CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Human Resources

AGENDA DATE: **March 16, 2021**
PUBLIC HEARING DATE:

CONTACT PERSON NAME AND PHONE NUMBER: Araceli Guerra, Managing Director – Human Resources (915)212-1401

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: **Set the Standard for Sound Governance and Fiscal Management**

SUBGOAL: Strategic Plan subsection 6.3 - Implement programs to reduce organizational risk.

SUBJECT:
Discussion and action on a resolution to adopt the 2021 amendment and restatement of the City of El Paso Profit Sharing Plan and authorize the City Manager to sign the restated Prudential Retirement Specimen Governmental 401(a) Plan Adoption agreement effective February 1, 2021, which adopts Section 21.13(a) of the profit sharing plan to be effective January 1, 2007, and representing that the 2011 restatement of the City of El Paso Profit Sharing Plan was operated in accordance with the requirements of Internal Revenue Code Section 401(a)(9) as amended by WRERA in 2009.

BACKGROUND / DISCUSSION:

401(a) Plan Document was restated to include updated federal regulations in accordance with 401(a) Plans.

PRIOR COUNCIL ACTION:
N/A

AMOUNT AND SOURCE OF FUNDING:
N/A

**********REQUIRED AUTHORIZATION**********

DEPARTMENT HEAD:

Araceli Guerra, Managing Director – Human Resources

RESOLUTION

WHEREAS, the City of El Paso (the "***City"***) created a 401(a) Plan in 2005 for the purpose of recruiting of qualified individuals, of remaining a competitive employer in the marketplace, and of providing a retirement vehicle for eligible employees; and

WHEREAS, in 2011, the City amended and restated the City of El Paso Profit Sharing Plan, effective January 1, 2011; and

WHEREAS, since then, the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART Act") and the Worker, Retiree and Employer Recovery Act of 2008 ("WRERA") has changed a number of retirement plan qualification requirements; and

WHEREAS, the City desires to retroactively adopt the aforementioned amendments; and

WHEREAS, the City desires to approve the 2021 amendment and restatement of the City of El Paso Profit Sharing Plan.

NOW, THEREFORE, BE IT RESOLVED:

1. **THAT** the City hereby adopts the Section 21.13(a) of the 2021 restatement of the City of El Paso Profit Sharing Plan effective as of January 1, 2007; and
2. **THAT** the City hereby represents that the 2011 restatement of the City of El Paso Profit Sharing Plan was operated in accordance with the requirements of Internal Revenue Code Section 401(a)(9) as amended by WRERA in 2009; and
3. **THAT** the city hereby adopts the 2021 amendment and restatement of the City of El Paso Profit Sharing Plan; and
4. **THAT** the City Manager be authorized to sign the Plan Documents and any other documents necessary to effectuate this approval.

ADOPTED this _____ day of _____, 2021.

CITY OF EL PASO

_____
Oscar Leeser
Mayor

ATTEST:

_____
Laura D. Prine
City Clerk

APPROVED AS TO FORM:

_____
Victoria Hayslett
Assistant City Attorney

APPROVED AS TO CONTENT:

_____
Araceli Guerra
Managing Director Internal Services

CITY OF EL PASO PROFIT SHARING PLAN

PARTICIPANT LOAN PROGRAM

The City of El Paso Profit Sharing Plan permits loans to be made to Participants. However, before any loan is made, the Plan requires that a written loan program be established which sets forth the rules and guidelines for making Participant loans. This document shall serve as the required written loan program. In addition, the Plan Administrator may use this document to serve as, or supplement, any required notice of the loan program to Participants. All references to Participants in this loan program shall only include Participants with respect to the Plan.

The Plan Administrator is authorized to administer the Participant loan program.

1. LOAN APPLICATION. All loan applications will be considered by the Plan Administrator within a reasonable time after the Participant makes formal application in accordance with elections made by the Plan Sponsor in the Administrative Services Agreement between the Plan Sponsor and the service provider ("Prudential") as follows:

- If the Loan Initiation Outsourcing Service has been selected, a Participant may apply for a loan by submitting a loan application ("Application"), in a form prescribed by Prudential and consistent with the terms of this Loan Policy as authorized by the Plan Administrator, to Prudential by authorized electronic means. The date and time of receipt will be appropriately recorded.
- If the Participant Transaction Center (PTC) Loan Service has been selected, a Participant may apply for a loan by submitting a loan application ("Application"), in a form prescribed by Prudential and consistent with the terms of this Loan Policy as authorized by the Plan Administrator, to Prudential by authorized electronic means. The request will be reviewed and approved and/or denied by an authorized representative of the Employer by electronic means. The date and time of receipt will be appropriately recorded.
- If the Non-Automated Loan Service has been selected, a Participant may apply for a loan by submitting a duly completed loan application ("Application") to the Plan Administrator or authorized plan representative that has been signed by the Participant, within the 90-day period prior to the making of the loan. If spousal consent is required, the application must be signed by the spouse and witnessed by a notary public or an authorized plan representative. An authorized plan representative must approve the loan.

A Participant who has repaid a prior Plan loan may not apply for another loan until 10 days from the date of his last loan payment.

2. LOAN LIMITATIONS. The Plan Administrator will not approve any loan to a Participant in an amount which exceeds 50% of his or her nonforfeitable Account balance. The maximum aggregate dollar amount of loans outstanding to any Participant may not exceed $50,000, reduced by the excess (if any) of (i) the Participant's highest outstanding balance of loans during the one year period ending on the day before the date on which a loan is made over (ii) the Participant's outstanding balance of loans on the date on which such loan is made.

With regard to any loan made pursuant to this program, the following rule(s) and limitation(s) shall apply, in addition to such other requirements set forth in the Plan:

- The minimum loan available from the Plan is $1,000.
- A Participant may only have 1 general purpose and 1 primary residence for a maximum of 2 loans outstanding from the Plan. A Participant with 2 outstanding loans may not apply for another loan until all but one of the existing loans is repaid in full and may not refinance an existing loan or obtain a third loan for the purpose of paying off an existing loan. Note that a loan in default, including a loan that is deemed distributed, is treated as an outstanding loan for purposes of determining the number of loans outstanding to a Participant until it is repaid or actually offset against the Participant's Account balance.

- All loans made pursuant to this program will be considered a directed investment of Participant's Account under the Plan. As such, all payments of principal and interest made by the Participant will be credited only to the Account of such Participant. The Plan also will charge the Participant's Account with expenses directly-related to the origination, maintenance and collection of the note.

3. LOAN FEES/SOURCES. Please refer to the Administrative Services Agreement for applicable loan initiation and maintenance fees. The Plan Administrator, as to new loans, may increase these fees by notice to or agreement with the record keeper or other party administering loans and repayments.

The loan will be processed from all Sub-Accounts, as prescribed by the Plan Administrator.

4. TERMS OF LOAN. Any loan under this program will bear a rate of interest equal to the U.S. Federal Reserve Bank prime rate plus 1%.

The Plan Administrator will require that the Participant repay the loan by agreeing to payroll deduction.

The Plan Administrator will fix the term for repayment of any loan. Generally, the term of repayment may not be greater than 5 years. However, if the loan qualifies as a Primary Residence loan, the term may be longer than 5 years. The term of repayment of a "Primary Residence loan" may not be greater than 10 years.

- Note that the amount of any loan (other than a "Primary Residence loan") not repaid within 5 years may be treated as a taxable distribution on the last day of the 5 year period, including any available cure period or if sooner, at the time the loan is in default. If a Participant extends a non-Primary Residence loan having a 5 year or less repayment term beyond 5 years, the balance of the loan at the time of the extension is deemed to be a taxable distribution to the Participant.

Loans may be prepaid in whole or in part at any time. Any such prepayment shall be made by any form approved by the Plan Administrator.

A loan, if not otherwise due and payable, is due and payable on termination of the Plan, notwithstanding any contrary provision in the promissory note. Nothing in this loan policy restricts the Employer's right to terminate the Plan at any time.

5. SECURITY FOR LOAN. The Plan will require that adequate security be provided by the Participant before a loan is granted. For this purpose, the Plan will consider a Participant's interest under the Plan to be adequate security. However, in no event will more than 50% of a Participant's vested interest in the Plan (determined immediately after origination of the loan) be used as security for the loan. The Plan will not make loans which require security other than the Participant's vested interest in the Plan. The Plan Administrator will not investigate the Participant's creditworthiness before making the loan as the loan will be treated as a directed investment of the borrower's Account.

The 50% limit is based on the Participant's full Account.

6. FORM OF PLEDGE. The pledge and assignment of a Participant's Account balances will be made in the manner prescribed by the Plan Administrator.

7. MILITARY SERVICE. If a Participant takes a leave of absence from the Employer because of service in the military and does not receive a distribution of his or her Account balances, the Plan may suspend loan repayments until the Participant's completion of military service. While the Participant is on active duty in the United States military, the interest rate on any loan in existence before such leave shall not exceed 6%, compounded annually.

