not includable in the gross income of the Participant under Code §§ 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 403(b), 457, or 414(h)(2).

Compensation excludes severance pay, taxable and nontaxable fringe benefits (cash and noncash), amounts paid or reimbursed under the Employer's Marriage and Family Counseling benefit, taxable and nontaxable reimbursements and other expense allowances, moving expenses, deferred compensation and welfare benefits. Compensation excludes Cost of Living Adjustments and International Cost of Living Adjustments for American expats. Compensation excludes any payments made to the Participant pursuant to the International Expense Policy. Compensation shall not include payments made to the Participant after a severance from employment (within the meaning of Code § 401(k)(2)(B)(i)(I)).

Compensation shall not include amounts in excess of \$200,000, as adjusted by the Commissioner for increases in the cost of living in accordance with Code § 401(a)(17)(B). If a determination period consists of fewer than 12 months, the \$200,000 limitation 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 12.

The Employer automatically applies each Participant's elected contribution percentage to the Participant's Compensation paid in cash.

A reemployed Military Service Employee shall be treated as receiving Compensation from the Employer during the period of qualified military service equal to (1) the Compensation the Employee would have received during the period of qualified military service, determined based on the rate of pay the Employee would have received from the Employer but for the absence during the period of qualified military service or (2) if the Compensation the Employee would have received during the period was not reasonably certain, the Employee's average Compensation from the Employer during the 12 month period immediately preceding the qualified military service (or if shorter, the period of employment immediately preceding the qualified military service).

1.12 **Determination Date** shall mean the last day of the preceding Plan Year.

1.13 **Distribution Restrictions** shall have the meaning assigned to it by Section 4.11.

1.14 **Effective Date** shall be January 1, 2020.

1.15 **Elective Contributions** shall have the meaning assigned to it by Section 4.11.

1.16 **Eligible Employee** shall specifically include all Employees, except:

- (a) Leased Employees.
- (b) Members of a collective bargaining unit. An Employee is a member of a collective bargaining unit if the Employee is included in a unit of Employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers if there is evidence that retirement benefits were

the subject of good faith bargaining between such employee representatives and such employer or employers.

- (c) Employees who are nonresident aliens and who receive no earned income (within the meaning of Code § 911(d)(2)) from the Employer which constitutes income from sources within the United States (within the meaning of Code § 861(a)(3)).
- (d) Individuals who perform services for the Employer under an agreement, contract or arrangement (which may be written, oral, or evidenced by the Employer's payroll practice) between the Employer and the individuals or with any other organization that provides the services of the individuals to the Employer, pursuant to which the individuals are initially classified or treated as independent contractors or whose remuneration for services has not been treated initially as subject to the withholding of federal income tax pursuant to Code § 3401, or are otherwise treated as employees of an entity other than the Employer, irrespective of whether they are treated as employees of the Employer under common-law employment principles or pursuant to the provisions of Code §§ 414(m), 414(n), or 414(o), even if the individual is subsequently reclassified as a common law employee as a result of a final decree of a court of competent jurisdiction, the settlement of an administrative or judicial proceeding, or a determination by the Internal Revenue Service, the Department of the Treasury, or the Department of Labor.

1.17 **Employee** shall mean an individual who performs services for the Employer or the Related Group as a common law employee and whose remuneration is subject to the withholding of federal income tax pursuant to Code § 3401. Employee shall also include a Self-Employed Individual and a Leased Employee.

1.18 **Employee Contributions Account** shall have the meaning assigned to it by Section 4.1.

1.19 **Employer** shall mean the Plan Sponsor and any Participating Employers. Solely for purposes of applying the Code § 415 limitations of Article 4, Employer shall mean the Employer and all members of the Related Group as modified by Code § 415(h).

1.20 **Employer Contributions Account** shall have the meaning assigned to it by Section 4.1.

1.21 **Employer Nonelective Contributions** shall have the meaning assigned to it by Section 4.11.

1.22 **Employment Commencement Date** shall mean the date on which an Employee first performs an Hour of Service for the Employer or the Related Group.

1.23 **Excess Amount** shall have the meaning assigned to it in Section 4.11.

1.24 **Excess Aggregate Contributions** shall have the meaning assigned to it by Section 4.11.

1.25 **Excess Contributions** shall have the meaning assigned to it by Section 4.11.

1.26 **Excess Deferrals** shall have the meaning assigned to it by Section 4.11.

1.27 **Highly Compensated Employee** shall mean, effective for Plan Years beginning after December 31, 1996, any Employee who performed service for the Employer who:

- (a) during the current Plan Year or the prior Plan Year, owned more than 5% of the Employer; or

- (b) during the prior Plan Year, received Testing Compensation from the Employer in excess of \$80,000 (as adjusted at the same time and in the same manner pursuant to Code § 415(d), except that the base period is the calendar quarter ending September 30, 1996). If the Plan Sponsor elects in its Adoption Agreement, the Employee must also be a member of the top-paid group during the Plan Year. An Employee is a member of the top-paid group for any Plan Year if the Employee is in the group consisting of the top 20% of the Employees when ranked on the basis of Testing Compensation paid during the Plan Year.

Highly Compensated Employee shall also mean a highly compensated former Employee. A highly compensated former Employee includes any Employee who separated or was deemed to have separated from Service prior to the Plan Year, performs no Service for the Employer during the Plan Year, and was a Highly Compensated Employee for either the Plan Year in which he or she separated from Service or any Plan Year ending on or after the Employee's 55th birthday, based on the rules applicable to determining Highly Compensated Employee status as in effect for that determination year, in accordance with Temp. Treas. Reg. § 1.414(q)-1T, A-4 and Notice 97-45.

For purposes of this Section, "Employer" shall mean an entity participating in the Plan and any entity participating in the Plan that is a member of the same Related Group; Highly Compensated Employees shall be determined separately with respect to each such Employer. The Plan Administrator shall administer the requirements of this Section in accordance with Code § 414(q) and the Treasury regulations thereunder.

The Employer shall determine its Highly Compensated Employees by requiring its Employees to be a member of the top-paid group during the Plan Year.

1.28 Highly Compensated Group shall have the meaning assigned to it by Section 4.11.

1.30 Hours of Service. The Plan Administrator shall credit Hours of Service on the basis of actual hours worked determined from records of hours worked, hours for which the Employer makes payment, or hours for which payment is due from the Employer.

- (a) Each hour for which the Employer, either directly or indirectly, pays an Employee, or for which the Employee is entitled to payment, for the performance of duties during the Plan Year. The Plan Administrator shall credit Hours of Service under this paragraph (a) to the Employee for the Plan Year in which the Employee performs the duties, irrespective of when paid.
- (b) Each hour for which the Employer, either directly or indirectly, pays an Employee, or for which the Employee is entitled to payment (irrespective of whether the employment relationship is terminated), for reasons other than for the performance of duties during a Plan Year, such as leave of absence, vacation, holiday, sick leave, illness, incapacity (including disability), layoff, jury duty, or military duty. The Plan Administrator shall not credit more than 501 Hours of Service under this paragraph (b) to an Employee on account of any single continuous period during which the Employee does not perform any duties (whether or not such period occurs during a single Plan Year). The Plan Administrator shall credit Hours of Service under this paragraph (b) in accordance with the rules of paragraphs (b) and (c) of Labor Reg. § 2530.200b-2, which is incorporated herein by this reference.

- (c) Each hour for back pay, irrespective of mitigation of damages, to which the Employer has agreed or for which the Employee has received an award. The Plan Administrator shall credit Hours of Service under this paragraph (c) to the Employee for the Plan Years to which the award or the agreement pertains rather than for the Plan Year in which the award, agreement, or payment is made.

The Plan Administrator shall not credit an Hour of Service under more than one of the above paragraphs. The Plan Administrator shall credit Hours of Service the Employee completes for members of any Related Group and shall credit Hours of Service the Employee completes as a Leased Employee. If the Plan Administrator is to credit Hours of Service to an Employee for the 12 month period beginning with the Employee's Employment Commencement Date or with an anniversary of such date, then that 12 month period shall be substituted for the term "Plan Year" wherever the term "Plan Year" appears in this Section.

For purposes of this Section, the period of qualified military service for a Military Service Employee shall be considered to be service with the Employer.

1.31 **Key Employee** shall mean any Employee, former Employee, or the Beneficiary of an Employee or former Employee, if the Employee or former Employee at any time during the Plan Year which includes the Determination Date:

- (a) is an officer of the Employer earning Testing Compensation greater than \$130,000 (indexed for cost of living in accordance with Code § 415(d)). No more than 50 Employees, or if lesser, the greater of three Employees or 10% of the Employees shall be treated as officers;
- (b) owns more than 5% of the Employer; or
- (c) owns more than 1% of the Employer and earns Testing Compensation in excess of \$150,000.

The constructive ownership rules of Code § 318 (or the principles of that section, in the case of an unincorporated Employer) shall apply to determine ownership in the Employer. The Plan Administrator shall determine who is a Key Employee in accordance with Code § 416(i)(1) and the Treasury regulations thereunder.

For purposes of this Section, "Employer" shall mean an entity participating in the Plan and any other entity participating in the Plan that is a member of the same Related Group. Key Employees shall be determined with respect to each Employer by applying the definition of Key Employee separately to the workforce of each Employer.

1.32 **Leased Employee** shall mean an individual (other than a common law employee of the Employer) who, pursuant to an agreement between the Employer and a leasing organization, has performed services for the Employer on a substantially full time basis for a period of at least one year, and the services are performed under the primary direction or control of the Employer. However, if the Internal Revenue Service has determined in a ruling issued before August 20, 1996 pursuant to Code § 414(n)(2)(C) that a particular relationship did not involve a Leased Employee under the requirement that the individual's service be of a type historically performed by common law employees in the business field of the Employer, the change in the law will not affect that prior determination. The Employer shall treat contributions or benefits provided to the Leased Employee by the leasing organization as contributions or benefits provided by the Employer to the extent attributable to services the Leased

Employee performed for the Employer. Notwithstanding the preceding provisions of this paragraph, the Plan shall not treat an individual as a Leased Employee if:

the Leased Employee is covered by a money purchase pension plan providing:

- (a) a nonintegrated employer contribution rate of at least 10% of Testing Compensation (including amounts which are excludable from the Leased Employee's gross income under Code §§ 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), or 403(b)),
- (b) immediate participation, and
- (c) full and immediate vesting; and

Leased Employees do not constitute more than 20% of the Employer's Nonhighly Compensated Employees.

Effective January 1, 1998, pursuant to Rev. Rul. 2002-27, "125" shall include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that the Participant has other health coverage. An amount will be treated as an amount under § 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.

1.33 Limitation Year shall mean the Plan Year. If the Limitation Year is amended to a different 12-consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made.

1.34 Matching Contributions shall have the meaning assigned to it by Section 4.11.

1.35 Maximum Permissible Amount shall have the meaning assigned to it by Section 4.11.

1.36 Military Service Employee shall mean an Employee who leaves the Employer to serve in the uniformed services in qualified military service (within the meaning of chapter 43 of title 38, United States Code) if the Employee is entitled to reemployment rights with respect to the qualified military service under the Uniformed Services Employment and Reemployment Rights Act of 1994 and initiates his or her reemployment on or after December 12, 1994.

1.37 Nonforfeitable shall mean a Participant's or Beneficiary's unconditional claim, legally enforceable against the Plan, to the Participant's Accrued Benefit.

1.38 Nonhighly Compensated Employee shall mean an Employee who is not a Highly Compensated Employee.

1.39 Nonhighly Compensated Group shall have the meaning assigned to it by Section 4.11.

1.40 Non-Key Employee shall mean a Participant who is not a Key Employee and who is employed by the Employer on the Accounting Date of the Plan Year.

For purposes of this Section, "Employer" shall mean an entity participating in the Plan and any other entity participating in the Plan that is a member of the same Related Group. Non-Key Employees shall be determined with respect to each Employer by applying the definition of Non-Key Employee separately to the workforce of the Plan Sponsor and each Participating Employer.

1.41 **Normal Retirement Date** shall mean the date the Participant attains age 65.

1.42 **Participant** shall mean any Eligible Employee who has entered the Plan on a Plan Entry Date in accordance with the provisions of Section 2.1. An Employee who becomes a Participant shall remain a Participant under the Plan until the Trustee has fully distributed the Participant's Nonforfeitable Accrued Benefit. In addition, Participant shall have the meaning assigned to it by Section 4.11.

1.43 **Participating Employer** shall mean any corporation, partnership, limited liability company, Self-Employed Individual, or any other entity that the Plan Sponsor allows to execute a participation agreement indicating adoption of the Plan for the benefit of its Employees as a Participating Employer, or adopts the Plan by resolution of its owners or governing board, regardless of whether the entity is part of a Related Group with the Plan Sponsor. As of the restatement date of the Plan, there are no Participating Employers in the Plan.

1.44 **Period of Severance** shall have the meaning assigned to it by Section 2.2.

1.45 **Permissive Aggregation Group** shall mean the Required Aggregation Group combined with any other plan maintained by the Employer, but only if such group would satisfy in the aggregate the requirements of Code § 401(a)(4) and Code § 410. The Plan Administrator shall determine which plans to take into account in determining the Permissive Aggregation Group.

1.46 **Plan** shall mean the Young Life 401(k) Plan. All section references within the Plan are Plan section references unless the context clearly indicates otherwise.

1.47 **Plan Administrator** shall mean the Plan Sponsor or the person designated by the Plan Sponsor to hold the position of Plan Administrator.

1.48 **Plan Entry Date** shall mean the Effective Date and the first day of each calendar month of every Plan Year.

1.49 **Plan Sponsor** shall mean Young Life.

1.50 **Plan Year** shall mean the 12 consecutive month period ending each December 31.

1.51 **Pre-Tax Contributions Account** shall have the meaning assigned to it by Section 4.1.

1.52 **Retirement Contributions** shall have the meaning assigned to it by Section 4.11.

1.53 **Retirement Contributions Account** shall have the meaning assigned to it by Section 4.1.

1.54 **Qualified Matching Contributions** shall have the meaning assigned to it by Section 4.11.

1.55 **Reemployment Date** shall mean the date the Employee first performs an Hour of Service for the Employer subsequent to a termination of employment with the Employer.

1.56 **Related Group** shall mean a controlled group of corporations (as defined in Code § 414(b)), trades or businesses (whether or not incorporated) which are under common control (as defined in Code § 414(c)), an affiliated service group (as defined in Code § 414(m)), and any other entity required to be aggregated with the Employer pursuant to Code § 414(o) and the Treasury regulations thereunder. If the Employer is a member of a Related Group, the Plan shall treat all Employees of the members of such Related Group as if employed by a single employer. Solely for purposes of applying the Code § 415

limitations of Article 4, the Plan Administrator shall determine any Related Group by modifying Code § 414(b) and (c) in accordance with Code § 415(h).

1.57 Required Aggregation Group shall mean (a) each qualified plan of the Related Group (or the portion of the qualified plan attributable to the Related Group) in which at least one Key Employee participates at any time during the five Plan Year period ending on the Determination Date (regardless of whether the Plan has terminated); and (b) any other qualified plan of the Related Group (or portion of the qualified plan attributable to the Related Group) which enables a plan described in (a) to meet the requirements of Code § 401(a)(4) or Code § 410.

1.58 Required Beginning Date shall have the meaning assigned to it by Section 6.3.

1.59 Rollover Contributions Account shall have the meaning assigned to it by Section 4.1.

1.60 Roth Contributions shall mean Elective Contributions and Catch-Up Contributions for which the Participant has irrevocably elected Roth Contribution Tax Treatment pursuant to Code § 402A.

1.61 Roth Contributions Tax Treatment shall mean that the Roth Contributions were included in the Participant's gross income as a result of the Participant's irrevocable election, and that the Roth Contributions, plus accumulated earnings may be distributed from the Plan without being subject to any additional federal income or employment taxes on the distribution, if the distribution is a qualified distribution within the meaning of Code § 402A.

1.62 Safe Harbor and QNEC Account shall have the meaning assigned to it by Section 4.1.

1.63 Safe Harbor Contributions shall mean contributions made pursuant to a Code §§ 401(k)(12) and 401(m)(11) safe harbor formula or contributions made pursuant to a Code § 401(k)(11) and Code § 401(m)(10) safe harbor formula.

1.64 Service shall mean any period of time the Employee is in the employ of the Employer, including any period the Employee is on an unpaid leave of absence authorized by the Employer under a uniform, nondiscriminatory policy established by the Employer and including any period the Employee is a Leased Employee of the Employer.

1.65 Service for Predecessor Employer shall mean the extent to which the Employer shall take into account service with a predecessor employer. If the Employer maintains the plan of a predecessor employer, the Plan shall treat service of the Employee with the predecessor employer as service with the Employer. The Plan shall take into account service with an entity other than a Participating Employer (a "predecessor employer") only to the extent required by law.

1.66 Spouse shall mean an individual who is legally married to a Participant under the laws of the jurisdiction in which the marriage ceremony occurred, or a legally married common law spouse, provided the individual is considered the Participant's spouse for federal income tax purposes.

1.67 Termination of Employment shall mean the cessation of providing services as an Employee from the Plan Sponsor and all Participating Employers and the Related Group members of all Employers.

1.68 Testing Compensation shall mean W-2 Compensation. Amounts included as Compensation are only those amounts actually paid to a Participant and those amounts paid prior to severance from employment (within the meaning of Treas. Reg. § 1.415(a)-1(f)(5)), except as provided in this Section. Payments made within the later of (a) 2½ months after severance from employment (within the meaning of Treas. Reg. § 1.415(a)-1(f)(5)) or (b) the end of the Limitation Year in which the Participant's

severance from employment occurred (the "Post-Severance Period") will be included in Testing Compensation if they are payments that, absent a severance from employment, would have been paid to the Participant while the Participant continued in employment with the Employer and are regular compensation for services during the Employee's regular working hours, compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar compensation, and payments for accrued bona fide sick, vacation or other leave, but only if the Employee would have been able to use the leave if employment had continued. Any payments paid after severance from employment (within the meaning of Treas. Reg. § 1.415(a)-1(f)(5)) that are not described in the immediately preceding sentence are not included in Testing Compensation, even if paid within the Post-Severance Period, except that payments made during or after the Post-Severance Period to an individual who does not currently perform services for the Employer by reason of qualified military services (within the meaning of Code § 414(u)(1)) shall be included in Testing Compensation to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

W-2 Compensation. Testing Compensation shall mean the Employee's Earned Income and wages within the meaning of Code § 3401(a) and all other payments of remuneration to the 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 §§ 6041(d), 6051(a)(3) and 6052, determined without regard to any rules under Code § 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed. Testing Compensation shall not include amounts which exceed \$200,000 (or such larger indexed amount determined by the Commissioner of Internal Revenue in accordance with Code § 401(a)(17)) and shall not include amounts which are in the nature of sick pay which do not constitute wages and which are treated as wages for purposes of withholding in accordance with Code § 3402(o).

Testing Compensation shall include Employer contributions which are not includable in the gross income of the Employee under Code §§ 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). The immediately preceding sentence shall apply to Testing Compensation for purposes of Code §§ 401(m), 401(k), 401(a)(4), and 401(l). For purposes of the Key Employee determination and the Highly Compensated Employee determination, the Plan Administrator shall apply the Testing Compensation definition by including Employer contributions which are not includable in the gross income of the Employee under Code §§ 125, 132(f)(4), 402(g)(3), 457 or 414(h)(2) and without limiting Testing Compensation to the Code § 401(a)(17) limitation amount. For purposes of the Code § 415 limitations, the Plan Administrator shall apply the Testing Compensation definition by including Employer contributions which are not includable in the gross income of the Employee under Code §§ 125, 132(f)(4), 402(g)(3), 457, or 414(h)(2) for Plan Years beginning on and after January 1, 1998.

The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which Testing Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the \$200,000 limitation 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 12.

Testing Compensation shall be determined separately for each Employer. For purposes of this Section, "Employer" shall mean an entity participating in the Plan and any other entity participating in the Plan that is a member of the same Related Group.

A reemployed Military Service Employee shall be treated as receiving Testing Compensation from the Employer during the period of qualified military service equal to (1) the Testing Compensation

the Employee would have received during the period of qualified military service, determined based on the rate of pay the Employee would have received from the Employer but for the absence during the period of qualified military service or (2) if the Testing Compensation the Employee would have received during the period was not reasonably certain, the Employee's average Testing Compensation from the Employer during the 12 month period immediately preceding the qualified military service (or if shorter, the period of employment immediately preceding the qualified military service).

Effective January 1, 1998, pursuant to Rev. Rul. 2002-27, "125" shall include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that the Participant has other health coverage. An amount will be treated as an amount under § 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.

1.69 Top Heavy Plan shall mean that the top heavy ratio for the Plan as of the Determination Date exceeds 60% for a Plan Year if this Plan is the only qualified plan maintained by the Employer. The top heavy ratio is a fraction. The numerator of the fraction is the sum of the present value of Accrued Benefits of all Key Employees as of the Determination Date (including any contribution not made as of the Determination Date but which Code § 416 and the Treasury regulations thereunder require the Plan Administrator to take into account), and distributions made within the five Plan Year period immediately preceding the Determination Date. The denominator of the fraction is a similar sum determined for all Employees. The Plan Administrator shall calculate the top heavy ratio by disregarding the Accrued Benefit attributable to any Non-Key Employee who was formerly a Key Employee. The Plan Administrator shall calculate the top heavy ratio by disregarding the Accrued Benefit (including distributions, if any, of the Accrued Benefit) of an individual who has not received credit for at least one Hour of Service with the Employer during the five Plan Year period ending on the Determination Date. The Plan Administrator shall calculate the top heavy ratio, including the extent to which it shall take into account distributions, rollovers, and transfers, in accordance with Code § 416 and the Treasury regulations thereunder. Effective for Plan Years beginning on or after January 1, 2002, the top heavy determination shall be made by (1) adding back in only those distributions (other than distributions made for reasons other than separation from service, death, or disability) made within the Plan Year immediately preceding the Determination Date, (2) adding back in those distributions made for reasons other than severance from employment, death, or disability within the five Plan Year period immediately preceding the Determination Date, and (3) subtracting the Accrued Benefit of an individual who has not received credit for at least one Hour of Service during the Plan Year or the Plan Year immediately preceding the Determination Date.

1.70 Trust shall mean the trust created by the Employer with respect to the Plan pursuant to the Trust Agreement.

1.71 Trust Fund shall mean all property of every kind held or acquired by the Trustee under the Plan.

1.72 Trustee shall mean the person or persons who execute the Trust Agreement as Trustee, or any person who accepts the position of Trustee in writing. The Trustee shall maintain the Plan of the Employer as a separate Plan and as a separate Trust, independent from the plan and trust of any other corporation, partnership, or self-employed individual.

1.73 Valuation Date shall mean each date on which the Trustee values the Trust Fund. The Trustee shall value the Trust Fund on the last day of each Plan Year to determine the current fair market value of the Trust Fund assets. The Trustee shall value the Trust on such other dates as directed by the Plan Administrator. The Trustee shall allocate net income, gain or loss to Participants' Accounts as of each Valuation Date.

1.74 *Year of Service – Participation* shall have the meaning described in Section 2.2.

****** End of Article 1 ******

ARTICLE 2

EMPLOYEES ENTITLED TO PARTICIPATE

2.1 Eligibility. Each Employee who was a Participant in the Plan on the day before the Effective Date of this restatement of the Plan shall continue as a Participant in the Plan, and shall be eligible to make 401(k) Contributions, and receive Safe Harbor Matching Contributions and Retirement Contributions. On and after January 1, 2020, each Eligible Employee who first becomes eligible under this Section 2.1 on or after January 1, 2020, shall become a Participant in the Plan and shall be eligible to make elections under a Cash or Deferred Arrangement and receive Safe Harbor Contributions on the Plan Entry Date (if employed on that date) coincident with or immediately following the Eligible Employee's Employment Commencement Date. Effective on and after January 1, 2020, each Participant entering the Plan on or after January 1, 2020 shall be eligible to receive Retirement Contributions beginning with the first day of the calendar month coincident with or immediately following the date the Participant completes 36 cumulative months of Service without regard to whether an intervening Break in Service has occurred.

2.2 Participation. For purposes of eligibility to participate under Section 2.1, the Plan shall count all of an Employee's Service with the Employer and the Related Group. The Plan Administrator shall credit an Employee for the aggregate of all time periods commencing with the Employee's Employment Commencement Date or Reemployment Date and ending on the last date of the calendar month in which a Break in Service begins. If an Employee works any portion of a calendar month, the Employee shall receive credit for a full calendar Month of Service. Period of Severance shall mean a continuous period of time during which the Employee is not employed by the Employer and does not receive credit for a Month of Service for that calendar month. A Period of Severance begins on the first day of the calendar month following the date the Employee retires, quits, or is discharged. For purposes of this Section, the period of qualified military service for a Military Service Employee shall be considered to be service with the Employer.

2.3 Participation Upon Reemployment. A Participant whose employment terminates shall reenter the Plan as a Participant on the Participant's Reemployment Date. An Employee who satisfies the Plan's eligibility conditions but who terminates employment prior to becoming a Participant shall become a Participant on the later of the Plan Entry Date on which the Employee would have entered the Plan had he or she not terminated employment or the Participant's Reemployment Date.

2.4 Change in Eligible Employee Status. If a Participant does not terminate employment, but is not an Eligible Employee or ceases to be an Eligible Employee by reason of employment within an employment classification excluded from participation by the Plan, then during the period such Participant is not an Eligible Employee, the Plan Administrator shall not allocate any Employer contributions to the Participant's Accounts except to the extent the Participant rendered services for the Employer as an Eligible Employee. However, during such period, the Participant, without regard to employment classification, the Participant's Accrued Benefit shall continue to share fully in Trust Fund allocations under Section 4.8. A Participant who is no longer an Eligible Employee will participate immediately upon becoming an Eligible Employee. An Employee who is not an Eligible Employee shall participate immediately upon becoming an Eligible Employee if the Employee has satisfied the requirements of Section 2.1 other than being an Eligible Employee.

2.5 Election Not to Participate. Neither an Eligible Employee or a Participant shall be permitted to elect not to participate, except to the extent the Eligible Employee or Participant declines to participate in a Cash or Deferred Arrangement.

* * * End of Article 2 * * *

ARTICLE 3 CONTRIBUTIONS

3.1 Amount of Employer Contributions. Although the Employer may contribute to this Plan irrespective of whether it has net profits, the Employer intends this Plan to be a profit sharing plan for all purposes under the Code. The Plan include a Cash or Deferred Arrangement under Code § 401(k). The amount of the Employer's annual contribution to the Trust shall equal the sum of the Elective Contributions, Catch-Up Contributions, Safe Harbor Contributions and Retirement Contributions. For each Plan Year, the Employer shall contribute to the Trust the amount determined by application of the contribution formulas, taking into account only the Participants (including any Military Service Employee) who satisfy the conditions for an allocation of Employer contributions. A Participant who remains in the employ of the Employer after attaining the Normal Retirement Date shall continue to participate in Employer contributions. The Employer, from its records, shall determine the amount of any contributions to be made by it to the Trust under the terms of the Plan. The Employer shall not make a contribution to the Trust for any Plan Year to the extent the contribution would exceed the limitations imposed by Article 4.

Elective Contributions Made Pursuant to a Cash or Deferred Arrangement. Subject to the limitations of Article 3 and Article 4, any Participant shall be entitled to make Elective Contributions pursuant to a Cash or Deferred Arrangement. Under no circumstances may a salary reduction agreement or other deferral mechanism be adopted retroactively. Contributions made pursuant to a Cash or Deferred Arrangement shall be limited in a manner which meets the requirements of Section 4.9.

Eligible Automatic Contribution Arrangement (EACA). The Employer has elected to apply the requirements for an eligible automatic contribution arrangement (EACA). Thus, the provisions of this paragraph shall apply.

- (a) **Notice Requirements.** At least 30 days, but not more than 90 days, before the beginning of the Plan Year, the Employer shall notify each Participant of the Participant's rights and obligations under the EACA, written in a manner calculated to be understood by the average Participant. If an Employee becomes eligible after the 90th day before the beginning of the Plan Year and does not receive the notice for that reason, the notice must be provided no more than 90 days before the Employee becomes eligible, but not later than the date the Employee first becomes eligible.
- (b) **Withdrawal of Automatic Contributions.** The Employer has authorized withdrawals of default automatic contributions in Section 6.5. No spousal consent is required for a withdrawal of automatic contributions. The amount to be distributed from the Plan upon the Participant's request shall be equal to the amount of the default automatic contributions, plus attributable earnings through the date of distribution. Any fee charged to the Participant for the withdrawal may not be greater than any other fee charged for a cash distribution. Unless the Participant affirmatively elects otherwise, any withdrawal request will be treated as an affirmative election to stop having automatic contributions made on the Participant's behalf. Default automatic contributions distributed pursuant to this Section are not counted towards the Code § 402(g) dollar limitation and are not included in the ADP test. No Matching Contributions will be made with respect to the withdrawn automatic contributions and any Matching Contributions already made with respect to withdrawn automatic contributions will be forfeited.

Catch-Up Contributions Made Pursuant to a Cash or Deferred Arrangement. Subject to the limitations of Article 3 and Article 4, any Participant shall be entitled to make Catch-Up Contributions pursuant to a Cash or Deferred Arrangement. Under no circumstances may a salary reduction agreement or

other deferral mechanism be adopted retroactively. Contributions made pursuant to a Cash or Deferred Arrangement shall be limited in a manner which meets the requirements of Section 4.9.

Election of Roth Contribution Tax Treatment. A Participant shall be entitled to elect to treat all or any portion of the Participant's Elective Contributions and Catch-Up Contributions as Roth Contributions. The Participant shall make the Roth Contribution Tax Treatment Election prior to the date the contributions are withheld from the Participant's compensation.

Code §§ 401(k)(12) and 401(m)(11) Safe Harbor Formula. The Plan applies a Code §§ 401(k)(12) and 401(m)(11) Safe Harbor Formula; thus, the provisions of this paragraph apply and the provisions of Sections 4.9 and 4.10 shall not apply for any Plan Year for which the Plan is a Safe Harbor 401(k) Plan. However, if Matching Contributions made at the Employer's discretion are made on behalf of any Participant that, in the aggregate, could exceed a dollar amount equal to 4% of the Participant's Testing Compensation, the Matching Contributions will continue to be subject to Section 4.10. In accordance with Treas. Reg. §§ 1.401(k)-1(e)(7) and 1.401(m)-1(c)(2), the Employer may use ADP and ACP testing for a Plan Year in which it is intended for the Plan through its written terms to be a Code §§ 401(k) and 401(m) Safe Harbor Plan, and the Employer fails to satisfy the Code §§ 401(k) and 401(m) safe harbor requirements for the Plan Year.

- (a) **Notice Requirements.** At least 30 days, but not more than 90 days, before the beginning of the Plan Year, the Employer shall notify each Participant of the Participant's rights and obligations under the Plan, written in a manner calculated to be understood by the average Participant. If an Employee becomes eligible after the 90th day before the beginning of the Plan Year and does not receive the notice for that reason, the notice must be provided no more than 90 days before the Employee becomes eligible, but not later than the date the Employee first becomes eligible.
- (b) **Election Periods.** In addition to any other election period provided under the Plan, each Participant may make or modify a salary reduction agreement during the 30-day period immediately following receipt of the notice described in (a).

Except as otherwise provided in Treasury Regulations, in order to apply a Code §§ 401(k)(12) and 401(m)(11) Safe Harbor Formula, the Employer must adopt the Code §§ 401(k)(12) and 401(m)(11) Safe Harbor Formula before the first day of the Plan Year, and the Code §§ 401(k)(12) and 401(m)(11) Safe Harbor Formula must remain in effect for an entire 12-month Plan Year. Notwithstanding the foregoing, a Plan that provides for a Code §§ 401(k)(12) and 401(m)(11) Safe Harbor Matching Contribution Formula may be amended during the Plan Year to reduce or suspend the Code §§ 401(k)(12) and 401(m)(11) Safe Harbor Matching Contributions on future Elective Contributions provided that the requirements of Treas. Reg. § 1.401(k)-3(g) (and any revisions or subsequent Proposed Regulations thereto) are satisfied, and the Plan uses the current year testing method. Notwithstanding the foregoing, a Plan that provides for a Code §§ 401(k)(12) and 401(m)(11) Nonelective Safe Harbor Formula may be amended during the Plan Year to reduce or suspend the Code §§ 401(k)(12) and 401(m)(11) Nonelective Safe Harbor Formula provided that the requirements of Prop. Treas. Reg. § 1.401(k)-3(g) (and any revisions or subsequent Proposed or Final Regulations thereto) are satisfied and the Plan uses the current year testing method.

Elective Contributions. The Employer shall contribute the amount of Elective Contributions for the Plan Year. Elective Contributions shall mean the amount by which the Participants have elected to reduce their Compensation for the Plan Year. A Participant shall make the election in the manner established by the Plan Administrator. The percentage specified shall not be less than 0% and not greater than 100%; however, the

amount of a Participant's Elective Contributions plus Catch-Up Contributions shall never exceed 100% of Testing Compensation minus all applicable voluntary and mandatory withholdings and deductions.

Automatic Election. Unless the Participant elects otherwise, the Employer shall automatically withhold a 1% Elective Contribution (the "Initial Percentage") and contribute it to the Plan on behalf of each Eligible Employee whose Employment Commencement Date occurs on or after January 1, 2008 commencing as of 30 days following the Plan Entry Date the Participant first becomes eligible to contribute. The Automatic Election shall be an Eligible Automatic Contribution Arrangement (EACA). Unless elected otherwise by the Participant, the Initial Percentage shall remain in effect until the October 1 following the date on which the first Elective Contribution is made with respect to the Participant. The Initial Percentage shall be 1%, the percentage for the next 12 months shall be 2%, the percentage for the next 12 months shall be 3%, and the percentage for all subsequent months shall be 4%. The same default percentage shall apply to all Participants, except to the extent necessary to comply with the limitations of Code §§ 402(g), 415, or 401(a)(17). The Employer shall provide a notice to each Participant prior to the date contributions automatically commence and shall provide a notice to each Participant at least 30 days, but no more than 90 days, prior to the beginning of each Plan Year. The notice shall explain the automatic election, the Employee's right to elect to have a different percentage withheld and contributed to the Plan or no Elective Contributions withheld, and the default investment. Elective Contributions contributed under this automatic election shall not be deemed to have elected Roth Contribution Tax Treatment.

Catch-Up Contributions for Individuals Age 50 and Over. Participants who have attained age 50 or over before the end of the Plan Year shall be permitted to contribute Catch-Up Contributions. The amount of the Catch-Up Contribution shall not exceed the Participant's Testing Compensation minus the Elective Contributions made by the Participant for the Plan Year. The Catch-Up Contribution shall not be treated as an Elective Contribution and shall not be treated as an Annual Addition. The Catch-Up Contribution shall not be taken into account for purposes of the provisions of the Plan implementing the required limitations of Code §§ 402(g) and 415. The Plan shall not be treated as failing to satisfy the provisions of the Plan implementing the requirements of Code §§ 401(k)(3), 401(k)(11), 401(k)(12), 410(b) or 416, as applicable, by reason of such Catch-Up Contribution.

Election Frequencies. An Employee shall have the right to revoke an Elective Contribution election or a Catch-Up Contribution election effective for the paydate immediately following (or as soon thereafter as administratively practicable) any day of the Plan Year. An Employee shall have the right to execute or modify an existing Elective Contribution election or a Catch-Up Contribution election effective for the paydate immediately following (or as soon thereafter as administratively practicable) any day of the Plan Year.

Election of Roth Contribution Tax Treatment. A Participant shall have the right to irrevocably elect to treat all or any portion of the Participant's Elective Contributions or Catch-Up Contributions as Roth Contributions.

Matching Contributions. The Employer shall determine its Matching Contributions by taking into account only Participants who are eligible under Section 2.1 for Matching Contributions, and by not taking into account a Participant's Excess Deferrals or Excess Contributions. The Employer shall contribute Matching Contributions with respect to Elective Contributions and Catch-Up Contributions (collectively, the types of contributions shall be referred to as "Eligible Contributions") to the extent the Participant's Eligible Contributions do not exceed the maximum deferrals or percentage of Testing Compensation taken into account for purposes of the Matching Contribution formula. Eligible Contributions shall include Elective Contributions and Catch-Up Contributions for which Roth Contributions Tax Treatment is elected.

Code §§ 401(k)(12) and 401(m)(11) Safe Harbor Formula. The Employer shall contribute on behalf of each Participant an amount equal to 100% of the Participant's Eligible Contributions up to the first 4% of the Participant's Compensation. The Employer shall calculate its Safe Harbor Matching Contributions each pay period. This Plan is intended to meet the Code § 401(k)(12) and Code § 401(m)(11) safe harbor provisions.

Retirement Contributions. With respect to each Participant, the Employer shall contribute 7% times the Participant's Compensation for each calendar month as a Retirement Contribution after the Participant has completed 36 calendar months of Service.

3.2 Minimum Employer Contribution. If this Plan (or a portion of the Plan attributable to an Employer and its Related Group) is a Top Heavy Plan in any Plan Year, the contribution for each Non-Key Employee (including any Military Service Employee) shall be at least equal to a minimum contribution. Each Related Group shall determine its top heavy minimum contribution, if any, separately from any other Related Group.

If the contribution rate for the Key Employee with the highest contribution rate is greater than or equal to 3%, the minimum contribution shall be 3% of Testing Compensation for each Non-Key Employee. If the contribution rate for the Key Employee with the highest contribution rate is less than 3%, the minimum contribution for each Non-Key Employee shall equal the highest contribution rate for a Key Employee.

The contribution rate is the sum of Employer contributions (not including Employer contributions to Social Security) and forfeitures allocated to the Key Employee's Account for the Plan Year divided by the Key Employee's Testing Compensation for the Plan Year. To determine the contribution rate, the Plan Administrator shall treat all qualified top heavy defined contribution plans maintained by the Employer as a single plan. The Plan Administrator shall not treat Elective Contributions made to any plan pursuant to a Cash or Deferred Arrangement as Employer contributions for any Non-Key Employee; however, the Plan Administrator shall treat Elective Contributions made to any plan pursuant to a Cash or Deferred Arrangement as Employer contributions for all Key Employees.