8. LEAVE OF ABSENCE/SUSPENSION OF PAYMENT. The Plan Administrator may suspend loan repayments for a period not exceeding one year which occurs during an approved leave of absence, either without pay from the Employer or at a rate of pay (after applicable employment tax withholdings) that is less

than the amount of the installment payments required under the terms of the loan. The Plan Administrator will provide the Participant with a written explanation of the effect of the leave of absence upon his or her Plan loan.

9. PAYMENTS AFTER LEAVE OF ABSENCE. When payments resume following a payment suspension in connection with a leave of absence authorized in 7 or 8 above, the Participant shall increase the amount of the required installments to an amount sufficient to amortize the remaining balance of the loan, over the remaining term of the loan. Further, if the Participant's loan term was not the maximum permissible, then he may extend the maturity date of the loan and re-amortize the payments over the remaining time of the new term. If the leave of absence was due to a Qualified Military Leave of Absence described in item 7 above, the revised term of the loan shall not exceed the maximum term permitted in item 4 above, augmented by the time the Participant was actually in United States Military Service.

10. DEFAULT. The Plan Administrator will treat a loan in default if any scheduled payment remains unpaid beyond 90 days (or if so extended beyond the last day of the calendar quarter following the calendar quarter) in which the Participant missed the scheduled payment. After termination of employment, whether the Participant chooses to continue to repay the loan or chooses not to repay the loan, the remaining loan balance will be offset against the Participant's Account upon the earlier of (1) a total distribution of the Account to the Participant, or (2) expiration of the grace period.

Loans are allowed after default only if repaid or offset prior to subsequent loan initiation. If a Participant is still employed upon default, a deemed distribution will be declared. The amount of loan outstanding upon default will be treated as a deemed distribution and will be taxable to the Participant in the year of the default, which will result in a Form 1099-R being issued to the Participant.

A Participant who is currently in default on a Plan loan may receive a further loan from the Plan if all the requirements of the loan program are met, provided that there is a legally enforceable arrangement among the Participant, the Plan, and the Participant's employer that repayment of such loan shall be made primarily by payroll withholding.

A Participant who continues employment following default may (i) repay the full amount of the loan, with interest, (ii) resume current status of the loan by paying any missed payment plus interest, or (iii) if distribution is available under the Plan, request distribution of the promissory note. If the loan remains in default, when the Participant's Account is distributed, the Plan Administrator will offset the Participant's vested Account balance by the outstanding balance of the loan to the extent permitted by law. The Plan Administrator will treat the note as repaid to the extent of any permissible offset. Pending final disposition of the note, the Participant remains obligated for any unpaid principal and accrued interest.

11. MEANING OF TERMS. Generally, capitalized terms have the meaning provided in the Summary Plan Description. The following terms, which are not defined in the Summary Plan Description, have the following meanings:

- "Participant" means an individual on whose behalf contributions were made to the Plan and who retains an Account under the Plan.
- "Primary Residence loan" means a loan used to acquire a dwelling unit that will, within a reasonable period of time, be used as the Participant's principal residence.
- "Sub-Account" means a sub-account maintained under a Participant's Account.

Adopted this _____ day of _____, 20_____. This loan program is designed to meet the requirements specified under Department of Labor Regulation §2550.408b-1, as modified by Department of Labor Advisory Opinion 89-30A, regarding written loan programs. This loan program may be amended from time to time, but only by a written instrument.

By: _____

DOCUMENT AGILITY, INC. GOVERNMENTAL VOLUME SUBMITTER 401(a) PLAN

Base Plan Document No. 02

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PREAMBLE

This volume submitter plan consists of the Base Plan Document and a separate Adoption Agreement that is executed by an adopting Employer and is incorporated into the provisions of the Base Plan Document by reference. The volume submitter plan is intended to qualify under Code Section 401(a) as a governmental plan under Code Section 414(d).

ARTICLE I
DEFINITIONS AND INTERPRETATIONS

1.1 Plan Definitions

As used herein, the following words and phrases, when they appear with initial letters capitalized as indicated below, have the meanings hereinafter set forth:

(a) An "**ACA**" means an automatic contribution arrangement under which 401(k) Contributions are automatically withheld from an Eligible Employee's Compensation unless the Eligible Employee affirmatively elects otherwise.

(b) An "**Account**" means the account maintained in the name of a Participant that reflects his interest in the Funding Arrangement and any Sub-Accounts maintained thereunder, as provided in Article VIII.

(c) An "**Additional Discretionary Matching Contribution**" means any Matching Contribution made to the Plan at the Employer's discretion in addition to the Employer's Regular Matching Contribution as provided in the Adoption Agreement, other than a True-Up Matching Contribution.

(d) The "**Administrator**" means the Employer unless the Employer designates in the Adoption Agreement another person or persons to act as such. The Employer may designate different persons to act as its delegate in performing different functions of the Administrator.

(e) The "**Adoption Agreement**" means the separate agreement executed by the Employer under which the Employer elects the optional provisions that apply under the Plan. The Adoption Agreement may also describe certain mandatory Plan provisions, provisions that apply under the Plan without the Employer electing them. A feature is "provided" under the Adoption Agreement if either (1) it is an optional provision and is elected by the Employer or (2) it is a mandatory Plan provision described in the Adoption Agreement. The provisions of the Adoption Agreement are an integral part of the Plan.

(f) An "**After-Tax Contribution**" means any after-tax employee contribution made by a Participant to the Plan as may be permitted under the Adoption Agreement or as may have been permitted under the terms of the Plan prior to this amendment and restatement or any after-tax employee contribution made by a Participant to another plan that is transferred directly to the Plan.

(g) An "**After-Tax Rollover Contribution**" means any portion of a Participant's Rollover Contribution that is attributable to after-tax employee contributions.

(h) The "**Base Plan Document**" means this Document Agility, Inc. Governmental Volume Submitter 401(a) Plan document qualified with the Internal Revenue Service as Base Plan Document No. 02.

(i) The "**Beneficiary**" of a Participant means the person or persons entitled under the provisions of the Plan to receive distribution hereunder in the event the Participant dies before receiving distribution of his entire interest under the Plan.

(j) A Participant's "**Benefit Payment Date**" means (i) if payment is made through the purchase of an annuity, the first day of the first period for which the annuity is payable or (ii) if payment is made in any other form, the first day on which all events have occurred which entitle the Participant to receive payment of his benefit.

(k) A "**Break in Eligibility Service**" means the following:

(1) If Eligibility Service is credited on an Hours of Service basis, as provided in the Adoption Agreement, any "eligibility computation period" (as described in Section 2.1) during which an Employee completes no more than (1) if 1,000 Hours of Service is required for a year of Eligibility Service, 500 Hours of Service or (2) if fewer than 1,000 Hours of Service is required for a year of Eligibility Service, 1/2 the number of Hours of Service required for a year of Eligibility Service. Notwithstanding the foregoing, no Employee shall incur a Break in Eligibility Service solely by reason of temporary absence from work not exceeding 12 months resulting from illness, layoff, or other cause if authorized in advance by the Employer pursuant to its uniform leave policy, if his employment shall not otherwise be terminated during the period of such absence.

(2) If Eligibility Service is credited on an elapsed time basis, as provided in the Adoption Agreement, a 12-consecutive-month period beginning on a person's Severance Date or any anniversary thereof during which the person is not credited with an Hour of Service, as defined in Section 2.2(a). Notwithstanding the foregoing, the following special rules apply in determining whether a person who is on a leave of absence has incurred a Break in Eligibility Service:

(A) If the person is absent because of a Maternity/Paternity Absence beyond the first anniversary of his Severance Date, the 12-consecutive month period beginning on his Severance Date shall not constitute a Break in Eligibility Service.

(B) If the person is absent because of a "FMLA leave", and returns to employment with the Employer following such "FMLA leave", he shall not incur a Break in Eligibility Service for any 12-consecutive-month period beginning on his Severance Date or anniversaries thereof in which he is absent because of "FMLA leave". A "FMLA leave" means an approved leave of absence pursuant to the Family and Medical Leave Act of 1993.

(l) A "**Break in Vesting Service**" means the following:

(1) If Vesting Service is credited on an Hours of Service basis, as provided in the Adoption Agreement, any "vesting computation period" (as defined in the Adoption Agreement) during which an Employee completes no more than (1) if 1,000 Hours of Service is required for a year of Vesting Service, 500 Hours of Service or (2) if fewer than 1,000 Hours of Service is required for a year of Vesting Service, 1/2 the number of Hours of Service required for a year of Vesting Service. Notwithstanding the foregoing, no Employee shall incur a Break in Vesting Service solely by reason of temporary absence from work not exceeding 12 months resulting from illness, layoff, or other cause if authorized in advance by the Employer pursuant to its uniform leave policy, if his employment shall not otherwise be terminated during the period of such absence.