If the contribution rate for the Plan Year with respect to a Non-Key Employee is less than the minimum contribution, the Employer shall increase its contribution for such Non-Key Employee to the extent necessary so that the contribution rate for the Plan Year shall equal the minimum contribution. If more than one entity maintains this Plan, each entity shall make the additional contribution attributable to the Testing Compensation it pays the Non-Key Employee, unless the members enter into a separate written agreement allocating the responsibility for the additional contribution in another manner.

3.3 Payment of Employer Contribution. The Employer shall pay all Employer contributions to the Trustee not later than the due date prescribed by law. The Employer shall make contributions under a Cash or Deferred Arrangement to the Trust within an administratively reasonable period of time after withholding the corresponding Compensation from the Participant no later than the time prescribed by the Code or by Treasury regulations. Contributions under a Cash or Deferred Arrangement shall be Employer contributions for all purposes under this Plan, except to the extent the Code or Treasury regulations prohibit the use of these contributions to satisfy the qualifications requirements of the Code. Each Employer shall determine its contribution, if any, separately from any other Employer under the Plan.

3.4 Return of Employer Contributions. Upon written request from the Employer, the Trustee shall return to the Employer the amount of the Employer's contribution made by mistake of fact. Any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year after the date when the contribution was made. The Trustee shall not increase the amount of the Employer contribution to be returned for any earnings attributable to the contribution, but the Trustee shall decrease the Employer contribution to be returned for any losses attributable to the contribution.

3.5 Rollover Contributions. An Eligible Employee shall be permitted to make rollover contributions under the Plan. Nondeductible, after-tax contributions made to an IRA are ineligible for rollover to the Plan. Any Employee (prior to satisfying the Plan's eligibility conditions) or Participant may contribute cash (or other property, including but not limited to, participant plan loans, in the sole discretion of the Plan Administrator, which discretion shall be applied in a nondiscriminatory manner) to the Trust if the contribution is a "rollover contribution" which the Code permits an Employee to transfer either directly or indirectly from one plan to another plan. Before accepting a rollover contribution, the Trustee may require an Employee to furnish satisfactory evidence that the proposed transfer is in fact a rollover contribution which the Code permits an Employee to make to the Plan. A rollover contribution shall not be considered an Annual Addition under Article 4. The Trustee shall hold, administer, and distribute a rollover contribution in the same manner as any Employer contribution made to the Trust. The Plan accepts Elective Contributions and Catch-Up Contributions designated as Roth Contributions, and the Trustee shall hold those amounts in the Participant's Roth Contributions Account.

If an Employee makes a rollover contribution to the Trust prior to satisfying the Plan's eligibility conditions, the Plan Administrator and Trustee shall treat the Employee as a Participant for all purposes of the Plan except that the Employee shall not be considered a Participant for purposes of sharing in Employer contributions under the Plan until such Employee actually becomes a Participant in the Plan. The Plan accepts rollover contributions from Code § 401(a) qualified plans, Code § 403(a) plans, and Code § 403(b) plans. In addition to accepting Elective Contributions, Catch-Up Contributions, Matching Contributions, Qualified Matching Contributions, Safe Harbor Contributions, Employer Nonelective Contributions and Retirement Contributions, the Plan accepts Elective Contributions designated as Roth Contributions and Catch-Up Contributions designated as Roth Contributions.

3.6 Voluntary Nondeductible Employee Contributions. A Participant shall not be permitted to make voluntary nondeductible Employee contributions to the Plan.

3.7 In-Plan Roth Conversion. A Participant shall be permitted to elect to convert all or any portion of the Participant's Accrued Benefit attributable to the Participant's Elective Contributions, Catch-Up Contributions, Matching Contributions, Qualified Matching Contributions, Safe Harbor Contributions, and Rollover Contributions. The Participant may designate the source of the conversion amount, subject to any reasonable restrictions on the minimum amount, frequency or number of transfers imposed by the Plan Administrator on a nondiscriminatory basis. Earnings on the Participant's In-Plan Roth Conversion Account shall be allocated to the Participant's In-Plan Roth Conversion Account. An In-Plan Roth Conversion is not a distribution from the Plan.

A Participant may withdraw amounts from the Participant's In-Plan Roth Conversion Account only when the Participant is eligible for a distribution from the Account that is the source of the In-Plan Roth Conversion. This Section is intended, and shall be construed, to comply with Code § 402A(c)(4)(E), as added by Section 902 of the American Taxpayer Relief Act of 2012, P.L. 112-240 and any guidance issued thereunder.

For purposes of this Section, *In-Plan Roth Conversion Account* shall mean the portion of the Participant's Account which the Participant has converted the tax treatment to Roth Contributions Tax Treatment.

***** End of Article 3 *****

ARTICLE 4 ALLOCATIONS TO ACCOUNTS

4.1 Individual Accounts. The Plan Administrator shall maintain a separate Account or multiple Accounts in the name of each Participant to reflect the Participant's Accrued Benefit under the Plan.

(a) **Employer Contributions Account.** The Plan Administrator shall maintain, or shall direct the Trustee to maintain, an Employer Contributions Account to reflect the Participant's Accrued Benefit derived from Employer contributions and the income, expenses, gains, and losses attributable to the Participant's Employer contributions, adjusted in accordance with Article 4. Employer contributions shall include Elective Contributions, Catch-Up Contributions, Safe Harbor Contributions, and Retirement Contributions, as determined under Section 3.1; however, the Plan Administrator shall maintain, or shall direct the Trustee to maintain, separate Accounts in the name of each Participant to reflect the Participant's Accrued Benefit under the Plan derived from the following types of Employer contributions.

(1) **Retirement Contributions Account.** The Plan Administrator shall maintain, or shall direct the Trustee to maintain, a separate Account in the name of each Participant to reflect the Participant's Accrued Benefit under the Plan derived from the Retirement Contributions.

(2) **Pre-Tax Contributions Account.** The Plan Administrator shall maintain a Pre-Tax Contributions Account in the name of each Participant to reflect the Participant's Accrued Benefit under the Plan derived from Elective Contributions made under a Cash or Deferred Arrangement for which the Participant has not elected Roth Contribution Tax Treatment. The Plan Administrator shall allocate the Participant's Catch-Up Contributions for which the Participant has not elected Roth Contribution Tax Treatment to the Participant's Pre-Tax Contributions Account. The Plan Administrator may separately account for Catch-Up Contributions and the earnings thereon.

(3) **Roth Contributions Account.** The Plan Administrator shall maintain a Roth Contributions Account in the name of each Participant who has elected Roth Contribution Tax Treatment to reflect the Participant's Accrued Benefit under the Plan derived from Roth Contributions.

(4) **Safe Harbor and QNEC Account.** If the Plan permits or has ever permitted Safe Harbor Contributions, Qualified Matching Contributions, or Employer Nonelective Contributions, the Plan Administrator shall maintain a Safe Harbor and QNEC Account in the name of each Participant to reflect the Participant's Accrued Benefit under the Plan derived from Safe Harbor Contributions.

(b) **Rollover Contributions Account.** The Plan Administrator shall maintain a Rollover Contributions Account in the name of each Participant who has contributed a rollover contribution (within the meaning of Section 3.5).

4.2 Allocation of Contributions. The Plan Administrator shall allocate and credit each Employer contribution. The Plan Administrator shall make all Plan allocations for a particular calendar month as of the last day of that calendar month. If more than one entity contributes to the Plan, the Plan Administrator shall allocate all Employer contributions to each Participant in the Plan in accordance with this Article, without regard to which contributing Employer employs the Participant. A Participant's Compensation includes Compensation from all Participating Employers, irrespective of which Employers

are contributing to the Plan. The Plan Administrator shall allocate and credit the Employer contributions to the Participants' Accounts in accordance with the Plan.

The Plan Administrator shall allocate and credit the following contributions as follows:

Elective Contributions. The Plan Administrator shall allocate each Participant's Elective Contributions for which the Participant has not elected Roth Contribution Tax Treatment to the Participant's Pre-Tax Contributions Account.

Catch-Up Contributions. The Plan Administrator shall allocate each Participant's Catch-Up Contributions for which the Participant has not elected Roth Contribution Tax Treatment to the Participant's Pre-Tax Contributions Account.

Roth Contributions. The Plan Administrator shall allocate each Participant's Elective Contributions and Catch-Up Contributions for which the Participant has elected Roth Contributions Tax Treatment to the Participant's Roth Contribution Account.

Code § 401(k)(12) and Code § 401(m)(11) Safe Harbor Contributions. The Plan Administrator shall allocate and credit any Safe Harbor Contributions to the Participant's Safe Harbor and QNEC Account.

Retirement Contributions. The Plan Administrator shall allocate and credit each Retirement Contribution to the Retirement Contributions Account of each Participant equal to the amount of the monthly Employer contribution made to the Trust for the Participant's benefit.

4.3 Eligibility to Receive Allocation of Employer Contribution. In allocating Retirement Contributions for a calendar month, the Plan Administrator shall take into account Compensation paid to the Participant during a calendar month in which the Participant completes an Hour of Service. For purposes of this Section, the period of qualified military service for a Military Service Employee shall be considered to be service with the Employer.

4.4 Accounting for Distributions. The Plan Administrator shall subtract all distributions made to a Participant or to the Participant's Beneficiary from the Participant's Account when made.

4.5 Value of Participant's Accrued Benefit. The value of each Participant's Accrued Benefit consists of that proportion of the net worth (at fair market value) of the Trust Fund which the balance in the Participant's Accounts bears to the Accounts of all Participants. For purposes of a distribution under the Plan, the value of a Participant's Accrued Benefit shall be its value as of the Valuation Date immediately preceding the date of the distribution.

4.6 Allocation of Net Income, Gain, or Loss. As of each Valuation Date the Plan Administrator shall adjust the Accounts to reflect net income, gain, or loss since the last Valuation Date in accordance with the provisions of the Trust Agreement.

4.7 Limitations on Allocations to Participants' Accounts. The amount of Annual Additions which the Plan Administrator may allocate under this Plan on a Participant's behalf for a Limitation Year may not exceed the Maximum Permissible Amount. If the amount the Employer otherwise would contribute to the Participant's Accounts would cause the Annual Additions for the Limitation Year to exceed the Maximum Permissible Amount, the Employer shall reduce the amount of its contribution so that the Annual Additions for the Limitation Year shall equal the Maximum Permissible Amount. 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 attributable to a welfare benefit fund or an individual medical account, regardless of the actual allocation date.

4.8 Code § 415 Definitions. For purposes of this Article, the following terms shall have the meaning described in the paragraphs below:

- (a) **Annual Additions** shall mean the sum of the following amounts allocated on behalf of a Participant for a Limitation Year: (1) all Employer contributions (including those Employer contributions to a simplified employee pension); (2) all forfeitures; and (3) all Employee contributions. Except to the extent provided in Treasury regulations, Annual Additions shall include Excess Deferrals, Excess Contributions, and Excess Aggregate Contributions, irrespective of whether the Plan distributes or forfeits such excess amounts. Annual Additions shall also include Excess Amounts reapplied to reduce Employer contributions. Amounts allocated to an individual medical account (as defined in Code § 415(l)(2)) and included as part of a pension and annuity plan maintained by the Employer shall be Annual Additions. Furthermore, Annual Additions shall include contributions attributable to post-retirement medical benefits allocated after March 31, 1984 to the separate account of a key employee (as defined in Code § 419A(d)(3)) under a welfare benefit fund (as defined in Code § 419(e)) maintained by the Employer, but only for purposes of the dollar limitation applicable to the Maximum Permissible Amount in taxable years ending after December 31, 1985. Annual Additions shall be determined separately for each Related Group.
- (b) **Excess Amount** shall mean the excess of the Participant's Annual Additions for the Limitation Year over the Maximum Permissible Amount.
- (c) **Maximum Permissible Amount** shall mean the lesser of (1) \$40,000 (as adjusted under Code § 415(d)), or (2) 100% of the Participant's Testing Compensation for the Limitation Year. If there is a short Limitation Year because of a change in Limitation Year, the Plan Administrator shall multiply the \$40,000 (or adjusted limitation under Code § 415(d)) limitation by the following fraction:

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

Maximum Permissible Amount shall be determined separately for each Related Group.

4.9 Contributions Under a Cash or Deferred Arrangement.

Code § 402(g) Limitation. A Participant's Elective Contributions for a calendar year shall not exceed the Code § 402(g) limit of \$11,000 or the adjusted limitation in effect at the beginning of the calendar year under Code § 402(g) (the "Code § 402(g) Limitation"). If the Employer determines the Participant's Elective Contributions for a calendar year would exceed the Code § 402(g) Limitation, the Employer shall suspend the Participant's Elective Contributions until the following January 1. If a Participant makes Elective Contributions to another Cash or Deferred Arrangement, or contributes under a simplified employee pension cash or deferred arrangement, Code § 403(b) annuity, Code § 457 plan, or Code § 501(c)(18) plan (irrespective of whether the Employer maintains the other plan), and the Participant's contributions exceed the Code § 402(g) limitation, the Participant shall have the right to provide the Plan Administrator with a written claim for Excess Deferrals made for a calendar year. The Participant shall submit the claim no later than the March 31 following the close of the particular calendar year and the claim shall specify the amount of the Participant's Elective Contributions under this Plan

which are Excess Deferrals. If the total amount of a Participant's Elective Contributions under this Plan and any other plan maintained by the Employer exceed the Code § 402(g) Limitation for any calendar year, the Participant shall be deemed to have designated such excess amount as an Excess Deferral, and the Excess Deferral shall be distributed to the Participant in accordance with this Section.

Distribution of Excess Deferrals. If, after the close of a calendar year, the Plan Administrator determines a Participant's Elective Contributions exceed the Code § 402(g) Limitation, the Plan Administrator shall either (a) recharacterize the Excess Deferral as a Catch-Up Contribution (if the Participant is eligible to make Catch-Up Contributions) or (b) distribute the Excess Deferral, as adjusted for allocable income or loss. If the Plan Administrator receives a timely claim as described in the preceding paragraph, it shall recharacterize or distribute the Excess Deferrals specified by the Participant in his or her claim. The Plan Administrator shall make all distributions under this paragraph no later than April 15 of the calendar year following the calendar year in which the Excess Deferral occurred. If the Plan Administrator distributes the Excess Deferrals by the appropriate April 15, it may make the distribution irrespective of any other provision under this Plan or under the Code. If the Plan Year is not a calendar year, the Employer shall determine to which Plan Year the Excess Deferrals relate by treating the last deferrals made for the calendar year as the Excess Deferrals.

Determination of Allocable Income or Loss to Excess Deferrals. The Plan Administrator shall adjust Excess Deferrals for any actual income or loss through the last day of the Participant's taxable year (usually the calendar year).

Actual Deferral Percentage Test. For each Plan Year that the Plan is not a Safe Harbor 401(k) Plan, the Plan Administrator shall determine whether the Elective Contributions satisfy the actual deferral percentage ("ADP") test.

- (a) If the average ADP for the Nonhighly Compensated Group exceeds 8%, the Plan shall satisfy the ADP test if the average ADP for the Highly Compensated Group does not exceed 1.25 times the average ADP of the Nonhighly Compensated Group.
- (b) If the average ADP for the Nonhighly Compensated Group equals or exceeds 2% but does not exceed 8%, the Plan shall satisfy the ADP test if the average ADP for the Highly Compensated Group does not exceed the average ADP for the Nonhighly Compensated Group by more than two percentage points.
- (c) If the average ADP for the Nonhighly Compensated Group is less than 2%, the Plan shall satisfy the ADP test if the average ADP for the Highly Compensated Group is not more than twice the average ADP for Nonhighly Compensated Group.

If the Plan permits Eligible Employees to make Elective Contributions prior to attainment of age 21 and completion of 1 Year of Service, the Plan Administrator may (i) exclude all Nonhighly Compensated Employees who have not met the minimum age and service requirements of Code § 410(a)(1)(A) from the ADP test, (ii) exclude all Eligible Employees who have not met the minimum age and service requirements of Code § 410(a)(1)(A) from the ADP test, or (iii) include all Eligible Employees without regard to whether the Eligible Employee has met the minimum age and service requirements of Code § 410(a)(1)(A).

Calculation of ADP. The "average ADP" for a group is the average of the separate ADPs calculated for each Participant who is a member of that group. A Participant's ADP for a Plan Year is the ratio of the Participant's Elective Contributions (including the Excess Deferrals for each Highly Compensated Employee except to the extent that the Excess Deferrals are included in the ACP test if the ADP test is satisfied both with and without exclusion of these Elective Contributions and excluding

Excess Deferrals for each Nonhighly Compensated Employee) for the Plan Year to the Employee's Testing Compensation for the Plan Year. Each Participant's ADP shall be calculated to the nearest 100th of 1%.

The average ADP for the Highly Compensated Group shall be calculated using data for the current Plan Year. Unless the Plan Sponsor elects to use current Plan Year data for the Nonhighly Compensated Group, the average ADP for the Nonhighly Compensated Group shall be calculated using data from the Plan Year immediately preceding the current Plan Year. For the first Plan Year this Plan or any successor plan permits any Participant to make Elective Contributions, the average ADP for the Nonhighly Compensated Group in the prior Plan Year shall be deemed to be 3%, unless the Plan Sponsor elects to use for this purpose the average ADP of the Nonhighly Compensated Group for the current Plan Year.

If:

- (a) there is a change in the group or groups of eligible employees under the Plan on account of:
 - (1) the amendment of the Plan,
 - (2) a plan merger, consolidation, or spinoff under Code §414(l),
 - (3) a change in the way the Plan is permissively aggregated with other plans for purposes of Treas. Reg. § 1.401(k)-1(g)(11), or
 - (4) a combination of any of these,
- (b) the change is effective in the Plan Year being tested for ADP purposes, and
- (c) the Plan Sponsor has not elected to use the current Plan Year testing method,

then the ADP for the Nonhighly Compensated Group for the prior Plan Year shall be the weighted average of the ADPs for the prior Plan Year subgroups. A prior Plan Year subgroup is a group of Nonhighly Compensated Employees in the prior Plan Year who were eligible employees under a specific Cash or Deferred Arrangement maintained by the Employer in the prior Plan Year and who would have been eligible employees in the Plan if the coverage change were effective in the prior Plan Year. The weighted average of the ADPs for the prior Plan Year subgroups is the sum of each prior Plan Year subgroup's average ADP. A prior Plan Year subgroup's average ADP is calculated by multiplying the ADP for the Nonhighly Compensated Group under the plan in which the subgroup was participating by a fraction, the numerator of which is the number of Nonhighly Compensated Employees in the subgroup and the denominator of which is the total number of Nonhighly Compensated Employees in all prior Plan Year subgroups. Notwithstanding the foregoing, if at least 90% of the Nonhighly Compensated Employees in all prior Plan Year subgroups are from a single prior Plan Year subgroup, the Plan Administrator may instead use the ADP for the Nonhighly Compensated Group for the prior plan year of the plan under which that subgroup was eligible.