(2) If Vesting Service is credited on an elapsed time basis, as provided in the Adoption Agreement, a 12-consecutive-month period beginning on a person's Severance Date or any anniversary thereof during which the person is not credited with an Hour of Service, as defined in Section 2.2(a). Notwithstanding the foregoing, the following special rules apply in determining whether a person who is on a leave of absence has incurred a Break in Vesting Service:

(A) If the person is absent because of a Maternity/Paternity Absence beyond the first anniversary of his Severance Date, the 12-consecutive month period beginning on his Severance Date shall not constitute a Break in Vesting Service.

(B) If the person is absent because of a "FMLA leave", and returns to employment with the Employer following such "FMLA leave", he shall not incur a Break in Vesting Service for any 12-consecutive-month period beginning on his Severance Date or anniversaries thereof in which he is absent because of "FMLA leave". A "FMLA leave" means an approved leave of absence pursuant to the Family and Medical Leave Act of 1993.

(m) A "**Catch-Up 401(k) Contribution**" means any 401(k) Contribution made to the Plan pursuant to Section 4.4 that is in excess of an applicable Plan limit and is made pursuant to, and is intended to comply with, Code Section 414(v). Catch-Up 401(k) Contributions may include Pre-Tax 401(k) Contributions and/or Roth 401(k) Contributions.

(n) The "**Code**" means the Internal Revenue Code of 1986, as amended from time to time. Reference to a Code section includes such section and any comparable section or sections of any future legislation that amends, supplements, or supersedes such section.

(o) The "**Compensation**" of a Participant for purposes of determining the amount and allocation of each contribution source under the Plan means Compensation as defined for such contribution source in the Adoption Agreement, including those amounts, if any, designated for such contribution source in the Adoption Agreement and excluding those amounts, if any, designated for such contribution source in the Adoption Agreement.

If provided in the Adoption Agreement, the following definitions of Compensation have the following meanings:

(1) W-2 Compensation. A Participant's wages as defined in Code Section 3401(a), determined without regard to any rules that limit compensation included in wages based on the nature or location of the employment or services performed, and all other payments made to him for services as a Covered Employee for which his Employer is required to furnish the Participant a written statement under Code Sections 6041(d), 6051(a)(3), and 6052 (commonly referred to as W-2 earnings).

(2) W-2 Compensation less moving expenses only. A Participant's wages as defined in Code Section 3401(a), determined without regard to any rules that limit compensation included in wages based on the nature or location of the employment or services performed, and all other payments made to him for services as a Covered Employee for which his Employer is required to furnish the Participant a written statement under Code Sections 6041(d), 6051(a)(3), and 6052 (commonly referred to as W-2 earnings), excluding moving expenses.

(3) Withholding Compensation. A Participant's wages as defined in Code Section 3401(a), paid to him for services as a Covered Employee that would be used for purposes of income tax withholding at

the source, determined without regard to any rules that limit compensation included in wages based on the nature or location of the employment or services performed.

(4) General Section 415 Compensation. A Participant's general Section 415 Compensation includes (i) his wages, salaries, fees for professional service, and all other amounts received (without regard to whether such amounts are paid in cash) for personal services actually rendered in the course of employment with an Employer paid to him for services as a Covered Employee, to the extent the amounts are includible in gross income (or would have been received and includable in gross income but for the Participant's election, or deemed election, under Code Section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b)), including, but not limited to, commissions paid to salesperson, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan described in Treasury Regulations Section 1.62-2(c), (ii) in case of a Participant who is an employee within the meaning of Code Section 401(c)(1), the Participant's earned income, as described in Code Section 401(c)(2) and regulations issued thereunder, (iii) amounts described in Code Section 104(a)(3), 105(a), or 105(h), but only to the extent such amounts are includible in the gross income of the Participant, (iv) amounts paid or reimbursed by the Employer for moving expenses incurred by the Participant, but only to the extent it is reasonable to believe the amounts are not deductible by the Participant under Code Section 217, (v) the value of a non-statutory option (an option other than a statutory option, as defined in Treasury Regulations Section 1.421-1(b)) granted to the Participant by the Employer, but only to the extent that the value of the option is includible in the gross income of the Participant for the taxable year in which granted, (vi) amounts includible in the gross income of the Participant upon making an election described in Code Section 83(b), and (vii) amounts that are includible in the gross income of the Participant under the rules of Code Section 409A or 457(f)(1)(A) or because the amounts are constructively received by the Participant. General Section 415 Compensation excludes (A) contributions (other than elective contributions described in Code Section 402(e)(3), 408(k)(6), 408(p)(2)(A)(i), or 457(b)) made by the Participant's Employer to a plan of deferred compensation (including a simplified employee pension described in Code Section 408(k) or a simple retirement account described in Code Section 408(p)), whether or not qualified, to the extent that, before application of the limitations of Code Section 415 to such plan, the contributions are not includible in the gross income of the Participant for the taxable year in which contributed, (B) any distributions from a plan of deferred compensation, whether or not qualified, (except amounts received pursuant to an unfunded non-qualified plan in the year such amounts are includible in the gross income of the Participant), (C) amounts realized from the exercise of a non-qualified option or when restricted stock or other property held by the Participant either becomes freely transferable or is no longer subject to substantial risk of forfeiture, (D) amounts received from the sale, exchange or other disposition of stock acquired under a qualified stock option, (E) any other amounts that receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includible in the gross income of the Participant and are not salary reduction amounts that are described in Code Section 125), and (F) other items that are similar to the items listed in (A) through (E) above.

(5) Modified Section 415 Compensation. A Participant's modified Section 415 Compensation includes his wages, salaries, fees for professional service, and all other amounts received for personal services actually rendered in the course of employment with an Employer paid to him for services as a Covered Employee. Modified Section 415 Compensation excludes (i) contributions (other than elective contributions described in Code Section 402(e)(3), 408(k)(6), 408(p)(2)(A)(i), or 457(b)) made by the Participant's Employer to a plan of deferred compensation (including a simplified employee pension described in Code Section 408(k) or a simple retirement account described in Code Section 408(p)), whether or not qualified, to the extent that, before application

of the limitations of Code Section 415 to such plan, the contributions are not includible in the gross income of the Participant for the taxable year in which contributed, (ii) any distributions from a plan of deferred compensation, whether or not qualified, (except amounts received pursuant to an unfunded non-qualified plan in the year such amounts are includible in the gross income of the Participant), (iii) amounts realized from the exercise of a non-qualified option or when restricted stock or other property held by the Participant either becomes freely transferable or is no longer subject to substantial risk of forfeiture, (iv) amounts received from the sale, exchange or other disposition of stock acquired under a qualified stock option, (v) any other amounts that receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includible in the gross income of the Participant and are not salary reduction amounts that are described in Code Section 125), and (vi) other items that are similar to the items listed in (i) through (v) above.

(6) Base Pay. A Participant's base pay means his base wages received for personal services actually rendered in the course of employment with an Employer as a Covered Employee, excluding bonuses, overtime, shift differential, and any other special compensation.

(7) Total Compensation excluding non-cash compensation. A Participant's total compensation excluding non-cash compensation means his wages, salaries, fees for professional service, and all other amounts received for personal services actually rendered in the course of employment with an Employer as a Covered Employee, except any such amounts that are not paid to the Participant in cash. For this purpose, an amount that would have been payable to the Participant in cash, but which is not paid because of the Participant's election under Code Section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b), is treated as having been paid to the Participant in cash.

(8) Regular Rate of Pay. A Participant's regular rate of pay for any period means the Participant's basic or regular rate of pay for such period for services as a Covered Employee, based on the hourly pay scale, weekly salary, or similar unit of base or regular pay applicable to such Participant.

Unless otherwise provided in the Adoption Agreement, a Participant's Compensation includes the following:

(9) any eligible amount that would have been received and included in the Participant's taxable gross income but for the Participant's election under Code Section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b);

(10) amounts paid to the Participant after his severance from employment (as defined in Treasury Regulations Section 1.401(k)-1(d)(2), for plans that include a cash or deferred arrangement or as defined in Treasury Regulations Section 1.415(a)-1(f)(5), for plans that do not include a cash or deferred arrangement), but before (1) the end of the "limitation year" in which the Participant's severance from employment occurs or (2) within 2 1/2 months of such severance from employment, whichever is later, provided such amounts would have been paid to the Participant in the course of employment and are regular compensation for services by the Participant or commissions, bonuses or other similar compensation, but only to the extent such amounts would have been included in the Participant's Compensation if his employment had continued;

(11) if the Participant is absent from employment as a Covered Employee to perform service in the uniformed services (as defined in Chapter 43 of Title 38 of the United States Code), his Compensation will include any "differential pay," as defined hereunder, he receives or is entitled to receive from his Employer. For purposes of this paragraph, "differential pay" means any payment made to the Participant by the Employer after December 31, 2008, with respect to a

period during which the Participant is performing service in the uniformed services while on active duty for a period of more than 30 days that represents all or a portion of the wages the Participant would have received if he had continued employment with the Employer as a Covered Employee.