The Plan Administrator may determine (in a manner consistent with Treasury regulations) the ADPs of the Participants for a Plan Year by taking into account Employer Nonelective Contributions or Qualified Matching Contributions, or both, made to this Plan or to any other qualified plan maintained by the Employer, which are 100% Nonforfeitable at all times and which are subject to the Distribution Restrictions, provided that the conditions described in Treas. Reg. § 1.401(k)-2(a)(6) are satisfied and the Plan Sponsor has elected to use current Plan Year data for the Nonhighly Compensated Group to calculate the average ADP of the Nonhighly Compensated Group for the Plan Year. For purposes of calculating the

ADP test, Elective Contributions, Employer Nonelective Contributions, and Qualified Matching Contributions must be made before the last day of the 12 month period immediately following the Plan Year to which contributions relate. The Employer shall maintain records sufficient to demonstrate satisfaction of the ADP test and the amount of Employer Nonelective Contributions or Qualified Matching Contributions, if any, used in such test. For purposes of the ADP test, "Employer" shall mean an entity participating in the Plan and any other entity participating in the Plan that is a member of the same Related Group. Each Employer shall apply the ADP test separately to the Participants employed by the Employer.

A Highly Compensated Employee's ADP shall include Elective Contributions under any other cash or deferred arrangement maintained by the Employer. If a Highly Compensated Employee participates in two or more cash or deferred arrangements that have different Plan Years, all cash or deferred arrangements ending with or within the same calendar year shall be treated as a single arrangement, unless mandatorily disaggregated under regulations promulgated under Code § 401(k).

A Nonhighly Compensated Employee's ADP shall not include Elective Contributions under another cash or deferred arrangement maintained by the Employer unless the Employer treats the Cash or Deferred Arrangement under this Plan and the other cash or deferred arrangement as a unit for coverage and discrimination purposes. Plans may be treated as a unit for coverage and discrimination purposes only if they have the same Plan Year and use the same ADP testing method. If plans are treated as a unit for coverage and discrimination purposes, then ADPs of Employees shall be determined as if all such plans were a single plan. Any adjustments to the average ADP for the Nonhighly Compensated Group for the prior year will be made in accordance with Notice 98-1 and any superseding guidance, unless the Employer has elected to use the current year testing method. The Plan Administrator shall not aggregate an employee stock ownership plan within the meaning of Code § 4975(e)(7) ("ESOP") (or the ESOP portion of a plan) with a non-ESOP plan (or non-ESOP portion of a plan).

Distribution of Excess Contributions. If the Plan Administrator determines the Plan fails to satisfy the ADP test for a Plan Year that it is not a Safe Harbor Plan, it shall distribute the Excess Contributions, as adjusted for allocable income or loss, from the Participant's Pre-Tax Contributions Account no later than the last day of the succeeding Plan Year. However, the Employer will incur an excise tax equal to 10% of the amount of Excess Contributions for a Plan Year not distributed to the appropriate Highly Compensated Employees during the first 2½ months of the next Plan Year. The Plan Administrator shall determine the amount of Excess Contributions as follows: the Plan Administrator shall first determine how much the actual deferral ratio (ADR) of the Highly Compensated Employee with the highest ADR would have to be reduced to satisfy the ADP test or cause such ratio to equal the ADR of the Highly Compensated Employee with the next highest ratio, and second, the Plan Administrator repeats this process until the ADP test would be satisfied. The amount of Excess Contributions is equal to the sum of these hypothetical reductions multiplied, in each case, by the Highly Compensated Employee's Testing Compensation. The Plan Administrator shall distribute to the Highly Compensated Employees the Excess Contributions as follows: the Plan Administrator shall start with the Highly Compensated Employees who have the highest deferral dollar amount, reduce their deferral dollar amounts to the next highest deferral dollar amount, then, if necessary, reduce the deferral dollar amount of the Highly Compensated Employees at the next highest deferral dollar amount level, and continue in this manner until all of the Excess Contributions have been distributed. The amount of Excess Contributions to be distributed to any Highly Compensated Employee shall be reduced by the amount of any Excess Deferrals previously distributed to the Highly Compensated Employee for the taxable year ending in the same Plan Year.

Determination of Allocable Income or Loss to Excess Contributions. The Plan Administrator shall adjust Excess Contributions for any actual income or loss through the last day of the Plan Year.

4.10 Matching Contributions - Special Discrimination Test. This Section shall apply only if the Plan is a profit sharing plan with a Cash or Deferred Arrangement, and the Plan is not a Safe Harbor 401(k) Plan for a Plan Year. The Plan Administrator shall determine whether the Non-Safe Harbor Matching Contributions, if any, satisfy one of the following average contribution percentage ("ACP") tests:

- (a) The ACP for the Highly Compensated Group does not exceed 1.25 times the ACP for the Nonhighly Compensated Group; or
- (b) The ACP for the Highly Compensated Group does not exceed the ACP for the Nonhighly Compensated Group by more than two percentage points, and the ACP for the Highly Compensated Group is not more than twice the ACP for the Nonhighly Compensated Group.

The Plan Administrator may (i) exclude all Nonhighly Compensated Employees who have not met the minimum age and service requirements of Code § 410(a)(1)(A) from the ACP test, (ii) exclude all Eligible Employees who have not met the minimum age and service requirements of Code § 410(a)(1)(A) from the ACP test, or (iii) include all Eligible Employees without regard to whether the Eligible Employee has met the minimum age and service requirements of Code § 410(a)(1)(A).

If the Plan complies with the requirements of Code § 401(m)(11), the ACP test shall be calculated by including only Matching Contributions that fail to satisfy the Code § 401(m)(11) requirements.

Calculation of ACP. The average contribution percentage for a group is the average of the separate contribution percentages calculated for each Participant who is a member of that group. A Participant's contribution percentage for a Plan Year is the ratio of the Participant's Aggregate Contributions for the Plan Year to the Participant's Testing Compensation for the Plan Year. Each Participant's contribution percentage shall be calculated to the nearest 100th of 1%.

For purposes of calculating the ACP test, Employee contributions shall be considered to have been made in the Plan Year in which contributed to the Trust, and Matching Contributions and Employer Nonelective Contributions shall be considered to have been made in the Plan Year if made before the last day of the 12-month period immediately following the Plan Year to which contributions relate. For purposes of the ACP test, "Employer" shall mean an entity participating in the Plan and any other entity participating in the Plan that is a member of the same Related Group. Each Employer shall apply the ACP test separately to the Participants employed by the Employer.

The Plan Administrator, in a manner consistent with Treasury regulations, may determine the contribution percentages of the Participants by taking into account Employer Nonelective Contributions (other than Employer Nonelective Contributions used to satisfy the ADP test under a Cash or Deferred Arrangement) or Elective Contributions, or both, made to this Plan or to any other qualified plan maintained by the Employer, provided that the conditions described in Treas. Reg. § 1.401(m)-2(a)(6) are satisfied.

The Plan Administrator shall not include in the ACP test Matching Contributions that are forfeited because the contributions to which they relate are Excess Deferrals, Excess Contributions, or Excess Aggregate Contributions. The Plan Administrator shall maintain records to demonstrate compliance with the ACP test, including the extent to which the Plan used Employer Nonelective Contributions or Qualified Matching Contributions or both to satisfy the test.

Distribution (or Forfeiture) of Excess Aggregate Contributions. The Plan Administrator shall determine Excess Aggregate Contributions after determining Excess Deferrals and Excess Contributions.

If the Plan Administrator determines that the Plan fails to satisfy the ACP test for a Plan Year, it must distribute the Excess Aggregate Contributions, as adjusted for allocable income or loss, (or forfeit such amounts, if forfeitable) during the next Plan Year. However, the Employer will incur an excise tax equal to 10% of the taxable amount of Excess Aggregate Contributions for a Plan Year not distributed to the appropriate Highly Compensated Employees during the first 2½ months of that next Plan Year. The Plan Administrator shall distribute to each Highly Compensated Employee his or her respective share of the Excess Aggregate Contributions. The Plan Administrator shall determine the amount of Excess Aggregate Contributions as follows: the Plan Administrator shall first determine how much the actual contribution ratio (ACR) of the Highly Compensated Employee with the highest ACR would have to be reduced to satisfy the ACP test or cause such ratio to equal the ACR of the Highly Compensated Employee with the next highest ratio, and second, the Plan Administrator repeats this process until the ACP test would be satisfied. The amount of Excess Aggregate Contributions is equal to the sum of these hypothetical reductions multiplied, in each case, by the Highly Compensated Employee's Testing Compensation. The Plan Administrator shall distribute to the Highly Compensated Employees the Excess Aggregate Contributions as follows: the Plan Administrator shall start with the Highly Compensated Employees who have the highest contribution dollar amount, reduce their contribution dollar amounts to the next highest contribution dollar amount, then, if necessary, reduce the contribution dollar amount of the Highly Compensated Employees at the next highest contribution dollar amount level, and continue in this manner until all of the Excess Aggregate Contributions have been distributed. Forfeitures of Excess Aggregate Contributions shall be treated in accordance with the Plan Sponsor's election in Section 4.4.

Determination of Allocable Income or Loss to Excess Aggregate Contributions. The Plan Administrator shall adjust Excess Aggregate Contributions for any actual income or loss through the last day of the Plan Year.

4.11 Definitions. For purposes of applying the ADP test and the ACP test, the following definitions shall apply:

- (a) **Aggregate Contributions** shall mean Non-Safe Harbor Matching Contributions (other than Matching Contributions used to satisfy the actual deferral percentage test under a Cash or Deferred Arrangement) and voluntary and mandatory nondeductible Employee contributions.
- (b) **Cash or Deferred Arrangement** shall mean that a Participant may elect to have the Employer make payments on behalf of the Participant either as Employer contributions to the Plan or to the Participant directly in cash. Cash or Deferred Arrangements include those arrangements described in Code § 401(k), any salary reduction simplified employee pension described in Code § 408(k)(6), any SIMPLE IRA plan described in Code § 408(p), any eligible deferred compensation plan under Code § 457, any plan described under Code § 501(c)(18), and employer contributions made on behalf of a Participant for the purchase of an annuity contract under Code § 403(b) pursuant to a salary reduction agreement.
- (c) **Distribution Restrictions** shall mean that the Participant may not receive a distribution of the specified contributions (nor earnings on those contributions) except in the event of:
 - (1) the Participant's death, disability, severance from employment, or attainment of age 59½,
 - (2) financial hardship satisfying the requirements of Code § 401(k) and the applicable Treasury regulations, or

- (3) a plan termination, without establishment of a successor defined contribution plan (including a simplified employee pension plan under Code § 408(k) and a SIMPLE IRA Plan under Code § 408(p)) other than an employee stock ownership plan within the meaning of Code § 4975(e)(7).

Prior to January 1, 2019, a distribution on account of financial hardship, as described in clause (2), shall not include earnings on Elective Contributions credited after the last day of the last Plan Year beginning prior to January 1, 1989, and shall not include Matching Contributions and Employer Nonelective Contributions which are 100% Nonforfeitable at all times and which are subject to the Distribution Restrictions, or any earnings on such contributions, irrespective of when credited. A distribution on account of financial hardship, as described in clause (2) on or after January 1, 2019 also shall not include earnings on Elective Contributions, Matching Contributions and Employer Nonelective Contributions, including those Contributions which are 100% Nonforfeitable at all times and which are subject to the Distributions Restrictions. A distribution described in clause (3) shall be a lump sum distribution, as required under Code § 401(k)(10).

- (d) ***Elective Contributions*** shall mean the Employer contributions to a qualified plan at the election of a Participant, pursuant to a Cash or Deferred Arrangement. Elective Contributions shall not include amounts which have become currently available to the Participant prior to the election nor amounts designated as nondeductible Employee contributions at the time of deferral or contribution. Elective Contributions which constitute an Excess Amount and which are returned under Section 4.10 shall not be treated as Elective Contributions for purposes of the ADP test under Section 4.10. Elective Contributions for which the Participant has irrevocably elected Roth Contribution Tax Treatment shall be treated as Elective Contributions.
- (e) ***Employer Nonelective Contributions*** shall mean contributions made by the Employer which are not Elective Contributions, which are not Matching Contributions, and which are not Retirement Contributions. Employer Nonelective Contributions shall be 100% Nonforfeitable at all times and shall be subject to the Distribution Restrictions.
- (f) ***Excess Aggregate Contributions*** shall mean the amount of Aggregate Contributions made by the Highly Compensated Employees which causes the Plan to fail to satisfy the ACP test.
- (g) ***Excess Contributions*** shall mean the amount of Elective Contributions made by the Highly Compensated Employees which causes the Plan to fail to satisfy the ADP test.
- (h) ***Excess Deferrals*** shall mean Elective Contributions in excess of the Code § 402(g) Limitation, or Elective Contributions designated by the Participant as Excess Deferrals.
- (i) ***Highly Compensated Group*** shall mean the group of Participants who are Highly Compensated Employees of the Employer for the Plan Year. For purposes of this definition, Employer shall mean an entity participating in the Plan and any other entity participating in the Plan that is a member of the same Related Group.
- (j) ***Matching Contributions*** shall mean contributions made by the Employer on account of Elective Contributions and Catch-Up Contributions. Matching Contributions shall also include Participant forfeitures allocated on account of such Elective Contributions or Catch-Up Contributions.

- (k) ***Nonhighly Compensated Group*** shall mean the group of Participants who are Nonhighly Compensated Employees of the Employer for the Plan Year. For purposes of this definition, Employer shall mean an entity participating in the Plan and any other entity participating in the Plan that is a member of the same Related Group.
- (l) ***Non-Safe Harbor Matching Contributions*** shall mean contributions made by the Employer on account of Elective Contributions, Catch-Up Contributions, or voluntary nondeductible Employee contributions that are not Safe Harbor Matching Contributions and that are not Qualified Matching Contributions.
- (m) ***Participant*** shall mean a Participant who is eligible to contribute or who is eligible to receive an allocation of Matching Contributions if the Participant contributes, irrespective of whether the Participant actually contributes.
- (n) ***Retirement Contributions*** shall mean the Employer contributions made under the Plan without regard to a Cash or Deferred Arrangement.
- (o) ***Qualified Matching Contributions*** shall mean the Matching Contributions made to this Plan, or to any other qualified plan maintained by the Employer, which are 100% Nonforfeitable at all times and which are subject to the Distribution Restrictions. Qualified Matching Contributions shall be 100% Nonforfeitable at all times and shall be subject to the Distribution Restrictions.
- (p) ***Testing Compensation*** shall have the meaning assigned to it by Article 1.

***** End of Article 4 *****

ARTICLE 5
PARTICIPANT VESTING

5.1 Vesting Schedule. Effective January 1, 2020, a Participant's Accounts shall be 100% Nonforfeitable at all times. The 100% vesting provision shall apply to all Participants with an Account Balance under the Plan on December 31, 2019, including former Employees with a 0% vested Account Balance at December 31, 2019. No amounts will be forfeitable under the Plan after December 31, 2019.

Amendment to Vesting Schedule. Though the Employer reserves the right to amend the vesting schedule at any time, the Plan Administrator shall not apply the amended vesting schedule to reduce the Nonforfeitable percentage of any Participant's Employer Contributions Account (determined as of the later of the date the Employer adopts the amendment, or the date the amendment becomes effective) to a percentage less than the Nonforfeitable percentage computed under the Plan without regard to the amendment.

****** End of Article 5 ******

ARTICLE 6 DISTRIBUTIONS

6.1 Distributions Not Exceeding \$1,000. The Plan Administrator shall direct the Trustee to distribute the Participant's Accrued Benefit in the form of a cash lump sum, not later than 60 days after the close of the Plan Year in which the Participant's employment terminates for any reason, including death, disability, or attainment of the Normal Retirement Date, if the Participant's Nonforfeitable Accrued Benefit (at the time of the distribution) does not exceed \$1,000 and the Participant fails to affirmatively elect a distribution or a direct rollover. The amount of the Participant's Rollover Contribution Account as of the date of distribution shall be included in the Participant's Account to determine whether the Participant's distribution will exceed \$1,000 for purposes of this Section.

6.2 Distributions Exceeding \$1,000. If the Participant's Nonforfeitable Accrued Benefit (at the time of the distribution) exceeds \$1,000 (including the Participant's Rollover Contribution Account as of the Participant's date of distribution), the Trustee shall distribute the Participant's Accrued Benefit in the form and at the time elected by the Participant, pursuant to Section 6.7. If the Participant or the Beneficiary does not elect in writing to a time or method of payment in accordance with Section 6.7, the Plan Administrator shall direct the Trustee to commence distribution of a Participant's Nonforfeitable Accrued Benefit (after reduction for any security interest the Plan has against that Nonforfeitable Accrued Benefit by reason of an outstanding Participant loan) in accordance with this Section, not later than 60 days after the close of the Plan Year in which the Participant's employment terminates for any reason, including death, disability, or attainment of the Normal Retirement Date. Notwithstanding the immediately preceding sentence, a Participant (or the Participant's Beneficiary, if the Participant is deceased) shall consent, in writing, within the 90 day period ending on the annuity starting date (see Section 6.7), to any distribution if the Participant's Nonforfeitable Accrued Benefit, at the time of the distribution, exceeds \$1,000, and the Participant has not attained the later of Normal Retirement Date or age 62. Furthermore, the Participant's Spouse also shall consent, in writing, to any distribution for which Section 6.8 requires the Spouse's consent. The failure of a Participant to consent to a distribution of any part of his or her Nonforfeitable Accrued Benefit which could be distributed under the Plan before attaining the later of Normal Retirement Date or age 62 shall be deemed to be an election to defer distribution of the Participant's Nonforfeitable Accrued Benefit until the time for distribution specified in the immediately following paragraph. The amount of the Participant's Rollover Contribution Account as of the date of distribution shall be included in the Participant's Account to determine whether the Participant's distribution will exceed \$1,000 for purposes of this Section.

Unless the participant elects otherwise, the Plan Administrator shall direct the Trustee to distribute the Participant's Nonforfeitable Accrued Benefit in a lump sum (or the annuity form of distribution, if required under Section 6.8) not later than the 60th day after the close of the Plan Year in which occurs the latest of the following events:

- (a) the Participant attains age 65 (or Normal Retirement Date, if earlier);
- (b) the 10th anniversary of the first day of the Plan Year in which the Participant commenced participation in the plan; or
- (c) the Participant terminates service with the Employer.

A Participant shall have the right to defer distribution of the Participant's Accrued Benefit to a date beyond the date specified under this Section, but in no event may the distribution of the Participant's Accrued Benefit be deferred beyond the date specified under Section 6.3. A Participant shall be deemed to have elected to defer his or her distribution to a date beyond the

date specified under this Section if the Participant does not elect to receive his or her Accounts following Termination of Employment. Notwithstanding the preceding provisions of this Section, the Plan Administrator shall direct the Trustee to distribute any amount required to be distributed under Section 6.3 (or under Code § 415) prior to the time described in this Section.