In no event, however, shall the Compensation of a Participant taken into account under the Plan for any Plan Year exceed the limit elected in the Adoption Agreement, or, if no limit is elected, the limit in effect under Code Section 401(a)(17) ($250,000 for Plan Years beginning in 2012, subject to adjustment annually as provided in Code Sections 401(a)(17)(B) and 415(d); provided, however, that the dollar increase in effect on January 1 of any calendar year, if any, is effective for Plan Years beginning in such calendar year). If the Compensation of a Participant is determined over a period of time that contains fewer than 12 calendar months, then the annual compensation limitation described above shall be adjusted with respect to that Participant by multiplying the annual compensation limitation in effect for the Plan Year by a fraction the numerator of which is the number of full months in the period and the denominator of which is 12; provided, however, that no proration is required for a Participant who is covered under the Plan for less than one full Plan Year if the formula for allocations is based on Compensation for a period of at least 12 months.

(p) A "**Contribution Period**" means the period specified in Article VI for which Employer Contributions shall be made.

(q) A "**Covered Employee**" means any Employee of an Employer who is in a class of Employees eligible to participate in the Plan, as provided in the Adoption Agreement.

Regardless of the elections in the Adoption Agreement, any individual who has executed a contract, letter of agreement, or other document acknowledging his status as an independent contractor not entitled to benefits under the Plan or any other individual who performs services for an Employer who is otherwise not classified by the Employer as an Employee and with respect to whom the Employer does not withhold income taxes and file Form W-2 (or any replacement Form) with the Internal Revenue Service, shall be excluded from the class of Employees eligible to participate in the Plan even if such individual is later adjudicated to be an Employee of the Employer unless and until the Employer extends coverage to such individual.

(r) A "**Designated Roth Rollover Contribution**" means any portion of a Participant's Rollover Contribution that is made by a direct rollover to the Plan and is attributable to designated Roth contributions, as described in Code Section 402A. Designated Roth Rollover Contributions do not include In-Plan Roth Rollover Contributions.

(s) "**Disabled**" means a Participant can no longer continue in the service of his employer because of a mental or physical condition that is likely to result in death or is expected to be of long-continued or indefinite duration. A Participant shall be considered Disabled only if he meets the criteria specified in the Adoption Agreement.

(t) A Participant's "**Domestic Partner**" means the person with whom a Participant maintains a domestic partnership, as determined by the Administrator. The Administrator shall determine that a Participant maintains a domestic partnership with a person if all of the following requirements are met:

(1) the Participant and the Participant's partner (i) maintain an intimate, committed relationship of mutual caring, (ii) share the same principal residence, (iii) agree to be responsible for each other's basic living expenses during the period of the relationship, and (iv) are not so closely related by blood that a legal marriage between them would otherwise be prohibited solely by reason of such blood relationship

(2) neither the Participant nor the Participant's partner is married to a third party

(3) the Participant has filed written notice with the Administrator, which the Participant has not subsequently withdrawn or revoked, identifying the person as his or her Domestic Partner

(4) the Participant and the Participant's partner have complied with all requirements, if any, imposed by the political subdivision in which they are resident, for recognition of domestic partner status (such as declaration or registration requirements, duration of relationship requirements, cohabitation requirements, requirements relating to conduct of financial or contractual obligations, etc.)

(5) the Participant's partner does not deny his or her status as the Participant's Domestic Partner or claim to be the domestic partner of, Spouse of, or subject to a civil union with any third person.

Any written statement provided by the Participant to the Administrator identifying an individual as his Domestic Partner, other than any such declaration that has subsequently been withdrawn, shall create a rebuttable presumption consistent with such declaration. The Administrator may rely on such presumption unless and until a claimant presents contrary evidence to the Administrator that the Administrator determines is clear and sufficient to rebut such presumption. The Administrator shall have no responsibility to inquire into the accuracy, veracity, or authenticity of any such declaration or to ascertain whether the Participant and the Participant's partner have complied with all the requirements of the political subdivision in which they reside, it being the burden of any contrary claimant to disprove such compliance.

For those purposes specifically identified in the Plan, a Participant's Domestic Partner shall be treated the same as a Participant's Spouse.

(u) An "**EACA**" means an automatic contribution arrangement that satisfies the requirements of Code Section 414(w)(3) to be an eligible automatic contribution arrangement.

(v) The "**Early Retirement Date**" of an Employee means the date he satisfies the requirements specified by the Plan Sponsor in the Adoption Agreement, if any. If a Participant separates from service before satisfying the age requirement for early retirement, but has satisfied the service requirement, the participant will be entitled to elect an early retirement benefit upon satisfaction of such age requirement.

(w) The "**Eligibility Service**" of an Employee means the period or periods of service credited to him under the provisions of Article II for purposes of determining his eligibility to participate in the Plan as may be required under Article III.

(x) An "**Eligible Employee**" means any Covered Employee who has met the eligibility requirements of Article III to participate in the Plan; provided, however, that, if the Adoption Agreement permits waivers of participation, any Covered Employee who has made an election not to participate in the Plan for a particular Plan Year, shall not be considered an Eligible Employee for those Plan purposes specified in the Adoption Agreement for the Plan Year(s) in which his election is in effect.

(y) An "**Employee**" means any common law employee of the Employer, any Leased Employee (as required under Code Section 414(n)), or any individual treated as an employee of an Employer under Code Section 414(o).

(z) The "**Employer**" means the employer named in the Adoption Agreement and any successor who by merger, consolidation, or otherwise assumes the obligations of the Plan.

(aa) An "**Employer Contribution**" means any amount that the Employer contributes to the Plan as a Nonelective Contribution or a Matching Contribution as provided under Article VI.

(bb) The "**Employment Commencement Date**" of an Employee means (i) the first date on which he completes an Hour of Service as defined in Section 2.2(a) or (ii) if the Employee incurs a Break in Eligibility Service or a Break in Vesting Service, as applicable, the first date following such Break in Eligibility Service or Break in Vesting Service on which he again completes an Hour of Service as defined in Section 2.2(a).

(cc) An "**Entry Date**" means the date or dates specified for each contribution source in the Adoption Agreement as of which a Covered Employee becomes an Eligible Employee with respect to such contribution source.

(dd) A "**401(k) Contribution**" means any amount contributed to the Plan on behalf of a Participant that the Participant could elect to receive in cash, but that the Participant elects, either affirmatively or if the Adoption Agreement includes an automatic contribution arrangement and/or automatic escalation provision, pursuant to the automatic contribution arrangement or automatic annual escalation provision, to have contributed to the Plan in accordance with the provisions of Article IV as either a Pre-Tax 401(k) Contribution or a Roth 401(k) Contribution.

(ee) The "**Funding Agent**" means the entity specified by the Employer in the Adoption Agreement, which at the time shall be designated, qualified, and acting under the Funding Agreement and shall include any trustee executing a trust agreement with the Employer, any insurance company that issues an annuity or insurance contract pursuant to the Funding Agreement, or any person holding assets in a custodial account pursuant to the Funding Agreement. The Employer may designate a person or persons other than the Funding Agent to perform any responsibility of the Funding Agent under the Plan. The term Funding Agent shall include any delegate of the Funding Agent as may be provided in the Funding Agreement.

(ff) The "**Funding Agreement**" means any agreement or agreements entered into between the Employer and the Funding Agent relating to the holding, investment, and reinvestment of the assets of the Plan, together with all amendments thereto and shall include any agreement establishing a trust qualified under Code Section 401 or a custodial account, an annuity contract, or an insurance contract (other than a life, health or accident, property, casualty, or liability insurance contract) for the investment of assets if the custodial account or contract would, except for the fact that it is not a trust, constitute a qualified trust under Code Section 401.

(gg) The "**Funding Arrangement**" means the trust, custodial accounts, annuity contracts, or insurance contracts maintained by the Funding Agent under the Funding Agreement.

(hh) The "**General Fund**" means the portion of the Plan's assets maintained by the Funding Agent as required to hold and administer any assets of the Funding Arrangement that are not allocated among any separate Investment Funds as may be provided in the Plan or the Funding Agreement. No General Fund shall be maintained if all assets of the Plan are allocated among separate Investment Funds.

(ii) A "**Highly Compensated Employee**" means any Covered Employee who performs services for the Employer during the Plan Year and who received "compensation" from the Employer during the "look back year" in excess of the dollar amount in effect under Code Section 414(q)(1)(B)(i) adjusted pursuant to Code Section 415(d) (e.g., $115,000 for "look back years" beginning after December 31, 2011) and, if provided in the Adoption Agreement, was in the top-paid group of employees for the "look back year". A Covered Employee is in the top paid group of Employees if he is in the top 20% of Employees when ranked on the basis of compensation paid during the "look back year". The $115,000 amount is adjusted at the same time and in the same manner as under Code Section 415(d), except that the base period is the calendar quarter ending September 30, 1996.

The determination of who is a Highly Compensated Employee hereunder, including determinations as to the number and identity of Employees in the top-paid group, shall be made in accordance with the provisions of Code Section 414(q) and regulations issued thereunder.

For purposes of this definition, the following terms have the following meanings:

(1) An Employee's "compensation" means his "415 compensation", as defined in Section 7.1(c).

(2) The "look back year" means the 12-month period immediately preceding the Plan Year, unless the Adoption Agreement provides that the "look back year" is the calendar year beginning within the 12-month period immediately preceding the Plan Year for which the determination is being made.

(jj) An "**Hour of Service**" with respect to an Employee means each hour, if any, that may be credited to him in accordance with the provisions of Article II.

(kk) An "**Investment Fund**" means any separate investment vehicle maintained as may be provided in the Plan or the Funding Agreement or any separate investment fund maintained by the Funding Agent, to the extent that there are Participant Sub-Accounts under such funds, to which assets of the Plan may be allocated and separately invested.

(ll) The "**Investment Fiduciary**" means the fiduciary responsible for investments under the Plan, including, if applicable, selection of the Investment Funds and direction of the Funding Agent. Unless otherwise specified in the Adoption Agreement, the Employer shall be the Investment Fiduciary.

(mm) A "**Leased Employee**" means any person (other than an "excludable leased employee") who performs services for the Employer (the "recipient") (other than an employee of the "recipient") pursuant to an agreement between the "recipient" and any other person (the "leasing organization") on a substantially full-time basis for a period of at least 1 year, provided that such services are performed under primary direction of or control by the "recipient". An "excludable leased employee" means any Leased Employee of the "recipient" who (a) is covered by a money purchase pension plan maintained by the "leasing organization" which provides for (i) a nonintegrated employer contribution on behalf of each participant in the plan equal to at least 10% of compensation, as defined in Code Section 415 and regulations issued thereunder, (ii) full and immediate vesting, and (iii) immediate participation by employees of the "leasing organization", or (b) performs substantially all of his services for the "leasing organization", or (c) whose compensation from the "leasing organization" in each Plan Year during the 4-year period ending with the current Plan Year is less than $1,000. Notwithstanding the foregoing, Leased Employees of the recipient shall only be considered "excludable leased employees" if Leased Employees do not constitute more than 20% of the "recipient's" nonhighly compensated work force. For purposes of this Section, contributions or benefits provided to a Leased Employee by the "leasing organization" that are attributable to services performed for the "recipient" shall be treated as provided by the "recipient".

(nn) A "**Matching Contribution**" means any Employer Contribution made to the Plan on account of a Participant's 401(k) Contributions, After-Tax Contributions, or Pick-Up Contributions to the Plan, as provided in the Adoption Agreement, or, if provided in the Adoption Agreement, a Participant's salary reduction contributions or employee after-tax contributions to a plan maintained by his Employer under Code Section 403(b) or Code Section 457(b). Matching Contributions include Regular Matching Contributions, Additional Discretionary Matching Contributions, and True-Up Matching Contributions.

(oo) A "**Nonelective Contribution**" means any Employer Contribution made to the Plan as provided in the Adoption Agreement that is not contingent upon a Participant's "elective contributions" or "employee contributions", as those terms are defined in Section 7.1.

(pp) The "**Normal Retirement Age**" of an Employee means the date he satisfies the requirements specified in the Adoption Agreement.

(qq) The "**Normal Retirement Date**" of an Employee means the Employee's Normal Retirement Age, unless otherwise specified in the Adoption Agreement.

(rr) A "**Participant**" means any person who has satisfied the requirements of Article III to become an Eligible Employee and/or who has an Account under the Plan.

(ss) A Participant's "**Pick-Up Contributions**" means the contributions required to be made by a Participant, as provided in the Adoption Agreement, that are "picked up" by the Employer in accordance with Code Section 414(h)(2) and treated as employer contributions.

(tt) The "**Plan**" means the defined contribution plan established by the Employer in the form of this volume submitter plan by execution of an Adoption Agreement, as in effect from time to time.

(uu) A "**Plan Year**" means the period designated in the Adoption Agreement.

(vv) A "**Pre-Tax 401(k) Contribution**" means any 401(k) Contribution made to the Plan on behalf of a Participant that is not includable in the Participant's taxable gross income, pursuant to Code Section 401(k), until distributed from the Plan.

(ww) A "**Prior Matching Contribution**" means any contribution made by a Participant's employer on account of the Participant's "elective contributions" or "employee contributions", as those terms are defined in Section 7.1, either (i) to the Plan pursuant to provisions of the Plan that are no longer in effect or (ii) to another plan and that was transferred directly to the Plan from such other plan (in connection with a spinoff or plan merger).

(xx) A "**Prior Money Purchase Pension Plan Contribution**" means any contribution made by a Participant's employer either (i) to the Plan while it was qualified as a money purchase pension plan or (ii) to another plan that was qualified as a money purchase pension plan and that was transferred directly to the Plan from such other plan (in connection with a spinoff or plan merger).

(yy) A "**Prior Nonelective Contribution**" means any contribution made by a Participant's employer that was not contingent upon the Participant's "elective contributions" or "employee contributions", as those terms are defined in Section 7.1, and that was made either (i) to the Plan pursuant to provisions of the Plan that are no longer in effect or (ii) to another plan and that was transferred directly to the Plan from such other plan (in connection with a spinoff or plan merger).

(zz) A "**Qualified Voluntary Employee Contribution**" means any voluntary, deductible employee contribution made by a Participant prior to January 1, 1987 in accordance with provisions of the Code that are no longer in effect.

(aaa) A "**Regular Matching Contribution**" means any Matching Contribution made to the Plan at the rate specified in the Adoption Agreement, other than an Additional Discretionary Matching Contribution or a True-Up Matching Contribution.

(bbb) A Participant's "**Required Beginning Date**" means April 1 of the calendar year following the calendar year in which occurs the later of the Participant's (i) attainment of age 70 1/2 or (ii) Settlement Date.

(ccc) A "**Rollover Contribution**" means any rollover contribution made to the Plan by a Participant as may be permitted under the Adoption Agreement.

(ddd) A "**Roth 401(k) Contribution**" means any 401(k) Contribution made on behalf of a Participant for a Plan Year beginning after December 31, 2005, that is irrevocably designated as being made pursuant to, and is intended to comply with, Code Section 402A. Roth 401(k) Contributions are includable in a Participant's taxable gross income for the year in which they are contributed to the Plan. The term "Roth 401(k) Contribution" includes any "elective deferral," as that term is defined in Code Section 402(g)(3)(A), made to a plan qualified under Code Section 401(a), that is rolled over to the Plan in accordance with the provisions of the Adoption Agreement and that the Covered Employee designated as a Roth contribution at the time it was contributed to such other plan.

(eee) A "**Roth In-Plan Rollover Contribution**" means any Rollover Contribution of amounts held under the Plan made by a Participant pursuant to Code Section 402A(c)(4) and in accordance with the provisions of Section 5.10 and the Adoption Agreement.

(fff) The "**Settlement Date**" of a Participant means the date on which a Participant's interest under the Plan becomes distributable in accordance with Article XV.

(ggg) The "**Severance Date**" of an Employee means the earlier of (i) the date on which he retires, dies, or his employment with the Employer is otherwise terminated, or (ii) the first anniversary of the first date of a period during which he is absent from work with the Employers for any other reason; provided, however, that the following special rules shall apply:

(1) If the Employee terminates employment with or is absent from work with the Employer on account of service with the armed forces of the United States, he shall not incur a Severance Date if he is eligible for reemployment rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 and he returns to work with the Employer within the period during which he retains such reemployment rights, but, if he does not return to work within such period, his Severance Date shall be the earlier of (i) the date which is one year after his absence commenced or (ii) the last day of the period during which he retains such reemployment rights.

(2) If the Employee is on a Maternity/Paternity Absence beyond the first anniversary of the first day of such absence, he shall not incur a Severance Date if he returns to employment before the second anniversary of the first day of such absence but, if he does not return within such period, his Severance Date shall be the second anniversary of the first date of such Maternity/Paternity Absence. Unless otherwise provided in the Adoption Agreement, the provisions of this paragraph shall apply solely for purposes of preventing a Break in Eligibility Service or a Break in Vesting Service.

(3) If provided in the Adoption Agreement, if the Employee is on a paid leave of absence beyond the first anniversary of the first day of such absence, he shall not incur a Severance Date if he returns to employment before the second anniversary of the first day of such absence but, if he does not return within such period, his Severance Date shall be the first anniversary of the first date of such paid leave of absence.