Distributions Upon Death. Upon the death of the Participant, the Plan Administrator shall direct the Trustee to distribute the Participant's Nonforfeitable Accrued Benefit remaining in the Trust at the time of the Participant's death to the Participant's Beneficiary in the form and at the time elected by the Beneficiary in accordance with Section 6.7. The Beneficiary's election is subject to any restrictions designated in writing by the Participant and not revoked as of the date of the Participant's death. In the absence of an election by the Beneficiary, the Plan Administrator shall direct the Trustee to distribute the Participant's Accrued Benefit in a lump sum (or the annuity form of distribution, if required under Section 6.8), as soon as administratively practicable following the Participant's death (or the date on which the Plan Administrator receives notification of, or otherwise confirms the Participant's death), but not later than 60 days after the close of the Plan Year in which the Participant's death or notification occurred.

6.3 Distributions on Account of Attaining the Required Beginning Date. The provisions in this Section take precedence over all other provisions in this Article, except that the annuity distribution requirements, if any, prescribed by Section 6.8 shall apply to distributions pursuant to this Section. The Plan Administrator shall direct the Trustee to distribute under this Section not later than the Participant's Required Beginning Date. All distributions required under this Section 6.3 will be determined and made in accordance with the Treasury regulations under Code § 401(a)(9) and the minimum distribution incidental benefit requirements of Code § 401(a)(9)(G). Notwithstanding the other provisions of this Section 6.3, distributions may be made under a designation before January 1, 1984, in accordance with § 242(b)(2) of the Tax Equity and Fiscal Responsibility Act ("TEFRA"), the provisions of the Plan that relate to TEFRA § 242(b)(2), and in accordance with a properly executed transitional election (as provided in the paragraph of this Section entitled "Transitional Elections").

The Plan shall permit a Participant to receive the Participant's minimum distribution under the in-service distribution provisions of Section 6.5 if the Participant is still employed by the Employer on the date the required minimum distribution is distributed and under the termination distribution provisions of Section 6.7 if the Participant is no longer employed by the Employer on the date the required minimum distribution is distributed.

Required Beginning Date. If a Participant is not a 5% owner, Required Beginning Date shall mean the April 1 following the close of the calendar year in which the Participant attains age 70½ or retires, if later. If a Participant is a 5% owner, Required Beginning Date shall mean the April 1 following the close of the calendar year in which the Participant attains age 70½. A Participant is a 5% owner if he or she owns, after applying the stock attribution rules of Code § 318, more than 5% of (1) the outstanding stock of the Employer, (2) the total combined voting power of all stock of the Employer, or (3) the capital or profits interest in the Employer, at any time during the Plan Year ending with or within the calendar year in which the 5% owner attains age 70½. A mandatory distribution at the Participant's Required Beginning Date shall be in lump sum (or the annuity form of distribution, if required under Section 6.8) unless the Participant makes a valid election to receive an alternative form of distribution.

Transitional Elections. If the Participant (or Beneficiary) signed a written distribution designation prior to January 1, 1984, the Plan Administrator shall distribute the Participant's Nonforfeitable Accrued Benefit in accordance with that designation, subject however, to the requirements, if applicable, of Section 6.8. The Plan Administrator shall not comply with a pre-1984 distribution designation if any of the following applies: (a) the method of distribution would have

disqualified the Plan under Code § 401(a)(9) as in effect on December 31, 1983; (b) the Participant did not have an Accrued Benefit as of December 31, 1983; (c) the distribution designation does not specify the timing and form of the distribution and the death Beneficiaries (in order of priority); (d) the substitution of a Beneficiary modifies the distribution period; or (e) the Participant (or Beneficiary) modifies or revokes the distribution designation. In the event of a revocation, the Plan shall distribute, not later than December 31 of the calendar year following the year of revocation, the amount which the Participant would have received under this Section if the election had not been in effect or, if the Beneficiary revokes the election, the amount which the Beneficiary would have received under this Section if the election had not been in effect. The Plan Administrator shall apply this Section to rollovers and transfers in accordance with the Code § 401(a)(9) regulations.

Definitions. The following definitions apply to the determination of a Participant's minimum distribution on and after the Final Reg Effective Date.

- (a) **5 Year Rule** shall mean that the Participant's Nonforfeitable Accrued Benefit will be distributed by December 31 of the calendar year that includes the 5th anniversary of the Participant's death.
- (b) **Designated Beneficiary** shall mean the individual who is designated as the Beneficiary under the Plan and is the designated beneficiary under Code § 401(a)(9) and Treas. Reg. § 1.401(a)(9)-4.
- (c) **Distribution Calendar Year ("DCY")** shall mean a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first DCY 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 DCY is the calendar year in which distributions are required to begin. The required minimum distribution for the Participant's first DCY will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other DCYs, including the required minimum distribution for the DCY in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that DCY.
- (d) **Final Reg Effective Date** shall mean January 1, 2003.
- (e) **Life Expectancy** shall mean life expectancy as computed by using the Single Life Table in Treas. Reg. § 1.401(a)(9)-9.
- (f) **Participant's Account Balance** shall mean the account balance as of the last Valuation Date in the calendar year immediately preceding the DCY ("Valuation Calendar Year") increased by the amount of any contributions made and allocated or forfeitures allocated to the Account Balance during the Valuation Calendar Year following the Valuation Date and decreased by distributions made in the Valuation Calendar Year following 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 DCY if distributed or transferred in the Valuation Calendar Year.

Time of Distribution. The Participant's Nonforfeitable Accrued Benefit will be distributed, or begin to be distributed, no later than the Participant's Required Beginning Date. If a Participant dies before distributions begin, the Participant's Nonforfeitable Accrued Benefit will be distributed, or begin to be distributed, no later than as follows:

- (a) If the Participant's Spouse is the Participant's sole Designated Beneficiary, distributions to the 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 70½, if later, unless the Participant or Beneficiary elects the 5 Year Rule.
- (b) If the Participant's Spouse is not the Participant's sole Designated Beneficiary, distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, unless the Participant or Beneficiary elects the 5 Year Rule.
- (c) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's Nonforfeitable Accrued Benefit will be distributed by December 31 of the calendar year that includes the 5th anniversary of the Participant's death.
- (d) If the Participant's Spouse is the Participant's sole Designated Beneficiary, and the Spouse dies after the Participant but before distributions to the Spouse begin, distributions will be made as if the Spouse were the Participant.

For purposes of determining when distributions begin, unless subparagraph (d) applies, distributions are considered to begin on the Participant's Required Beginning Date. If subparagraph (d) applies, distributions are considered to begin on the date distributions are required to begin to the Spouse under subparagraph (a). 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 Spouse before the date distributions are required to begin to the Spouse), the date distributions are considered to begin is the date distributions actually commence.

Form of Distribution. Unless the Participant's Nonforfeitable Accrued Benefit 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, distributions will be made at least as rapidly as the amounts required by the applicable paragraph below. If the Participant's Nonforfeitable Accrued Benefit is distributed in the form of an annuity purchased from an insurance company, distributions will be made in accordance with the requirements of Code § 401(a)(9) and the Treasury regulations. If the Participant's employment has terminated at the time a distribution is required by this Section 6.3, the Participant or Beneficiary must receive a distribution in a form permitted by Sections 6.1 or 6.2 that is at least equal to the amount required by this Section 6.3. If the Participant's employment has not terminated at the time a distribution is required by this Section 6.3, the Participant or Beneficiary must receive a distribution in a form permitted by Section 6.5 that is at least equal to the amount required by this Section 6.3.

Required Minimum Distributions During Participant's Lifetime. During the Participant's lifetime, the minimum amount that will be distributed for each DCY is the lesser of:

- (a) the amount determined by dividing the Participant's Account Balance by the distribution period in the Uniform Lifetime Table in Treas. Reg. § 1.401(a)(9)-9, using the Participant's age as of the Participant's birthday in the DCY; or
- (b) if the Participant's sole Designated Beneficiary for the DCY is the Participant's Spouse, the amount determined by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table in Treas. Reg. § 1.401(a)(9)-9, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the DCY.

Required minimum distributions will be determined beginning with the first DCY and up to and including the DCY that includes the Participant's date of death.

Required Minimum Distributions After Participant's Death. After the Participant's death, the minimum amount will be determined based upon whether or not distributions began prior to death.

(a) Death On or After Distributions Begin.

- (1) Participant Survived by Designated Beneficiary. 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 DCY after the year of the Participant's death is the amount determined by dividing the Participant's Account Balance by the longer of the remaining Life Expectancy of the Participant or of the remaining Life Expectancy of the Participant's Designated Beneficiary (using the oldest Designated Beneficiary, if the Participant has more than one Designated Beneficiary), determined as follows:
 - (A) 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.
 - (B) If the Participant's Spouse is the Participant's sole Designated Beneficiary, the remaining Life Expectancy of the Spouse is calculated for each DCY after the year of the Participant's death using the Spouse's age as of his or her birthday in that year. For DCYs after the year of the Spouse's death, the remaining Life Expectancy of the Spouse is calculated using the age of the Spouse as of his or her birthday in the calendar year of the Spouse's death reduced by one for each subsequent calendar year.
 - (C) If the Participant's Spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining Life Expectancy is calculated using his or her age in the year following the year of the Participant's death, reduced by one for each subsequent year.
- (2) No Designated Beneficiary. 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 DCY after the year of the Participant's death is the amount determined 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.

(b) Death Before Distributions Begin.

- (1) Participant Survived by Designated Beneficiary. If the Participant dies before the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each DCY after the year of the Participant's death is the amount determined by dividing the Participant's Account Balance by the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as provided in subparagraph (a) above.

- (2) No Designated Beneficiary. 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 Nonforfeitable Accrued Benefit will be completed by December 31 of the calendar year that includes the 5th anniversary of the Participant's death.
- (3) Death of Spouse Before Distributions to Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's Spouse is the Participant's sole Designated Beneficiary, and the Spouse dies before distributions are required to begin to the Spouse, this subparagraph (b) will apply as if the Spouse were the Participant.

5 Year Rule. Participants or Beneficiaries may elect on an individual basis whether the 5 Year Rule or the life expectancy rule of the Plan 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, or by September 30 of the calendar year which contains the 5th anniversary of the Participant's (or, if applicable, Spouse's) death. If neither the Participant nor the Beneficiary makes an election under this paragraph, distributions will be made as described above.

A Designated Beneficiary who is receiving payments under the 5 Year Rule may make a new election to receive payments under the life expectancy rule until December 31, 2003, provided that all amounts that would have been required to be distributed under the life expectancy rule for all DCYs before 2004 are distributed by the earlier of December 31, 2003, or the end of the 5 year period.

6.4 Distributions Under Domestic Relations Orders. Nothing contained in this Plan shall prevent the Trustee, in accordance with the direction of the Plan Administrator, from complying with the provisions of a qualified domestic relations order (as defined in Code § 414(p)). The Plan permits distribution to an alternate payee under a qualified domestic relations order at any time, irrespective of whether the Participant has attained the earliest retirement age (as defined under Code § 414(p)) under the Plan. Nothing in this Section shall be construed to permit a Participant to receive a distribution at a time otherwise not permitted under the Plan, nor does it permit the alternate payee to receive a form of distribution not permitted under the Plan.

Upon receiving a domestic relations order (either in draft form or approved by a court), the Plan Administrator promptly shall notify the Participant and any alternate payee named in the order, in writing, of the receipt of the order and the Plan's procedures for determining the qualified status of the order.

Upon receiving a domestic relations order (either in draft form or approved by a court), the Plan Administrator shall place a hold on the Participants Accounts which prohibits the Participant from receiving a distribution (either upon Termination of Employment or in-service) or from receiving the proceeds of a plan loan. In addition, the Plan Administrator shall place a hold on the Participant's Accounts which prohibits the Participant from receiving a distribution (either upon Termination of Employment or in-service) or from receiving the proceeds of a plan loan if a domestic relations court issues an order requesting such action or if the Plan Administrator receives information that causes the Plan Administrator to reasonably believe that a domestic relations order will be submitted.

If the Plan Administrator places a hold on a Participant's Account based on information that causes the Plan Administrator to reasonably believe that a domestic relations order will be submitted and

a domestic relations order (either in draft form or approved by a court) is not received within 120 days of the date the hold is placed on the Participant's Accounts, the hold will be removed.

If the Plan Administrator places a hold on a Participant's Account based on receipt of a domestic relations order (either in draft form or approved by a court), the hold shall remain upon the Participant's Accounts until the earlier of (i) the date the order is determined to be qualified and the Participant's Account is divided or (ii) 120 days following the date the Plan Administrator responds to the submitting party with its comments.

Within a reasonable period of time after receiving the domestic relations order, the Plan Administrator shall determine the qualified status of the order and shall notify the Participant and each alternate payee, in writing, of its determination. The Plan Administrator shall provide notice under this paragraph by mailing to the individual's address specified in the domestic relations order, or in a manner consistent with Department of Labor regulations.

If any portion of the Participant's Nonforfeitable Accrued Benefit is distributable during the period the Plan Administrator is making its determination of the qualified status of the domestic relations order, the Plan Administrator shall make a separate accounting of the amounts distributable. If the Plan Administrator determines the order is a qualified domestic relations order within 18 months following receipt of the order, the Plan Administrator shall direct the Trustee to distribute the distributable amounts in accordance with the order. If the Plan Administrator does not make its determination of the qualified status of the order within the 18 months following receipt of the order, the Plan Administrator shall direct the Trustee to distribute the distributable amounts in the manner the Plan would distribute if the order did not exist and shall apply the order prospectively if the Plan Administrator later determines the order is a qualified domestic relations order.

If not prohibited by the provisions of the qualified domestic relations order, the Plan Administrator may direct the Trustee to invest any partitioned amount in a segregated Account and to invest the account in federally insured, interest-bearing savings accounts or time deposits (or a combination of both), or in other fixed income investments. The Trustee shall make any distributions required under this Section by separate benefit checks or other separate distribution to the alternate payees.

6.5 In-Service Distributions. A Participant may receive a distribution prior to Termination of Employment with the Employer pursuant to the requirements of this Section. For purposes of this Section, a Participant shall not have terminated employment with the Employer if the Participant is considered to be sitting at the same desk by the Employer. A Participant shall make an election under this Section in the manner prescribed by the Plan Administrator at any time during the Plan Year for which the election is to be effective. In the written or electronic election, the Participant shall specify the dollar amount desired to be distributed. The Trustee shall distribute to a Participant in accordance with such an election under this Section within the 90 day period (or as soon as administratively practicable) after the Participant files the written or electronic election with the Trustee.

Normal Retirement Date. Subject to the annuity distribution requirements of Section 6.8, if applicable, prior to terminating employment with the Employer, a Participant, after attaining the Normal Retirement Date, shall have the right to elect to receive all or any portion of the Participant's Account.

Hardship Distribution. A Participant shall have the right to request a distribution from the Participant's Pre-Tax Contributions Account and Roth Contributions Account in an amount necessary to satisfy a hardship in accordance with the safe harbor hardship distribution provisions of Section 6.5.

Age 59½. After attaining age 59½, a Participant shall have the right to receive a distribution from the Participant's Pre-Tax Contributions Account, Roth Contributions Account, and Safe Harbor and QNEC Account.

Rollover Contributions Account. A Participant shall have the right to receive a distribution from the Participant's Rollover Contributions Account any time(s) during any Plan Year.

EACA Contributions. A Participant may withdraw Elective Contributions, and earnings attributable to those Elective Contributions, that were contributed automatically under an Automatic Election that meets the requirements to be an Eligible Automatic Contribution Arrangement (EACA) if the Participant makes a written withdrawal election within 90 days of the date Elective Contributions are first automatically contributed for the Participant under an Automatic Enrollment Election that meets the requirements to be an EACA. Matching Contributions attributable to Elective Contributions withdrawn pursuant to a Participant's election under this provision shall be forfeited.

Qualified Reservist Distributions. A Participant may elect a Qualified Reservist Distribution. A "Qualified Reservist Distribution" is any distribution to an individual who is ordered or called to active duty after September 11, 2001, if: (i) the distribution is from amounts attributable to Elective Contributions; (ii) the individual was (by reason of being a member of a reserve component, as defined in section 101 of title 37, United States Code) ordered or called to active duty for a period in excess of 179 days or for an indefinite period; and (iii) the Plan makes the distribution during the period beginning on the date of such order or call, and ending at the close of the active duty period.

Accounts From Which In-Service Distributions are Withdrawn. The Participant shall not be permitted to designate the Account from which in-service distributions are withdrawn.

Hardship. Prior to the Participant's Termination of Employment, the Participant may request a distribution from his or her Nonforfeitable Accrued Benefit (other than amounts attributable to the money purchase pension portion of the Plan) in an amount necessary to satisfy a hardship. An Alternate Payee shall not be eligible for a hardship distribution. A Participant may withdraw his or her Elective Contributions and earnings accrued prior to December 31, 1988 on Elective Contributions only if (1) the distribution is made on account of an immediate and heavy financial need of the Participant and (2) the distribution is necessary to satisfy the financial need. A hardship distribution is not available from the Safe Harbor and QNEC Account or the Automatic Contribution Safe Harbor Account.

A distribution shall be considered necessary to satisfy the immediate and heavy financial need of the Participant only if the distribution is made on account of any of the following:

- (a) medical expenses described in Code § 213(d) of the Participant or the Participant's Spouse or dependents (determined without regard to whether the expenses exceed the applicable percentage of adjusted gross income);
- (b) costs directly related to the purchase (excluding mortgage payments) of the Participant's principal residence;
- (c) payment of tuition, related educational fees, and room and board expenses for up to the next 12 months of post-secondary education for the Participant or the Participant's Spouse, children, or dependents (as defined in Code § 152, and, for taxable years beginning on or after January 1, 2005, without regard to Code § 152(b)(1), (b)(2) and (d)(1)(B));

- (d) payments necessary to prevent the eviction of the Participant from his or her principal residence or the foreclosure on the mortgage of the Participant's principal residence;
- (e) effective for Plan Years beginning on or after January 1, 2006, payments for burial or funeral expenses of the Participant's deceased parent, Spouse, children or dependents (as defined in Code § 152, and, for taxable years beginning on or after January 1, 2005, without regard to Code § 152(d)(1)(B)); or
- (f) expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under Code § 165 (determined without regard to Code § 165(h)(5) and whether the loss exceeds 10% of adjusted gross income);
- (g) effective for Plan Years beginning on or after January 1, 2019, expenses and losses (including loss of income) incurred by the Participant on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100-707, provided that the Participant's principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster.

The distribution shall be considered necessary to satisfy the financial need only to the extent the amount of the distribution is not in excess of the amount required to satisfy the financial need (including any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution). A distribution shall not be treated as necessary to satisfy an immediate and heavy financial need of a Participant unless the Participant has obtained all other currently available distributions (including distributions of ESOP dividends under Code § 404(k), but not hardship distributions under the Plan and all other plans of deferred compensation, whether qualified or nonqualified, maintained by the Employer. On and after January 1, 2020, the Participant shall represent (in writing, by an electronic medium, or in such other form as may be prescribed by the IRS) that the Participant has insufficient cash or other liquid assets to satisfy the need. The Plan Administrator may rely on the Participant's representation unless the Plan Administrator has actual knowledge to the contrary. The amount of hardship distribution permitted under this Section may include amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution. A need cannot reasonably be relieved by one of the actions listed in the fourth paragraph of this Section if the effect would be to increase the amount of the need within the meaning of the Treas. Reg. § 1.401(k)-1(d).