(hhh) A Participant's "**Spouse**" means the person to whom the Participant is legally married.

(iii) A "**Sub-Account**" means any of the individual sub-accounts of a Participant's Account that is maintained as provided in Article VIII.

(jjj) A "**True-Up Matching Contribution**" means any Matching Contribution made to the Plan for a Plan Year that when aggregated with the Regular Matching Contributions made on a Participant's behalf for the Plan Year will provide Matching Contributions at the maximum rate specified in the Plan taking into account the Participant's contributions for the full Plan Year that are eligible for match and his Compensation for the full Plan Year.

(kkk) A "**Valuation Date**" means the date or dates designated for the purpose of valuing the General Fund and each Investment Fund and adjusting Accounts and Sub-Accounts thereunder, which dates need not be uniform with respect to the General Fund, each Investment Fund, Account, or Sub-Account; provided, however, that the General Fund and each Investment Fund shall be valued and each Account and Sub-Account shall be adjusted no less often than once annually. Unless the Plan Sponsor designates another date or dates and communicates the designated date(s) to the Trustee, the Valuation Date under the Plan means each day a stock exchange under the Plan is open for business.

(lll) The "**Vesting Service**" of an Employee means the period or periods of service credited to him under the provisions of Article II for purposes of determining his vested interest in his Employer Contributions Sub-Account, if Employer Contributions are not immediately vested , and, if the Employer elected an Early Retirement Date in the Adoption Agreement, for determining whether he has reached Early Retirement Date under the Plan.

1.2 Interpretation

Where required by the context, the noun, verb, adjective, and adverb forms of each defined term shall include any of its other forms. Wherever used herein, the masculine pronoun shall include the feminine, the singular shall include the plural, and the plural shall include the singular.

ARTICLE II
SERVICE

2.1 Special Definitions

For purposes of this Article, the following terms have the following meanings.

(a) If the Adoption Agreement provides for elapsed time crediting for either Vesting or Eligibility Service, the "**continuous service**" of an Employee means the continuous service credited to him in accordance with the provisions of this Article.

(b) If the Adoption Agreement provides for Hours of Service crediting for Eligibility Service, an "**eligibility computation period**" means (i) the 12-consecutive-month period beginning on his Employment Commencement Date, and (ii) either each 12-consecutive-month period beginning on an anniversary of such date or, if provided in the Adoption Agreement, each Plan Year beginning after such date; provided, however, that if an Employee's Employment Commencement Date is prior to the effective date of the Plan, a Plan Year shall not mean any short Plan Year beginning on the effective date of the Plan, if any, but shall mean any 12-consecutive-month period beginning before the effective date of the Plan that would have been a Plan Year if the Plan had been in effect.

If provided in the Adoption Agreement, if an Employee returns to active employment after a Break in Eligibility Service and if he had previously completed sufficient Hours of Service during a prior "eligibility computation period" to prevent a Break in Eligibility Service, his initial "eligibility computation period" for purposes of determining his years of Eligibility Service following such return shall begin on his

Employment Commencement Date following the Break in Eligibility Service. Subsequent "eligibility computation periods" shall be based on anniversaries of such Employment Commencement Date or, if provided in the Adoption Agreement, Plan Years beginning after such date.

(c) If the Adoption Agreement provides for Hours of Service crediting for Vesting Service, a "**vesting computation period**" means the 12-month period specified in the Adoption Agreement.

2.2 Crediting of Hours of Service

An Employee shall be credited with an Hour of Service for:

(a) Each hour for which he is paid, or entitled to payment, for the performance of duties for the Employer during the applicable period; provided, however, that hours compensated at a premium rate shall be treated as straight-time hours.

(b) Subject to the provisions of Section 2.3, each hour for which he is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), lay-off, jury duty, military duty, or leave of absence.

(c) Each hour for which he would have been scheduled to work for the Employer during the period that he is absent from work because of service with the armed forces of the United States provided he is eligible for reemployment rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 and returns to work with the Employer within the period during which he retains such reemployment rights; provided, however, that the same Hour of Service shall not be credited under paragraph (b) of this Section and under this paragraph (c).

(d) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer; provided, however, that the same Hour of Service shall not be credited both under paragraph (a), (b), or (c) of this Section, as the case may be, and under this paragraph (d); and provided, further, that the crediting of Hours of Service for back pay awarded or agreed to with respect to periods described in paragraph (b) shall be subject to the limitations set forth therein and in Section 2.3.

(e) If provided in the Adoption Agreement and subject to any limitations provided in the Adoption Agreement, an Employee who is on a Maternity/Paternity Absence shall be credited with an Hour of Service for each hour during such absence for which he would have been scheduled to work, determined based on the Employee's work schedule immediately preceding such absence. If the Adoption Agreement limits the Hours of Service credited for such absence to the hours necessary to prevent a break in service, the following shall apply:

(1) No more than the minimum number of hours required to prevent a Break in Eligibility Service or a Break in Vesting Service, as applicable, shall be credited by reason of any Maternity/Paternity Absence.

(2) Any hours included as Hours of Service pursuant to this paragraph shall be credited to the computation period in which the absence from employment begins, if such person otherwise would incur a Break in Eligibility Service or a Break in Vesting Service in such computation period, or, in any other case, to the immediately following computation period.

(f) If provided in the Adoption Agreement and subject to any limitations provided in the Adoption Agreement, an Employee who is on an unpaid leave (other than a Maternity/Paternity Absence) shall be credited with

an Hour of Service for each hour during such absence for which he would have been scheduled to work, determined based on the Employee's work schedule immediately preceding such absence. The same Hour of Service shall not be credited both under paragraph (c) of this Section and under this paragraph (f).

2.3 Limitations on Crediting of Hours of Service

In applying the provisions of Section 2.2(b), the following shall apply:

(a) An hour for which a person is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed shall not be credited to him if such payment is made or due under a plan maintained solely for the purpose of complying with applicable workers' compensation, unemployment compensation, or disability insurance laws.

(b) Hours of Service shall not be credited with respect to a payment which solely reimburses a person for medical or medically-related expenses incurred by him.

(c) A payment shall be deemed to be made by or due from the Employer (i) regardless of whether such payment is made by or due from such employer directly or indirectly, through (among others) a trust fund or insurer to which any such employer contributes or pays premiums, and (ii) regardless of whether contributions made or due to such trust fund, insurer, or other entity are for the benefit of particular persons or are on behalf of a group of persons in the aggregate.

(d) No more than the number of Hours of Service provided in the Adoption Agreement shall be credited to a person on account of any single continuous period during which he performs no duties (whether or not such period occurs in a single "computation period"), unless no duties are performed due to service with the armed forces of the United States for which the person retains reemployment rights as provided in Section 2.2(c), or because of any other absence identified by the Employer in the Adoption Agreement as an absence to which the limit does not apply.

2.4 Hours of Service Equivalencies

Notwithstanding any other provision of the Plan to the contrary, if the Employer does not maintain records that accurately reflect actual hours of service with respect to an Employee, the Employer shall credit Hours of Service in accordance with one of the equivalencies described in this Section. In addition, the Employer may prescribe rules crediting Hours of Service in accordance with one of the equivalencies described in this Section either for all Employees or for Employees in one or more different classifications (provided such classifications are reasonable and determinable). Hours of Service shall be credited hereunder in a consistent and nondiscriminatory manner.

In accordance with this Section, an Employee may be credited with:

(a) 10 Hours of Service for each day on which he performs an Hour of Service;

(b) 45 Hours of Service for each week in which he performs an Hour of Service;

(c) 95 Hours of Service for each semi-monthly payroll period in which he performs an Hour of Service;

(d) 190 Hours of Service for each month in which he performs an Hour of Service; or

(e) such other reasonable, nondiscriminatory equivalency determined by the Employer.

2.5 Crediting of Continuous Service

If the Employer elects in the Adoption Agreement an elapsed time method of crediting Eligibility Service or Vesting Service, a person shall be credited with "continuous service" for the aggregate of the periods of time between his Employment Commencement Date and the Severance Date that next follows such Employment Commencement Date. If provided in the Adoption Agreement, an Employee who has an Employment Commencement Date within the 12-consecutive-month period following the earlier of the first date of his absence or his Severance Date shall be credited with "continuous service" for the period between his Severance Date and his subsequent Employment Commencement Date.

2.6 Eligibility Service

Eligibility Service shall be credited as provided below:

(a) If the Adoption Agreement provides for Hours of Service crediting for Eligibility Service, an Employee shall be credited with a year of Eligibility Service for each "eligibility computation period" in which he completes at least 1,000 Hours of Service, or such other number of Hours of Service provided in the Adoption Agreement. If the Adoption Agreement provides that the " eligibility computation period" changes to the Plan Year, an Employee who is credited with 1,000 Hours of Service (or such other number of Hours of Service specified in the Adoption Agreement) in both the initial "eligibility computation period" and the first Plan Year that commences prior to the first anniversary of the Employee's initial "eligibility computation period" shall be credited with 2 years of Eligibility Service.