The Plan Administrator shall direct the Trustee to make the hardship distribution as soon as administratively practicable after the Participant makes a valid request for the hardship distribution. If the Plan Administrator denies the request for a hardship distribution, such denial shall be subject to the provisions of Section 8.11.

6.6 Distribution of Voluntary Employee Contributions. Upon written request from the Participant, the Trustee shall distribute all or part of the value of the Participant's Accrued Benefit derived from voluntary Employee contributions (deductible or nondeductible) described in Article 3. A distribution of voluntary Employee contributions (deductible or nondeductible) shall comply with the annuity distribution requirements described in this Article if those requirements are applicable to the Participant. A Participant may not exercise the right to a distribution of voluntary Employee contributions more than twice during any Plan Year.

6.7 Distribution Methods, Consents, and Election. Subject to the annuity distribution requirements, if any, prescribed by Section 6.8 and any restrictions prescribed by Section 6.3, a Participant or Beneficiary may elect distribution in accordance with the following methods: (a) lump sum,

(b) monthly installments over a fixed period of time not exceeding the life expectancy of the Participant or the joint life and last survivor expectancy of the Participant and the Participant's Beneficiary, (c) quarterly installments over a fixed period of time not exceeding the life expectancy of the Participant or the joint life and last survivor expectancy of the Participant and the Participant's Beneficiary, or (d) annual installments over a fixed period of time not exceeding the life expectancy of the Participant or the joint life and last survivor expectancy of the Participant and the Participant's Beneficiary, commencing within a reasonable period of time on or after 60 days following the end of the Plan Year in which the Participant terminated employment with the Employer. The distribution options permitted under this Section are available only if the Participant's Nonforfeitable Accrued Benefit, at the time of the distribution to the Participant, exceeds \$1,000. The amount of the Participant's Rollover Contribution Account as of the date of distribution shall be included in the Participant's Account to determine whether the Participant's distribution will exceed \$1,000 for all purposes under Article 6.

The Participant or Beneficiary, at any time, may elect to accelerate the distribution of all, or any portion, of the Participant's unpaid Nonforfeitable Accrued Benefit, subject to the requirements of Section 6.8.

Not earlier than 180 and not later than 30 days before the Participant's annuity starting date, the Plan Administrator shall provide a benefit notice to a Participant who is eligible to make an election or required to consent under this Article. For purposes of this Article, the term "annuity starting date" means the first day of the first period for which the Plan pays an amount as an annuity or in any other form. The benefit notice shall explain the optional methods of distribution from the Plan, including the material features and relative values of those methods, and the Participant's right to defer distribution until his or her Required Beginning Date, as provided in Section 6.3, and the consequences of failing to defer any distribution.

If a distribution is one to which Code §§ 401(a)(11) and 417 do not apply, such distribution may commence less than 30 days after the notice required under Treas. Reg. § 1.411(a)-11(c) is given, provided that:

- (h) the Plan Administrator clearly informs the Participant that the Participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and
- (i) the Participant, after receiving the notice, affirmatively elects a distribution.

If a distribution is one to which Code §§ 401(a)(11) and 417 apply, such distribution may commence less than 30 days but more than 7 days after the notice required under Treas. Reg. § 1.411(a)-11(c) is given, provided that:

- (a) the Plan Administrator clearly informs the Participant that the Participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option),
- (b) the Plan Administrator permits the Participant to revoke any distribution election at least until the annuity starting date or, if later, at any time before the expiration of the 7 day period that begins the day after the explanation of the qualified joint and survivor annuity is provided to the Participant, and
- (c) the Participant, after receiving the notice, affirmatively elects a distribution.

If a Participant or Beneficiary makes an election under this Section, the Plan Administrator shall direct the Trustee to distribute the Participant's Nonforfeitable Accrued Benefit in accordance with that

election. The Participant or Beneficiary shall make an election under this Section by filing his election form with the Plan Administrator at any time before the Trustee otherwise would distribute a Participant's Accrued Benefit in accordance with the requirements of this Article.

6.8 Annuity Distributions to Participants and Surviving Spouses. The annuity distribution provisions of Sections 6.9, 6.10, 6.11, 6.12, and 6.13 shall apply only to the money purchase pension plan assets in the Plan, Participants whose Nonforfeitable Accrued Benefit does not exceed \$5,000, and Participants who have not been credited with at least one Hour of Service after August 23, 1984. The qualified joint and survivor annuity provisions of Section 6.8 of the Plan shall apply to the money purchase pension plan accounts under the Plan, but shall not apply to Participants with respect to any account that is not a money purchase pension plan account under the Profit Sharing Plan exception of Section 6.8.

A Participant's Nonforfeitable Accrued Benefit which does not exceed \$5,000 shall be distributed in accordance with Section 6.2. For purposes of applying the annuity distribution provisions of this Article, the Plan Administrator shall treat a former Spouse as the Participant's Spouse or surviving Spouse to the extent provided under a qualified domestic relations order described in Section 6.4. The annuity distribution provisions shall apply separately to the portion of the Participant's Nonforfeitable Accrued Benefit subject to the qualified domestic relations order and to the portion of the Participant's Nonforfeitable Accrued Benefit not subject to that order. The amount of the Participant's Rollover Contribution Account as of the date of distribution shall be subtracted from the Participant's Account to determine whether the Participant's distribution will exceed \$5,000 for purposes of this Section.

Profit Sharing Plan Exception. Sections 6.9, 6.10, 6.11, 6.12, and 6.13 shall not apply to any Participant in the Plan except to:

- (a) a Participant with respect to whom the Plan is a direct or indirect transferee from a plan subject to the Code § 417 requirements, and the Plan received the transfer after December 31, 1984, unless the transfer is an elective transfer;
- (b) a Participant who elects a life annuity distribution; and
- (c) a Participant whose benefits under a defined benefit plan maintained by the Employer are offset by benefits provided under this Plan.

Waiver. If the Participant has elected to waive the qualified joint and survivor annuity or the preretirement survivor annuity in accordance with Section 6.12 or Section 6.13, the Plan Administrator shall direct the Trustee to distribute the Participant's Nonforfeitable Accrued Benefit in accordance with Section 6.2.

6.9 Joint and Survivor Annuity. The Plan Administrator shall direct the Trustee to distribute a married or unmarried Participant's Nonforfeitable Accrued Benefit in the form of a qualified joint and survivor annuity, unless the Participant makes a valid waiver election (as described in Section 6.12) within the 180 day period ending on the annuity starting date. If, as of the annuity starting date, the Participant is married, a qualified joint and survivor annuity shall mean an immediate annuity which is purchasable with the Participant's Nonforfeitable Accrued Benefit and which provides a life annuity for the Participant and a survivor annuity payable for the remaining life of the Participant's surviving Spouse equal to 50% of the amount of the annuity payable during the life of the Participant. If, as of the annuity starting date, the Participant is not married, a qualified joint and survivor annuity shall mean an immediate life annuity for the Participant which is purchasable with the Participant's Nonforfeitable Accrued Benefit.

Effective January 1, 2008, to the extent a Participant has a right to a qualified joint and survivor annuity under Section 6.9, a Participant shall also have a right to waive (in the manner provided in Section 6.12) the qualified joint and survivor annuity under Section 6.9 and elect to receive a qualified optional joint and survivor annuity. A qualified optional joint and survivor annuity shall mean an immediate annuity which is purchasable with the Participant's Nonforfeitable Accrued Benefit and which provides a life annuity for the Participant and a survivor annuity payable for the remaining life of the Participant's surviving Spouse equal to 75% of the amount of the annuity payable during the life of the Participant. The Plan Administrator shall provide a written explanation of the terms and conditions of the qualified optional joint and survivor annuity in the same manner as provided for the qualified joint and survivor annuity under Section 6.12.

6.10 Preretirement Survivor Annuity. If a married Participant dies prior to the annuity starting date, the Plan Administrator shall direct the Trustee to distribute a portion of the Participant's Nonforfeitable Accrued Benefit to the Participant's surviving Spouse in the form of a preretirement survivor annuity, unless the Participant has a valid waiver election (as described in Section 6.13) in effect, or unless the Participant and the Spouse were not married throughout the one year period ending on the date of the Participant's death. A preretirement survivor annuity shall mean an annuity which is purchasable with 50% of the Participant's Nonforfeitable Accrued Benefit (determined as of the date of the Participant's death) and which is payable for the life of the Participant's surviving Spouse. The value of the preretirement survivor annuity shall be attributable to Employer contributions and to Employee contributions in the same proportion as the Participant's Nonforfeitable Accrued Benefit shall be attributable to those contributions. The portion of the Participant's Nonforfeitable Accrued Benefit not payable under this paragraph shall be payable to the Participant's Beneficiary in accordance with the other provisions of this Article 6. If the present value of the preretirement survivor annuity does not exceed \$5,000, the Plan Administrator, on or before the annuity starting date, shall direct the Trustee to make a lump sum distribution to the Participant's surviving Spouse, in lieu of a preretirement survivor annuity, in accordance with Section 6.2. The amount of the Participant's Rollover Contribution Account as of the date of distribution shall be subtracted from the Participant's Account to determine whether the Participant's distribution will exceed \$5,000 for purposes of this Section.

6.11 Surviving Spouse Elections. If the present value of the preretirement survivor annuity exceeds \$5,000, the Participant's surviving Spouse shall be entitled to elect to have the Trustee commence distribution of the preretirement survivor annuity at any time following the date of the Participant's death, but not later than the mandatory distribution periods. The surviving Spouse shall be entitled to elect any distribution method allowed under Section 6.7 in lieu of the preretirement survivor annuity. In the absence of an election by the surviving Spouse, the Plan Administrator shall direct the Trustee to distribute the preretirement survivor annuity 60 days following the close of the Plan Year in accordance with Section 6.2. The amount of the Participant's Rollover Contribution Account as of the date of distribution shall be subtracted from the Participant's Account to determine whether the Participant's distribution will exceed \$5,000 for purposes of this Section.

6.12 Waiver Election - Qualified Joint and Survivor Annuity. Not earlier than 180 and not later than 30 days before the Participant's annuity starting date, the Plan Administrator shall provide the Participant a written explanation of the terms and conditions of the qualified joint and survivor annuity; the Participant's right to make, and the effect of, an election to waive the joint and survivor form of benefit; the rights of the Participant's Spouse regarding the waiver election; and the Participant's right to make, and the effect of, a revocation of a waiver election. A Participant shall be entitled to revoke a waiver of the qualified joint and survivor annuity or to make a new waiver an unlimited number of times during the election period.

A married participant's waiver election is not valid unless:

- (a) the Participant's Spouse (to whom the survivor annuity is payable under the qualified joint and survivor annuity) has consented in writing to the waiver election, the Spouse's consent acknowledges the effect of the election, and a notary public or the Plan Administrator (or the Plan Administrator's representative) witnesses the Spouse's consent;
- (b) the Spouse consents to the alternate form of distribution designated by the Participant or to any change in that designated form of distribution; and
- (c) unless the Spouse is the Participant's sole primary Beneficiary, the Spouse consents to the Participant's Beneficiary designation or to any change in the Participant's Beneficiary designation.

The Spouse's consent to a waiver of the qualified joint and survivor annuity is irrevocable, unless the Participant revokes the waiver election. The Spouse may execute a blanket consent to any form of distribution designation or to any Beneficiary designation made by the Participant, if the Spouse acknowledges the right to limit that consent to a specific designation but, in writing, waives that right. The consent requirements of this Section shall apply to a former Spouse of the Participant, to the extent required under a qualified domestic relations order described in Section 6.4.

The Plan Administrator shall accept as valid a waiver election which does not satisfy the spousal consent requirements if the Plan Administrator establishes the Participant does not have a Spouse, the Plan Administrator is not able to locate the Participant's Spouse, the Participant is legally separated or has been abandoned (within the meaning of State law) and the Participant has a court order to that effect, or other circumstances exist under which the Secretary of the Treasury shall excuse the consent requirement. If the Participant's Spouse is legally incompetent to give consent, the Spouse's legal guardian (even if the guardian is the Participant) may give consent on behalf of the Spouse. Any consent by a Spouse obtained pursuant to this Section (or establishment that the consent of a Spouse may not be obtained) shall be effective only with respect to such Spouse.

6.13 Waiver Election - Preretirement Survivor Annuity. The Plan Administrator shall provide a written explanation of the preretirement survivor annuity to each married Participant, within the period of the following periods which ends last:

- (a) the period beginning on the first day of the Plan Year in which the Participant attains age 32 and ending on the last day of the Plan Year in which the Participant attains age 34;
- (b) a reasonable period after an Employee becomes a Participant;
- (c) a reasonable period after the annuity distribution provisions become applicable to the Participant; or
- (d) a reasonable period after a fully subsidized preretirement survivor annuity no longer satisfies the requirements for a fully subsidized benefit. The Plan fully subsidizes the costs of a benefit if no increase in cost or decrease in benefits to the Participant may result from the Participant's failure to elect another benefit.

A reasonable period is the period beginning one year before and ending one year after the applicable event. If the Participant separates from Service before attaining age 35, the Plan Administrator shall provide the written explanation within the period beginning one year before and ending one year after the

separation from Service. The written explanation shall describe, in a manner consistent with Treasury regulations, the terms and conditions of the preretirement survivor annuity comparable to the explanation of the qualified joint and survivor annuity required under Section 6.12. The Participant shall be entitled to revoke a waiver of the preretirement survivor annuity or to make a new waiver an unlimited number of times during the election period.

A Participant's waiver election of the preretirement survivor annuity is not valid unless:

- (a) the Participant makes the waiver election not earlier than the first day of the Plan Year in which he or she attains age 35; and
- (b) the Participant's Spouse (to whom the preretirement survivor annuity is payable) satisfies the consent requirements described in Section 6.12, except the Spouse need not consent to the form of benefit payable to the designated Beneficiary.

The Spouse's consent to the waiver of the preretirement survivor annuity is irrevocable, unless the Participant revokes the waiver election. If the Participant separates from Service prior to the first day of the Plan Year in which he or she attains age 35, the Plan Administrator shall accept a waiver election with respect to the Participant's Accrued Benefit attributable to Service prior to the separation from Service. If a Participant who separates from Service prior to the first day of the Plan Year in which he or she attains age 35 is reemployed by the Employer, the applicable period shall be redetermined. Furthermore, if a Participant who has not separated from Service makes a valid waiver election, except that it does not meet the timing requirement of clause (a) of this paragraph, the Plan Administrator shall accept that election as valid, but only until the first day of the Plan Year in which the Participant attains age 35. Qualified preretirement survivor annuity coverage will be automatically reinstated as of the first day of the Plan Year in which the Participant attains age 35. Any new waiver on or after such date shall be subject to the full requirements of this Article.

6.14 Direct Rollover/Transfer Provisions. 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 Plan 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. The following definitions shall apply for purposes of this Section:

- (a) **Eligible Rollover Distribution.** 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:
 - (1) 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, for a specified period of ten years or more;
 - (2) any distribution to the extent the distribution is required under Code § 401(a)(9); and
 - (3) the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). Effective January 1, 2002, the term "Eligible Rollover Distribution" shall include after-tax contributions which are not includible in gross income, except that the portion attributable to after-tax contributions may only be rolled over to an individual retirement account described in Code

§ 408(a), an individual retirement annuity described in Code § 408(b), a Code § 401(a) plan or a Code § 403(a) plan that agrees to separately account for the after-tax contributions. Effective January 1, 2007, the portion of an Eligible Rollover Distribution attributable to after-tax contributions may also be rolled over to a Code § 403(b) plan that agrees to separately account for the after-tax contributions.

Effective for distributions made on and after January 1, 1999 (or as of the date the Plan started applying this provision, but not later than January 1, 2000), the term "Eligible Rollover Distribution" shall not include a hardship distribution. Effective January 1, 2002, the term "Eligible Rollover Distribution" shall not include any hardship distribution, including the portion of the hardship distribution attributable to contributions other than Elective Contributions. A distribution from the Participant's Roth Contributions Account may only be rolled over to another designated Roth account under an Eligible Retirement Plan or to a Roth IRA described in Code § 408A, and only to the extent the rollover is permitted under the rules of Code § 402(c).

Eligible Retirement Plan. An Eligible Retirement Plan is an individual retirement account described in Code § 408(a); an individual retirement annuity described in Code § 408(b); an annuity plan described in Code § 403(a); or a qualified trust described in Code § 401(a), that accepts the Distributee's Eligible Rollover Distribution. However, in the case of an Eligible Rollover Distribution to the surviving Spouse, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity. Effective January 1, 2002, the term "Eligible Retirement Plan" shall also include a Code § 403(b) plan or a governmental Code § 457(b) plan maintained by a governmental employer provided that either such type of plan accepts the Distributee's Eligible Rollover Contribution and agrees to separately account for amounts transferred into such plan from this Plan. Effective January 1, 2002, the definition of "Eligible Retirement Plan" shall also apply in the case of a distribution to a surviving Spouse or a Spouse or former Spouse who is the alternate payee under a qualified domestic relations order, as defined in Code § 414(p). A distribution from the Participant's Roth Contributions Account may only be rolled over to another designated Roth account under an Eligible Retirement Plan or to a Roth IRA described in Code § 408A, and only to the extent the rollover is permitted under the rules of Code § 402(c). Effective January 1, 2008, the term "Eligible Retirement Plan" shall also include a Roth IRA described in Code § 408A, but only if the payment is a Direct Rollover to the Roth IRA.

- (b) **Distributee.** A Distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving Spouse and the Employee's or former Employee's Spouse or former Spouse who is the alternate payee under a qualified domestic relations order, as defined in Code § 414(p), are Distributees with regard to the interest of the Spouse or former Spouse. Effective for Plan Years beginning on or after January 1, 2010, in accordance with the requirements of Code § 402(c)(11), a Distributee shall also include the Employee's or former Employee's non-Spouse Beneficiary who is a Designated Beneficiary (as defined in Section 6.3), but only if the Direct Rollover is to an Eligible Retirement Plan that is an individual retirement account described in Code § 408(a) or an individual retirement annuity described in Code § 408(b).
- (c) **Direct Rollover.** A Direct Rollover is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

*** End of Article 6 ***

ARTICLE 7 PLAN LOANS

7.1 Availability of Participant Loans. Participant loans shall be permitted under the Plan in accordance with this Article 7 and the Employer's Plan Loan Policy, if any. Loans are permitted from a Participant's Accrued Benefit attributable to a Participant's 401(k) Contributions Account (including Roth, Pre-Tax, Safe Harbor and QNEC), Matching Contribution Account, and Rollover Contributions Account. Loans are not permitted from a Participant's Accrued Benefit attributable to a Participant's Retirement Contributions Account.

7.2 Requirements. The Plan Administrator may, in its discretion, accept a plan to plan transfer of a loan or a rollover contribution which includes a loan that otherwise does not meet the requirements of the loan program, including, but not limited to, the limitations on the number of loans outstanding at one time, the amount of the loan, the reason for the loan, or the term of the loan. The provisions of this Section 7.2 shall be effective January 1, 2020 (the "effective date"). Prior to the effective date, the provisions in the Employer's loan policy or employee communications shall apply to loans originating prior to the effective date.