(b) If the Adoption Agreement provides for elapsed time crediting for Eligibility Service, an Employee shall be credited with Eligibility Service equal to his "continuous service". If provided in the Adoption Agreement, Eligibility Service shall be computed to the nearest 1/12th of a year treating each calendar month or portion of a calendar month in which an Employee is credited with "continuous service" as 1/12th year of Eligibility Service.

(c) Notwithstanding the provisions of paragraph (a) or (b), as applicable, to the extent provided in the Adoption Agreement, if an Employee terminates employment and is reemployed, Eligibility Service completed by the Employee prior to reemployment, shall be disregarded.

If the Employer elected in the Adoption Agreement that there are no Eligibility Service requirements to receive contributions under in the Plan, there shall be no Eligibility Service credited under the Plan.

2.7 Vesting Service

Vesting Service shall be credited as provided below:

(a) If the Adoption Agreement provides for Hours of Service crediting for Vesting Service, an Employee shall be credited with a year of Vesting Service for each "vesting computation period" during which he completes at least 1,000 Hours of Service, or such other number of Hours of Service specified in the Adoption Agreement.

(b) If the Adoption Agreement provides for elapsed time crediting for Eligibility Service, an Employee shall be credited with Vesting Service equal to his "continuous service". If provided in the Adoption Agreement, Vesting Service shall be computed to the nearest 1/12th of a year treating each calendar month or portion of a calendar month in which an Employee is credited with "continuous service" as 1/12th year of Vesting Service.

(c) Notwithstanding the provisions of paragraph (a) or (b), as applicable, if provided in the Adoption Agreement, the following service shall be disregarded in determining an Employee's Vesting Service:

(1) Service completed by the Employee prior to the original effective date of the Plan.

(2) Service completed by the Employee prior to his attainment of age 18.

(3) To the extent provided in the Adoption Agreement, service completed by a reemployed Employee prior to reemployment.

2.8 Exclusion of Vesting Service Completed Following Reemployment for Determining Vested Interest in Prior Accrued Benefit

If provided in the Adoption Agreement, if an Employee terminates employment and is reemployed, Vesting Service completed by the Employee following reemployment, shall be disregarded in determining his vested interest in his Account attributable to employment prior to reemployment.

ARTICLE III
ELIGIBILITY

3.1 Eligibility

If this is an amendment and restatement of the Plan, each Covered Employee who was an Eligible Employee with respect to a particular contribution source immediately prior to the effective date of the restatement shall continue to be an Eligible Employee with respect to such contribution source on such effective date. Otherwise, a Covered Employee shall become an Eligible Employee with respect to a particular contribution source as of the applicable Entry Date, as provided in the Adoption Agreement, upon satisfying the requirements in the Adoption Agreement, if any.

3.2 Reemployment

If an Employee who terminated employment with the Employer is reemployed as a Covered Employee and if he had been an Eligible Employee prior to his termination of employment, the following shall apply:

(a) If the Plan does not apply an Eligibility Service requirement or the Covered Employee's prior Eligibility Service is restored, he shall again become an Eligible Employee on the date he is reemployed or the applicable Entry Date following his reemployment, as elected in the Adoption Agreement.

(b) If the Plan applies an Eligibility Service requirement and the Covered Employee's prior Eligibility Service is disregarded under the provisions of the Adoption Agreement, his eligibility to participate shall be determined in accordance with Section 3.1.

If such Employee was not an Eligible Employee prior to his termination of employment, the following shall apply:

(c) If the Covered Employee had satisfied the requirements of Section 3.1 prior to such termination and the Plan does not apply an Eligibility Service requirement or the Covered Employee's prior Eligibility Service is restored, he shall become an Eligible Employee as of the latest of (1) the date he is reemployed, (2) the date he would have become an Eligible Employee in accordance with the provisions of Section 3.1 if he had continued employment as a Covered Employee, or (3) if elected in the Adoption Agreement, the applicable Entry Date following his reemployment.

(d) If the Covered Employee had ***not*** satisfied the requirements of Section 3.1 prior to such termination or the Plan applies an Eligibility Service requirement and the Covered Employee's prior Eligibility Service is disregarded under the provisions of the Adoption Agreement, his eligibility to participate shall be determined in accordance with Section 3.1.

3.3 Notification Concerning New Eligible Employees

Each Employer shall notify the Administrator as soon as practicable of Covered Employees becoming Eligible Employees as of any date.

3.4 Effect and Duration

Upon becoming an Eligible Employee with respect to a contribution source, a Covered Employee shall be entitled to make or receive contributions with respect to such source, provided with respect to Employer Contributions, that he meets any applicable requirements therefor. An Eligible Employee shall be bound by all the terms and conditions of the Plan and the Funding Agreement.

If the Adoption Agreement provides for Pick-Up Contributions, the Employer shall make contributions in accordance with Section 4.1 on behalf of each Covered Employee upon his becoming an Eligible Employee. A person shall continue as an Eligible Employee only so long as he continues employment as a Covered Employee.

3.5 Election Not to Participate

If provided in the Adoption Agreement, a Covered Employee who would otherwise be eligible to participate in the Plan may make a one-time, irrevocable election not to participate in all or some aspects of the Plan. Any such election must be made at the time prescribed in the Adoption Agreement and in accordance with the rules established by the Administrator. A Covered Employee who makes a valid election not to participate shall not be treated as an Eligible Employee for purposes of making or receiving those contributions to which the election applies under the Adoption Agreement. Any such election with respect to Pick-Up Contributions or 401(k) Contributions must be made at the time a Covered Employee first becomes eligible to make such contributions and shall be effective as of the date the Covered Employee would otherwise have become an Eligible Employee with respect to such contributions. Any such election with respect to Employer Contributions shall apply as provided in the Adoption Agreement.

The Administrator shall establish uniform and nondiscriminatory rules to carry out the provisions of this Section, including, but not limited to, establishing the time period for filing an election not to participate.

ARTICLE IV
PICK-UP CONTRIBUTIONS AND 401(k) CONTRIBUTIONS

4.1 Pick-Up Contributions

If the Employer elected Pick-Up Contributions in the Adoption Agreement, an Eligible Employee shall make Pick-Up Contributions to the Plan. The amount of an Eligible Employee's Pick-Up Contributions shall be either (a) the percentage of the Eligible Employee's Compensation specified by the Employer in the Adoption Agreement, or (b) the percentage of Compensation selected by the Eligible Employee from the range of percentages provided in the Adoption Agreement. An Eligible Employee's Compensation shall be reduced by the amount of such Pick-Up Contributions.

Pick-Up Contributions shall commence with respect to a new Eligible Employee as soon as administratively practicable following eligibility.

Pick-Up Contributions are "picked up" by the Employer and treated as employer contributions in accordance with Code Section 414(h)(2).

4.2 Elections Regarding Pick-Up Contributions

If the Employer elected in the Adoption Agreement that a Covered Employee may elect whether to make Pick-Up Contributions, a Covered Employee shall make such an election in accordance with rules prescribed by the Administrator, which election shall be irrevocable. A Covered Employee who elects not to make Pick-Up Contributions shall not be treated as an Eligible Employee for purposes of this Article.

If the Employer elected in the Adoption Agreement that the amount of a Covered Employee's Pick-Up Contributions shall be within the range of percentages of Compensation specified by the Employer in the Adoption Agreement, an Eligible Employee shall make an irrevocable election, in accordance with rules prescribed by the Administrator, designating the amount of Pick-Up Contributions to be made on his behalf. Any such election shall be made effective as of the Entry Date on which the Covered Employee becomes an Eligible Employee.

4.3 Delivery of Pick-Up Contributions

As soon after the date an amount would otherwise be paid to an Eligible Employee as it can reasonably be separated from Employer assets, the Employer shall cause to be delivered to the Funding Agent in cash the Pick-Up Contributions attributable to such amount.

4.4 401(k) Contributions

If provided in the Adoption Agreement, effective as of the date he becomes an Eligible Employee, each Eligible Employee may elect, in accordance with rules prescribed by the Administrator, to have 401(k) Contributions made each payroll period on his behalf by his Employer as provided in the Adoption Agreement. An Eligible Employee's election shall include his authorization for his Employer to reduce his Compensation and make 401(k) Contributions on his behalf each payroll period. The amount to be withheld from an Eligible Employee's Compensation as 401(k) Contributions shall be a specified dollar amount or percentage of Compensation, as permitted under rules prescribed by the Administrator, not to exceed the maximum contribution amount specified in the Adoption Agreement. If an Eligible Employee is not subject to an automatic contribution arrangement, if the Eligible Employee does not make a timely election to have 401(k) Contributions made to the Plan as of the first Entry Date he becomes eligible to participate, he shall be deemed to have elected a 0% reduction and may only change such deemed election pursuant to the provisions of this Article for amending reduction authorizations.