Eligibility. Loans are available to current Participants who are still employed by the Employer. Loans are not available to Alternate Payees.

Reasons for Granting Loans. Loans will be granted for any reason.

Number of Loans. An individual may have only one loan outstanding at a time.

Minimum Amount of Loan. The minimum amount of any single loan is \$1,000.

Loan Interest Rates. The Plan Administrator will establish the interest rate as of the date the loan application is received.

Time Period for Repayment. Loans must be repaid over five or fewer years. However, if the loan proceeds are used to acquire a principal residence of the borrower, the borrower may repay the loan over a period not to exceed 15 years.

Payment Frequency and Method. Loans will be amortized on a substantially level basis over each payroll period.

Unpaid Leave of Absence. With advance notice to the Plan Administrator, a Participant who takes an unpaid leave of absence which is approved by the Employer may (1) make payments by personal check or (2) suspend making loan payments (for up to one year) while on unpaid leave of absence. Any Participant who suspends payments while on unpaid leave of absence must repay his or her loan in full within five years of the date the Participant received the loan proceeds (or, if the loan is secured by the Participant's principal residence, by the end of the extended payment period). Accordingly, if a Participant's original loan repayment period is five years and the Participant suspends payments while on unpaid leave of absence, he or she must make additional payments so that the loan is repaid within five years of the date the loan proceeds were received.

Loan Due Date and Grace Period. Loan payments are due each payment date. There is a grace period for each payment date. The grace period is the period beginning with the day the payment was due and ending on the last day of the calendar quarter following the calendar quarter in which the payment was due.

Events of Default. A Participant's loan will be in default for failure to make a loan payment by the end of the grace period for the loan payment. In addition to the default of nonpayment, termination of employment of the Participant will also be a default event.

All loans are due and payable in full within 30 days following an event of default. If payment is not made by the last day of the grace period, a Form 1099-R will be issued to report the entire unpaid loan balance (including accrued interest) as a taxable distribution from the Plan, and the unpaid balance will be subtracted from the eligible individual's account balance when the eligible individual's benefits are distributed.

7.3 Limitation on Loan Amount. The maximum amount of any single loan is the lesser of: (1) \$50,000 minus all outstanding loans from the plan minus the excess of the highest total amount of outstanding loan balances in the previous 12-month period over the outstanding balance on the date the loan is made, or (2) one-half of the eligible individual's vested account balance.

7.4 Security for Loan. A loan must be secured by a portion of the individual's vested account balance (up to a maximum of 50% of the vested account balance).

7.5 Loan Program Requirements. The Plan's loan program shall comply with the plan loan provisions of Code § 4975(d)(1) and shall meet the following requirements:

- (a) Loans shall be made available to all eligible individuals on a reasonably equivalent basis, except that a loan shall not be available to an otherwise eligible individual if the individual either (1) has a Plan loan in default at the time a loan request is made or (2) is not receiving Compensation from the Employer at the time a loan request is made.
- (b) Loans shall not be made available to Highly Compensated Employees in an amount greater than the amount made available to other Employees.
- (c) Loans shall be adequately secured and bear a reasonable rate of interest.
- (d) No loan shall exceed the present value of the Participant's vested Accrued Benefit.
- (e) A Participant shall obtain the consent of his or her Spouse, if any, to use the Participant's Accrued Benefit as security for the loan, unless the annuity distribution requirements of Article 6 do not apply to the Participant's Accrued Benefit. Spousal consent shall be obtained not earlier than the beginning of the 90 day period that ends on the date on which the loan is to be secured. The consent shall be in writing, shall acknowledge the effect of the loan, and shall be witnessed by a plan representative or notary public. Such consent shall thereafter be binding with respect to the consenting Spouse or any subsequent Spouse with respect to that loan. A new consent shall be required if the account balance is used for renegotiation, extension, renewal, or other revision of the loan.

If a valid spousal consent has been obtained in accordance with the procedures of Article 6, then, notwithstanding any other provision of this Plan, the portion of the Participant's Nonforfeitable Accrued Benefit used as a security interest held by the Plan by reason of the loan outstanding to the Participant shall be reduced by the outstanding loan amount for purposes of determining the amount of the Nonforfeitable Accrued Benefit distributable at the time of death or distribution, but only if the reduction is used as repayment of the loan. If less than 100% of the Participant's Nonforfeitable Accrued Benefit (determined without regard to the preceding sentence) is distributable to the surviving Spouse, then the Participant's Nonforfeitable Accrued Benefit shall be adjusted first by reducing the Nonforfeitable Accrued Benefit by the amount of the security used

as repayment of the loan, and then by determining the benefit payable to the surviving Spouse.

- (f) In the event of default, foreclosure on the note and attachment of security shall not occur until a distributable event occurs under the Plan.

The Plan Administrator shall fix the term of, or repayment of, any loan; however, in no instance shall the term of repayment be greater than five years, unless the loan qualifies as a home loan. The Plan Administrator may fix the term for repayment of a home loan. A "home loan" shall mean a loan used to acquire a dwelling unit which, within a reasonable time, the Participant uses as the Participant's principal residence.

Prepayment of a loan in full may be made at any time without penalty. Loans must be fully prepaid from any distribution received by the eligible individual from the Plan.

Loan Suspension for a Military Service Employee. The Plan Administrator shall suspend loan payments for a Military Service Employee during the Participant's qualified military service as defined in Code § 414(u). The loan repayment period shall be extended by the Participant's qualified military service and by any longer loan repayment period that would have been permitted under the original loan by Code § 72(p)(2)(B) (5 years or longest home loan period, as applicable), and the loan balance may be reamortized upon the Military Service Employee's return to employment with the Employer. Interest accruing on the loan during the Participant's qualified military service shall be calculated in accordance with the interest rate established for the loan, limited to the rate provided in the Servicemembers Civil Relief Act of 2003, if requested by the Participant.

7.6 Loan Application. A Participant shall apply for each loan in accordance with the procedures established by the Plan Sponsor and the Trustee. A Participant shall specify the amount of the loan desired and the requested duration of the loan.

7.7 Limitation on Loan Amount. The Plan Administrator shall not approve any loan to a Participant in an amount which exceeds 50% of the Participant's Nonforfeitable Accrued Benefit, as reflected by the books and records of the Plan. The maximum aggregate dollar amount of loans outstanding to any Participant from all qualified plans maintained by the Employer shall not exceed \$50,000, reduced by the excess (if any) of the Participant's highest outstanding loan balances in all qualified plans maintained by the Employer during the 12 month period ending on the date of the loan over the Participant's current outstanding loan balances in all qualified plans maintained by the Employer on the date of the loan.

7.8 Evidence of Loan. The Plan Administrator shall document every loan in the form of a promissory note for the face amount of the loan, together with interest, payable at least quarterly under a level amortization schedule.

7.9 Security for Loan. A Participant shall secure each loan with an irrevocable pledge and assignment of the nonforfeitable amount of the borrowing Participant's Accrued Benefit under the Plan (not to exceed the amount of the loan).

7.10 Loan Treated as Directed Investment. The Plan Administrator shall treat a loan made to a Participant in accordance with this Article 7 as a Participant direction of investment of the borrowing Participant's Account. The loan shall remain a part of the Trust, but, to the extent of the loan outstanding at any time, the borrowing Participant's Account alone shall share in any interest paid on the loan, and it alone shall bear any expense or loss it incurs in connection with the loan. The Trustee may retain any principal or interest paid on the borrowing Participant's loan in an interest bearing segregated investment

Account on behalf of the borrowing Participant until the Trustee deems it appropriate to add the amount paid to the Participant's Accounts under the Plan.

7.11 **Loan Policy**. The Plan Administrator may adopt additional guidelines for administering its Participant loan program in the form of a loan policy.

****** End of Article 7 ******

ARTICLE 8 ADMINISTRATIVE PROVISIONS

8.1 Plan Administrator. If the Plan Sponsor does not appoint a Plan Administrator, the Plan Sponsor shall be the Plan Administrator. The Plan Sponsor may appoint one or more persons as Plan Administrator to administer the Plan. The persons appointed as Plan Administrator shall serve without compensation for services as such, but the Employer shall pay or reimburse all expenses properly and actually incurred in the performance of Plan duties of the Plan Administrator.

8.2 Term. Each person appointed as Plan Administrator shall serve until the appointment of a successor.

8.3 Plan Administrator's Powers and Duties. Not in limitation, but in amplification of the powers and duties specified herein, the Plan Administrator shall have the power and the absolute discretion to:

- (a) determine the eligibility of an Employee to participate in the Plan, the value of a Participant's Accrued Benefit and the Nonforfeitable percentage of each Participant's Accrued Benefit;
- (b) adopt rules of procedure and regulations necessary for the proper and efficient administration of the Plan to the extent that the rules are not inconsistent with the terms of this Agreement;
- (c) enforce the terms of the Plan and the rules and regulations it adopts;
- (d) direct the Trustee in the allocations to the Accounts and distributions from the Trust;
- (e) review and render decisions with respect to a claim for (or denial of a claim for) a benefit under the Plan;
- (f) interpret and construe the terms of the Plan;
- (g) determine all questions arising in the administration of the Plan, including, but not limited to, questions regarding the entitlement of Participants and Beneficiaries to benefits provided under the Plan;
- (h) make all determinations of fact necessary to the exercise of all other powers and duties specified herein;
- (i) furnish the Employer with information which the Employer may require for tax or other purposes;
- (j) engage the services of agents to assist it with the performance of its duties;
- (k) engage the services of an Investment Manager or Managers, each of whom shall have full power and authority to manage, acquire, or dispose (or direct the Trustee with respect to acquisition or disposition) of any Plan asset under its control;
- (l) establish a nondiscriminatory policy which shall be observed in making loans, if any, to Participants;

- (m) establish and maintain a funding standard account, if required, and to make credits and charges to the account to the extent required by and in accordance with the provisions of the Code;
- (n) direct the Trustee, for collective investment purposes, to combine into one or more trust funds the Trust created under this Plan with the Trust created under any other qualified retirement plan the Employer or a member of the Employer's Related Group maintains. However, the Trustee must maintain separate records of account for the assets of each Trust in order to reflect properly each Participant's Accrued Benefit under the plan(s) in which he or she is a Participant; and
- (o) direct the Trustee to invest all or any portion of the assets comprising the Trust Fund in any group trust fund which at the time of the investment provides for the pooling of the assets of plans qualified under Code § 401(a). This authorization applies solely to a group trust fund exempt from taxation under Code § 501(a) which satisfies the requirements of Revenue Ruling 81-100.

The Plan Administrator shall exercise all of its powers and duties under the Plan in its good faith discretion and in a uniform and nondiscriminatory manner. Any interpretation, determination, or other action of the Plan Administrator shall be subject to review only if it is arbitrary and capricious or otherwise an abuse of discretion.

8.4 Funding Policy. The Plan Administrator shall review all pertinent Employee information and Plan data in order to establish the funding policy of the Plan and to determine the appropriate methods of carrying out the Plan's objectives. The Plan Administrator shall communicate periodically, as it deems appropriate, to the Trustee and to any Plan Investment Manager, the Plan's short-term and long-term financial needs so investment policy can be coordinated with Plan financial requirements.

8.5 Manner of Action. The decision of a majority of the persons appointed and qualified as Plan Administrator controls. Action by the Plan Administrator may be taken at a meeting or in writing without a meeting. The Plan Administrator may authorize any one of the persons appointed as Plan Administrator to sign on its behalf any notices, directions, applications, certificates, consents, approvals, waivers, letters, or other documents. The Plan Administrator shall evidence this authority by an instrument signed by all members and filed with the Trustee. No person appointed as Plan Administrator may decide or determine any matter concerning the distribution, nature, or method of settlement of his or her own benefits under the Plan, except in exercising an election available in his or her capacity as a Participant, unless the Participant is acting alone in the capacity of Plan Administrator.

8.6 Unclaimed Account Procedure. The Plan does not require either the Trustee or the Plan Administrator to search for, or ascertain the whereabouts of, any Participant or Beneficiary. At the time the Participant's or Beneficiary's benefit becomes distributable under Article 6, the Plan Administrator, by certified or registered mail addressed to the Participant's or Beneficiary's last known address of record with the Plan Administrator or the Employer, shall notify any Participant, or Beneficiary, that the Participant or Beneficiary is entitled to a distribution under this Plan. The notice shall quote the provisions of this Section and otherwise shall comply with the notice requirements of Article 6. If the Participant, or Beneficiary, fails to claim his or her distributive share or make his or her whereabouts known in writing to the Plan Administrator within six months after the date of mailing of the notice, the Plan Administrator may treat the Participant's or Beneficiary's unclaimed payable Accrued Benefit as forfeited.

If a Participant or Beneficiary whose account was forfeited under this Section makes a claim at any time for his or her forfeited Accrued Benefit, the Plan Administrator shall direct the Trustee to

distribute the Participant's or Beneficiary's restored Accrued Benefit not later than 60 days after the close of the Plan Year in which the Plan Administrator restores the forfeited Accrued Benefit in accordance with Section 5.13.

At the time the Plan terminates, the Plan Administrator shall restore any Participant's Nonforfeitable Accrued Benefit forfeited in accordance with this Section in accordance with Section 5.13. Any Accrued Benefit restored under this paragraph shall be protected by establishing an IRA for the lost Participant, by purchasing an annuity for the lost Participant, or by transferring the account to an ongoing plan of the Employer.

8.7 Beneficiary Designation. Any Participant may designate, in writing, any person or persons, contingently or successively, to whom the Trustee shall pay the Participant's Accrued Benefit (including any life insurance proceeds payable to the Participant's Account) in the event of the Participant's death, and the Participant may designate the form and method of payment. The Plan Administrator shall prescribe the form for the written designation of Beneficiary, and upon the Participant's filing the form with the Plan Administrator, the form effectively revokes all designations filed prior to that date by the same Participant.

Coordination with Survivor Requirements. If the joint and survivor requirements of Article 6 apply to the Participant, this Section shall not be construed to impose any special spousal consent requirements on the Participant's Beneficiary designation. However, in the absence of spousal consent (as required by Article 6) to the Participant's Beneficiary designation (a) any waiver of the joint and survivor annuity or of the preretirement survivor annuity is not valid; and (b) if the Participant dies prior to the annuity starting date, the Participant's Beneficiary designation shall apply only to the portion of the death benefit which is not payable as a preretirement survivor annuity. Regarding clause (b), if the Participant's surviving Spouse is a primary Beneficiary under the Participant's Beneficiary designation, the Trustee shall satisfy the Spouse's interest in the Participant's death benefit first from the portion which is payable as a preretirement survivor annuity.

Profit Sharing Plan Exception. If, pursuant to Section 6.8, the joint and survivor requirements do not apply to a married Participant, that Participant's Beneficiary designation is not valid unless the Participant's Spouse consents (in accordance with the following paragraph) to the Beneficiary designation. The spousal consent requirement in this paragraph does not apply if the Participant and his or her Spouse are not married throughout the one year period ending on the date of the Participant's death, or if the Participant's Spouse is the Participant's sole primary Beneficiary.

Any designation by a married Participant of a person other than the Participant's Spouse shall be effective only with the consent of the Spouse and only if the consent is in writing, acknowledges the effect of the consent, is witnessed by a Plan representative or a notary public, and meets one of the following three requirements:

- (a) the consent shall designate a specific Beneficiary or a specific form of benefit that cannot be changed without the additional consent of the Spouse in a form meeting the requirements of this Section;
- (b) the consent shall specifically provide that the Participant may change the designation of a Beneficiary or a form of benefit without any further consent by the Spouse, and the Spouse shall acknowledge in the consent that he or she is giving up the right to limit his or her consent to a specific Beneficiary or a specific form of benefit; or
- (c) the consent shall meet the requirements of clause (b) of this sentence, except that the Participant's right to change a Beneficiary or a form of benefit without any further

consent by the Spouse may be limited to a change among certain beneficiaries or certain forms of benefits.

A Spouse's consent shall not be required if it is established to the satisfaction of the Plan Administrator that the required consent cannot be obtained because there is no Spouse, because the Spouse cannot be located, or because of other circumstances that may be prescribed in Treasury regulations. An election made by the Participant and consented to by the Participant's Spouse may be revoked by the Participant in writing without the consent of the Spouse. Any new election shall comply with the requirements of this Section. A consent by a former Spouse shall not be applicable to a new Spouse.

If a Participant designates his or her Spouse as Beneficiary of the Participant's Accounts, and the Participant is subsequently divorced from his or her Beneficiary, the Beneficiary designation shall be revoked as of the date the divorce is final. If the Participant wishes to continue to name his or her former Spouse as Beneficiary, the Participant must redesignate the former Spouse as a Beneficiary following the date the divorce is final.

8.8 No Beneficiary Designation. If a Participant fails to name a Beneficiary or if the Beneficiary named by a Participant predeceases the Participant or dies before complete distribution of the Participant's Accrued Benefit as prescribed by the Participant's Beneficiary form, then the Trustee shall pay the Participant's Accrued Benefit in accordance with Article 6 in the following order of priority to:

- (a) the Participant's surviving Spouse;
- (b) the Participant's surviving children, in equal shares;
- (c) the Participant's surviving parents, in equal shares; or
- (d) the estate of the Participant.

The Plan Administrator shall direct the Trustee as to the method and to whom the Trustee shall make payment under this Section.

8.9 Information to Plan Administrator. Each Participant and each Beneficiary of a deceased Participant shall furnish to the Plan Administrator such evidence, data, or information as the Plan Administrator considers necessary or desirable for the purpose of administering the Plan. The Employer shall supply current information to the Plan Administrator regarding the name, date of birth, date of employment, annual compensation, leaves of absence, Years of Service, and date of Termination of Employment of each Employee who is or who may be eligible to become a Participant under the Plan, together with any other information which the Plan Administrator considers necessary. Each Participant and each Beneficiary of a deceased Participant shall file with the Plan Administrator in writing, his or her address and any change of address. Any communication, statement, or notice addressed to a Participant, or Beneficiary, at his or her last address filed with the Plan Administrator, or as shown on the records of the Employer, shall bind the Participant, or Beneficiary, for all purposes of this Plan.

8.10 Information to Participants and Beneficiaries. Any Participant in the Plan or any Beneficiary may examine copies of the Plan description, latest annual report, any bargaining agreement, this Plan and Trust, and any contract or other instrument under which the Plan was established or is operated. The Plan Administrator shall maintain all of the items listed in this Section in the Plan Administrator's office, or in such other place or places as the Plan Administrator may designate from time to time, for examination during reasonable business hours. A Beneficiary's right to (and the Plan Administrator's or the Trustee's duty to provide to the Beneficiary) information or data concerning the

Plan shall not arise until the Beneficiary first becomes entitled to receive a benefit under the Plan. Upon the written request of a Participant or Beneficiary the Plan Administrator shall furnish a copy of any item listed in this Section. The Plan Administrator may make a reasonable charge to the requesting person for the copy so furnished. As soon as practicable after the Accounting Date of each Plan Year, but within the time prescribed by law, the Plan Administrator shall deliver to each Participant (and to each Beneficiary of a deceased Participant) a statement of his or her Accrued Benefit in the Trust as of that date and such other information required to be furnished to the Participant or Beneficiary. No Participant, other than a Participant acting as Plan Administrator, has the right to inspect the records reflecting the Account of any other Participant.

8.11 Claims Procedure.

Claim Denial. The Plan Administrator shall furnish a notice to any Participant or to any Beneficiary whose claim for benefits under the Plan has been denied within 90 days from receipt of the claim. This 90-day period may be extended if special circumstances require an extension, provided that the time period cannot exceed a total of 180 days from the Plan's receipt of the Participant's (or Beneficiary's) claim and the written notice of the extension is provided before the expiration date of the initial 90-day claim period. If an extension is required, the Plan Administrator shall provide a written notice of the extension that contains the expiration date of the initial 90-day claim period, the special circumstances that require an extension, and the date by which the Plan Administrator expects to render its benefits determination.

The Plan Administrator's claim denial notice shall set forth:

- (a) the specific reason or reasons for the denial;
- (b) specific references to pertinent Plan provisions on which the denial is based;
- (c) a description of any additional material or information necessary for the Participant or Beneficiary to perfect the claim and an explanation of why the material or information is necessary; and
- (d) an explanation of the Plan's claims review procedure describing the steps to be taken by a Participant or Beneficiary who wishes to submit his or her claim for review, including any applicable time limits.

A Participant or Beneficiary who wishes to appeal the adverse determination must request a review in writing to the Plan Administrator within 60 days after the appealing Participant or Beneficiary received the denial of benefits.

Review Procedure. A Participant or Beneficiary appealing a denial of benefits (or the authorized representative of the Participant or Beneficiary) shall be entitled to:

- (a) submit in writing any comments, documents, records and other information relating to the claim and request a review.
- (b) review pertinent Plan documents.
- (c) upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the claim. A document, record, or other information shall be considered relevant to the claim if such document, record, or other information (i) was relied upon in making the benefit determination, (ii) was submitted,

considered, or generated in the course of making the benefit determination, without regard to whether such document, record, or other information was relied upon in making the benefit determination, or (iii) demonstrates compliance with the administrative processes and safeguards designed to ensure and verify that benefit claim determinations are made in accordance with the Plan and that, where appropriate, the Plan provisions have been applied consistently with respect to similarly situated Participants or Beneficiaries.

The Plan Administrator shall reexamine all facts related to the appeal and make a final determination as to whether the denial of benefits is justified under the circumstances.

Decision on Review. The decision on review of a denied claim shall be made in the following manner:

- (a) The decision on review shall be made by the Plan Administrator, who may in its discretion hold a hearing on the denied claim. The Plan Administrator shall make its decision solely on the basis of the written record, including documents and written materials submitted by the Participant or Beneficiary (or the authorized representative of the Participant or Beneficiary). The Administrator shall make its decision promptly, which shall ordinarily be not later than 60 days after the Plan's receipt of the request for review, unless special circumstances (such as the need to hold a hearing) require an extension of time for processing. In that case a decision shall be rendered as soon as possible, but not later than 120 days after receipt of the request for review. If an extension of time is required due to special circumstances, the Plan Administrator will provide written notice of the extension to the Participant or Beneficiary prior to the time the extension commences, stating the special circumstances requiring the extension and the date by which a final decision is expected.
- (b) The decision on review shall be in writing, written in a manner calculated to be understood by the Participant or Beneficiary. If the claim is denied, the written notice shall include specific reasons for the decision, specific references to the pertinent Plan provisions on which the decision is based, and a statement that the Participant or Beneficiary is entitled to receive, upon request reasonable access to, and copies of, all documents, records and other information relevant to the claimant's claim for benefits. A document, record, or other information shall be considered relevant to the claim if such document, record, or other information (i) was relied upon in making the benefit determination, (ii) was submitted, considered, or generated in the course of making the benefit determination, without regard to whether such document, record, or other information was relied upon in making the benefit determination, or (iii) demonstrates compliance with the administrative processes and safeguards designed to ensure and verify that benefit claim determinations are made in accordance with the Plan.
- (c) The Administrator's decision on review shall be final. In the event the decision on review is not provided to the Participant or Beneficiary within the time required, the claim shall be deemed denied on review.

8.12 Liability and Indemnification. The Employer shall assume no obligation or responsibility to any of its Employees, Participants, or Beneficiaries for any act of, or failure to act, on the part of the Trustee or the Plan Administrator (unless the Employer is the Plan Administrator). The Employer shall indemnify and hold harmless every person acting in the capacity of the Plan Administrator from and against any and all loss resulting from liability to which the Plan Administrator may be subjected by reason of any act or conduct (except willful misconduct or gross negligence) in its official capacities in

the administration of this Trust and Plan, including all expenses reasonably incurred in its defense, in case the Employer fails to provide such defense.

8.13 Participant Direction of Investment. A Participant, Beneficiary, and Alternate Payee (collectively, a "Directing Individual") has the right to direct the Trustee with respect to the investment or reinvestment of the Directing Individual's Accounts. The Trustee shall follow any such direction with respect to the investment of any part of the Directing Individual's Accounts. The Trustee shall not be liable for any loss or for any breach resulting from a Directing Individual's direction of the investment of any part of the Directing Individual's Accounts. If an individual who is eligible to be a Directing Individual fails to give a valid investment direction, the Directing Individual's Accounts shall be invested in the investment vehicle designated for such purpose by the Trustee, Plan Sponsor, or Plan Administrator, as applicable.

PPA Automatic Investment Election. In the absence of an affirmative investment election by the Participant, the Participant's Accounts shall be invested in a qualified default investment alternative fund. Any material provided to the Plan relating to a Participant's or Beneficiary's investment in a qualified default investment alternative fund (e.g., account statements, prospectuses, proxy voting material) shall be provided to the Participant or Beneficiary.

8.14 Payments Due Minors or Incapacitated Individuals. If any individual entitled to a payment under the Plan is a minor, or if the Plan Administrator determines that any such individual is incapacitated by reason of physical or mental disability, whether or not legally adjudicated as such, the Plan Administrator shall have the power to cause the payments becoming due to such individual to be made to the incapacitated individual's personal representative or to another for the incapacitated individual's benefit, without responsibility of the Plan Administrator or the Trustee to see to the application of such payments. If the individual entitled to a payment under the Plan is legally adjudicated to be incapacitated, the Plan Administrator shall cause the payments becoming due to such individual to be made to the incapacitated individual's court-appointed guardian or to an individual possessing a validly executed power of attorney from such individual. Payments made pursuant to this Section shall operate as a complete discharge of the Plan and Trust, the Trustee and the Plan Administrator.

8.15 Payments From the Trust Fund. Payments from the Trust Fund shall be made by the Trustee to such persons, in such manner, at such times, and in such amounts as the Plan Administrator shall specify in written instructions to the Trustee. The Plan Administrator shall have the sole authority to direct the Trustee to make payments from the Trust Fund. The Plan Administrator shall act in its good faith discretion pursuant to its powers and duties. The Trustee shall have no obligation to inquire whether any payee or distributee is entitled to any payment, whether the distribution is proper or within the terms of the Plan, or as to the manner of making any payment or distribution.

If any check in payment of a benefit under the Plan which had been mailed by regular U.S. Mail to the last address of the payee as furnished to the Trustee by the Plan Administrator is returned unclaimed, the Trustee shall so notify the Plan Administrator and shall discontinue further payments to such payee until it receives further instructions from the Plan Administrator.

8.16 Valuation of the Trust Fund. The Trustee shall value the Trust Fund as of each Accounting Date to determine the current fair market value of the Trust Fund assets. The Trustee shall value the Trust Fund on such other dates as directed by the Plan Administrator.

8.17 Fees and Expenses. All Plan expenses shall be paid by the Plan, unless the Employer, in its discretion, elects to pay all or any part of Plan expenses, including but not limited to, Trustee compensation or recurring administrative or overhead expenses. The Plan Administrator shall not treat any fee or expense properly paid, directly or indirectly, by the Employer as an Employer contribution.

The Plan Administrator shall deduct amount of plan expenses from Participant Accounts, proportionately based on Account balances of all Participants. Notwithstanding the forgoing, the Plan Administrator may direct, in a nondiscriminatory manner consistently applied, that a specific expense be allocated to the Participant's Account which incurred the expense in the case of certain expenses permitted by law to be so allocated.

****** End of Article 8 ******

ARTICLE 9
ADOPTION BY ADDITIONAL ENTITIES, AMENDMENT, MERGER, AND TERMINATION

9.1 Adoption by Additional Entities. The Plan Sponsor shall have the right to permit any additional entities to adopt the Plan as a Participating Employer. The Participating Employer shall adopt the Plan by adoption of a resolution of its governing board or a majority of its owners. Upon the Plan Sponsor's request, the Participating Employer may enter into a participation agreement or may execute the Plan as a Participating Employer to signify its adoption of the Plan. The Plan Sponsor shall have the right to remove any entity (which has adopted the Plan as a Participating Employer) as a Participating Employer at any time. An entity which has adopted the Plan as a Participating Employer shall have the right to withdraw from the Plan at any time upon written notice to the Plan Sponsor. By adopting this Plan as a Participating Employer, the Participating Employer agrees to be bound by the terms of the Plan and Trust as adopted by the Plan Sponsor, including any amendments to the Plan and Trust.

If the adoption of the Plan by a Participating Employer would cause the Plan to be one that is described in Code §§ 413(b) or 413(c), by adopting the Plan, the adopting Participating Employer acknowledges that the Plan is a multiple employer plan (i) subject to the requirements of Code § 413(c) and the regulations promulgated thereunder, which are specifically incorporated herein by this reference, (ii) subject to specific annual reporting requirements, and (iii) subject to different procedures for obtaining determination letters from the Internal Revenue Service regarding the qualified status of the Plan.

9.2 Amendment by Plan Sponsor.

- (a) The Plan Sponsor shall have the right at any time:
- (1) to amend this Agreement in any manner it deems necessary or advisable in order to qualify (or maintain qualification of) this Plan and Trust under the appropriate provisions of Code § 401(a); and
 - (2) to amend this Agreement in any other manner.

No amendment may authorize or permit any of the Trust Fund (other than the part which is required to pay taxes and 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 amendment may cause or permit any portion of the Trust Fund to revert to or become a property of the Employer. The Plan Sponsor shall not make any amendment which affects the rights, duties, or responsibilities of the Trustee or the Plan Administrator without the written consent of the affected Trustee or Plan Administrator.

Upon any modification or amendment of the Plan, the other Participating Employers and the Trustee shall be furnished a copy of the modification or amendment.

- (b) The Plan Sponsor shall make all amendments in writing. Each amendment shall state the date to which it is either retroactively or prospectively effective.

9.3 Merger/Direct Transfer. The Trustee may not consent to, or be a party to, any merger or consolidation with another plan, or to a transfer of assets or liabilities to another plan, unless immediately after the merger, consolidation, or transfer, the surviving plan provides each Participant with a benefit equal to or greater than the benefit each Participant would have received had the Plan terminated immediately before the merger, consolidation, or transfer. The Trustee possesses the specific authority to enter into merger agreements or direct transfer of assets agreements with the trustees of plans described in

Code § 401(a), including an elective transfer, and to accept the direct transfer of plan assets, or to transfer plan assets, as a party to any such agreement.

The Trustee may accept a direct transfer of plan assets on behalf of an Employee prior to the date the Employee becomes a Participant in accordance with the requirements of Section 2.1. If the Trustee accepts a direct transfer of plan assets, the Plan Administrator and Trustee shall treat the Employee as a Participant for all purposes of the Plan except for purposes of sharing in Employer contributions or forfeitures under the Plan until the Employee actually becomes a Participant in accordance with the requirements of Section 2.1.

Code § 401(k) Transfer Rules. If the Plan receives a direct transfer (by merger or otherwise) of elective contributions (or amounts treated as elective contributions) from a plan with a cash or deferred arrangement, the distribution restrictions of Code §§ 401(k)(2) and (10) shall continue to apply to those transferred elective contributions.

9.4 Termination.

- (a) The Plan Sponsor shall have the right, at any time, to suspend or discontinue its contributions under the Plan, and to terminate, at any time, this Plan and the Trust created under this Agreement. The Plan shall terminate upon the first to occur of the following:
 - (1) the date terminated by action of the Plan Sponsor;
 - (2) the date the Plan Sponsor is judicially declared bankrupt or insolvent, unless the proceeding authorized continued maintenance of the Plan; or
 - (3) the dissolution, merger, consolidation, or reorganization of the Plan Sponsor or the sale by the Plan Sponsor of all or substantially all of its assets, unless the successor or purchaser makes provision to continue the Plan, in which event the successor or purchaser shall become the Plan Sponsor under this Plan.
- (b) Full Vesting on Termination. Upon either full or partial termination of the Plan, or, if applicable, upon complete discontinuance of profit sharing plan contributions to the Plan, an affected Participant's right to his or her Accrued Benefit is 100% Nonforfeitable, irrespective of the Nonforfeitable percentage which otherwise would apply under Article 5.
- (c) Distributions Upon Termination. Upon termination of the Plan, the distribution provisions of Article 6 shall remain operative, with the following exceptions:
 - (1) if the present value of the Participant's Nonforfeitable Accrued Benefit does not exceed \$1,000, the Plan Administrator shall direct the Trustee to distribute the Participant's Nonforfeitable Accrued Benefit in a lump sum as soon as administratively practicable after the Plan terminates; and
 - (2) if the present value of the Participant's Nonforfeitable Accrued Benefit exceeds \$1,000, the Participant or the Beneficiary, in addition to the elections provided in connection with the distribution events permitted under Article 6, may elect to have the Trustee commence distribution of his or her Nonforfeitable Accrued Benefit as soon as administratively practicable after the Plan terminates.

To liquidate the Trust, the Plan Administrator shall purchase a deferred annuity contract for each Participant which protects the Participant's distribution rights under the Plan, if the Participant's Nonforfeitable Accrued Benefit exceeds \$5,000 and the Participant does not elect an immediate distribution pursuant to clause (2) of this paragraph (c). The Trust

shall continue until the Trustee in accordance with the direction of the Plan Administrator has distributed all of the benefits under the Plan.

- (d) On each Valuation Date, the Plan Administrator shall credit any part of a Participant's Accrued Benefit retained in the Trust with its proportionate share of the Trust's income, expenses, gains, and losses, both realized and unrealized. A resolution or amendment to freeze all future benefit accruals but otherwise to continue maintenance of this Plan, is not a termination for purposes of this Section.

****** End of Article 9 ******

ARTICLE 10 MISCELLANEOUS

10.1 **State Law.** The state law of Colorado shall determine all questions arising with respect to the provisions of this Agreement except to the extent federal statute supersedes the state law.

10.2 **No Responsibility for Employer Action.** Neither the Trustee nor the Plan Administrator shall have any obligation or responsibility with respect to any action required by the Plan to be taken by the Employer, any Participant, or any Employee, or for the failure of any of such persons to act or make any payment or contribution, or to otherwise provide any benefit contemplated under this Plan. Neither the Trustee nor the Plan Administrator shall have any obligation to inquire into or be responsible for any action or failure to act on the part of the others. Any action required of a corporate Employer shall be taken by its board of directors or its designate.

10.3 **Fiduciaries Not Insurers.** The Trustee, the Plan Administrator, and the Employer in no way guarantee the Trust Fund from loss or depreciation. The Employer does not guarantee the payment of any money which may be due or becomes due to any person from the Trust Fund. The liability of the Plan Administrator and the Trustee to make any payment from the Trust Fund at any time and all times shall be limited to the then available assets of the Trust.

10.4 **Waiver of Notice.** Any person entitled to notice under the Plan may waive the notice.

10.5 **Word Usage.** Words used in the masculine also apply to the feminine where applicable, and wherever the context of the Plan dictates, the plural includes the singular and the singular includes the plural.

10.6 **Employment Not Guaranteed.** Nothing contained in this Plan, or with respect to the establishment of the Trust, or any modification or amendment to the Plan or Trust, or in the creation of any Account, or the payment of any benefit, shall give any Employee, Participant, or Beneficiary any right to continue employment, any legal or equitable right against the Employer, or Employee of the Employer, or against the Trustee, its agents or employees, or against the Plan Administrator, except as expressly provided by the Plan and Trust, or by a separate agreement.

10.7 **Assignment or Alienation.** Subject to Code § 414(p) (relating to qualified domestic relations orders), neither a Participant nor a Beneficiary may voluntarily or involuntarily anticipate, assign, or alienate (either at law or in equity) any benefit provided under the Plan, and the Trustee shall not recognize any such anticipation, assignment, or alienation. Furthermore, a benefit under the Plan shall not be subject to attachment, garnishment, levy, execution, or other legal or equitable process. Effective for judgments, orders, and decrees issued, and settlement agreements entered into, on or after August 5, 1997, this Section shall not apply to any offset of the Participant's Account equal to an amount that the Participant is ordered or required to pay to the Plan if:

- (a) the order or requirement to pay arises:
 - (i) under a judgment of conviction of a crime involving the Plan, or
 - (ii) under a civil judgment, including a consent decree, entered by a court in an action brought in connection with a violation (or an alleged violation) of the fiduciary responsibilities, or

- (iii) pursuant to a settlement agreement between the Secretary of Labor and the Participant, and
- (b) the judgment, order, decree, or settlement agreement expressly provides for the offset of all or a part of the amount ordered or required to be paid to the Plan against the Participant's Account under the Plan, and
- (c) if the qualified joint and survivor annuity requirements of Section 6.8 apply to the Participant's Account and the Participant has a Spouse, (i) the Spouse has consented in writing to the offset, (ii) the Spouse has waived the joint and survivor annuity or qualified preretirement survivor annuity, (iii) the Spouse is ordered or required in the judgment, order, decree, or settlement to pay an amount to the plan, or (iv) in the judgment, order, decree, or settlement, the Spouse retains the right to receive the qualified joint and survivor annuity or qualified preretirement survivor annuity in accordance with certain prescribed rules.

10.8 Exclusive Benefit. Except as provided under Article 3 and Article 9, the Employer has no beneficial interest in any asset of the Trust and no part of any asset in the Trust may ever revert to or be repaid to an Employer, either directly or indirectly; nor, prior to the satisfaction of all liabilities with respect to the Participants and their Beneficiaries under the Plan, may any part of the corpus or income of the Trust Fund, or any asset of the Trust, be used for, or diverted to, purposes other than the exclusive benefit of the Participants or their Beneficiaries. However, if the Commissioner of Internal Revenue, upon the Employer's request for initial approval of this Plan, determines that the Trust created under the Plan is not a qualified trust exempt from federal income tax, then (and only then) the Trustee, upon written notice from the Employer, shall return the Employer's contributions (and any earnings attributable to the contributions) to the Employer. The Trustee shall make the return of the Employer contribution under this Section within one year of the final disposition by the Internal Revenue Service of the Employer's request for initial approval of the Plan. The Plan and Trust shall terminate upon the Trustee's return of the Employer's contributions.

***** End of Article 10 *****

The Plan Sponsor hereby agrees to the provisions of this Plan, and in witness of its agreement, the Plan Sponsor by its duly authorized officers has executed this Plan, on the date written below.

Young Life

PLAN SPONSOR

By: 

Title:

Vice President, HR Total Rewards

Date:

7 October 2019