401(k) Contributions on behalf of an Eligible Employee shall commence as soon as administratively practicable following the Eligible Employee's election; provided, however, that in no event shall an Eligible Employee's salary reduction authorization become effective earlier than the later of (a) the effective date of the provisions permitting 401(k) Contributions or (b) the date such provisions are adopted. Under no circumstances may a salary reduction authorization be adopted retroactively.

4.5 Roth 401(k) Contributions

If provided in the Adoption Agreement, an Eligible Employee may designate, in accordance with rules prescribed by the Administrator, that a portion or all (as permitted by the Administrator) of his 401(k) Contributions be treated as Roth 401(k) Contributions. Any such designation must be made before the Compensation to which the Participant's 401(k) Contribution relates becomes available to the Eligible Employee and shall remain in effect until the Eligible

Employee amends his election as prescribed in this Article. Except as provided in the Adoption Agreement with respect to Eligible Employee subject to an automatic contribution arrangement, if an Eligible Employee does not affirmatively designate that his 401(k) Contributions are to be treated as Roth 401(k) Contributions, his 401(k) Contributions shall be treated as Pre-Tax 401(k) Contributions.

Any Roth 401(k) Contributions made to the Plan on behalf of a Participant shall be allocated to a separate Sub-Account maintained with respect to such contributions. The Administrator shall maintain a record of the portion of a Participant's Roth 401(k) Contributions Sub-Account that is not taxable upon distribution from the Plan. Earnings, losses, and other credits and charges shall be allocated on a reasonable and consistent basis among a Participant's Roth 401(k) Contributions Sub-Account and his other Sub-Accounts under the Plan. No amounts other than Roth 401(k) Contributions and properly attributable earnings shall be credited to a Participant's Roth 401(k) Contributions Sub-Account. Notwithstanding the foregoing, Designated Roth Rollover Contributions and In-Plan Roth Rollover Contributions may be allocated to a Participant's Roth 401(k) Contributions Sub-Account.

Notwithstanding any other provision of the Plan to the contrary, any distribution from a Participant's Roth 401(k) Contributions Sub-Account made after the Participant's 5-taxable-year period of participation, as described in Code Section 402A(d)(2)(B), that is a qualified distribution under Code Section 402A(d)(2)(A), shall not be taxable to the Participant or his Beneficiary. Except as otherwise provided in Section 5.11, the Participant's 5-taxable-year period of participation shall begin on January 1 of the taxable year in which the Participant first makes a Roth 401(k) Contribution to the Plan that is not distributed as an "excess deferral" (as that term is defined in Section 7.1(g)) and is not returned as a permissible withdrawal in accordance with the provisions of Code Section 414(w).

4.6 Special Bonus/Commissions Election

If provided in the Adoption Agreement, an Eligible Employee may authorize a special reduction in that portion of his Compensation that is attributable to any Employer paid cash bonuses made for the Plan Year and/or his commissions. Any such election is subject to the limits specified in the Adoption Agreement. The Employer may designate the bonuses for which the special reduction authorization is available; provided, however, that such designation shall be made on a uniform and non-discriminatory basis.

Notwithstanding any other provision of the Plan to the contrary, if a person is no longer an Eligible Employee on the date a bonus or commission would otherwise be paid, no 401(k) Contribution with respect to such bonus or commission shall be made on his behalf, and the person shall receive payment of his full bonus or commission, if any.

4.7 True-Up 401(k) Contributions

If provided in the Adoption Agreement, an Eligible Employee whose 401(k) Contributions for the Plan Year will be less than the maximum allowed under the Adoption Agreement for the full Plan Year may authorize a special reduction in his Compensation for those payroll periods designated by the Employer (in a uniform and non-discriminatory manner) in an amount up to 100% of his Compensation for such payroll periods, provided that the Eligible Employee's total 401(k) Contributions for the Plan Year do not exceed the maximum allowed under the Adoption Agreement for the full Plan Year.

4.8 Combined Limit on 401(k) and After-Tax Contributions

If provided in the Adoption Agreement, in no event may the 401(k) Contributions made on behalf of an Eligible Employee for the Plan Year, when combined with the After-Tax Contributions made by the Eligible Employee for the Plan Year, exceed the percentage specified in the Adoption Agreement of the Eligible Employee's Compensation for the Plan Year.

4.9 Catch-Up 401(k) Contributions

If provided in the Adoption Agreement, an Eligible Employee who is or will be age 50 or older by the end of the taxable year may make Catch-Up 401(k) Contributions to the Plan in excess of the limits otherwise applicable to 401(k) Contributions under the Plan, but not in excess of (i) the dollar limit in effect under Code Section 414(v)(2)(B)(i) for the taxable year ($5,500 for 2012) or (ii) the contribution limit prescribed in the Adoption Agreement, if any, provided that such contribution limit allows the Eligible Employee to make 401(k) Contributions of not less than 75% of such Eligible Employee's Compensation. Otherwise applicable limits that do not apply to Catch-Up 401(k) Contributions include, (1) if provided in the Adoption Agreement, the contribution limitation described therein, (2) the dollar limitation on 401(k) Contributions under Code Section 402(g), described in Section 7.2, and (3) the limitations on "annual additions" in effect under Code Section 415, described in Section 7.7.

If the percentage of Compensation limit described in the Adoption Agreement changes during the Plan Year, for purposes of determining Catch-Up 401(k) Contributions for the Plan Year in which the change occurs, the limit shall be determined under one of the following methods, as determined by the Administrator:

(a) The limit shall be the sum of the dollar amounts of the limits applicable to the Eligible Employee for each portion of the Plan Year.

(b) The limit shall be the product of the Eligible Employee's Compensation for the Plan Year multiplied by the time-weighted average of the percentage limits.

(c) The limit shall be the product of the Eligible Employee's compensation, as defined for purpose of Code Section 414(s), multiplied by the time-weighted averages of the percentage limits.

4.10 Amendments to Reduction Authorization

An Eligible Employee may elect, in the manner prescribed by the Administrator, to change the amount of his future Compensation that his Employer contributes on his behalf as 401(k) Contributions and, if Roth 401(k) Contributions are provided in the Adoption Agreement, to change his designation of all or a part of his 401(k) Contributions as Pre-Tax or Roth 401(k) Contributions. An Eligible Employee may amend his reduction authorization as of the dates prescribed in the Adoption Agreement by giving such number of days advance notice of his election as the Administrator may prescribe. An Eligible Employee who amends his reduction authorization shall be limited to selecting an amount of his Compensation that is otherwise permitted under this Article IV. 401(k) Contributions shall be made on behalf of such Eligible Employee by his Employer pursuant to his properly amended reduction authorization commencing with Compensation paid to the Eligible Employee on or after the date such amendment is effective, until otherwise altered or terminated in accordance with the Plan.

4.11 Suspension of 401(k) Contributions

An Eligible Employee on whose behalf 401(k) Contributions are being made may elect, in the manner prescribed by the Administrator, to have such contributions suspended at any time by giving such number of days advance notice of his election as the Administrator may prescribe. Any such voluntary suspension shall take effect commencing with Compensation paid to such Eligible Employee on or after expiration of any required notice period and shall remain in effect until 401(k) Contributions are resumed as hereinafter set forth.

4.12 Resumption of 401(k) Contributions

An Eligible Employee who has voluntarily suspended his 401(k) Contributions may elect, in the manner prescribed by the Administrator, to have such contributions resumed as of the date(s) provided in the Adoption Agreement for modification of contribution elections, by giving such number of days advance notice of his election as the Administrator may prescribe. Notwithstanding the foregoing, the Administrator may establish a minimum suspension period, provided that such minimum suspension period is applied on a consistent and non-discriminatory basis.

4.13 Automatic Contribution Arrangement (ACA)

If the Adoption Agreement provides for an ACA, except as otherwise provided in Section 4.16, an Employer shall automatically reduce the Compensation payable to an Eligible Employee who is subject to the ACA and make 401(k) Contributions on his behalf in the amount specified in the Adoption Agreement. 401(k) Contributions made in accordance with this Section shall be treated as Pre-Tax 401(k) Contributions or Roth 401(k) Contributions, as provided in the Adoption Agreement.

Automatic 401(k) Contributions on behalf of an Eligible Employee shall commence as prescribed in the Adoption Agreement. Subject to the automatic escalation provisions of Section 4.14, if applicable, automatic 401(k) Contributions shall continue on an Eligible Employee's behalf in accordance with the provisions of this Section until the Eligible Employee affirmatively elects, as provided in Section 4.16, to change the amount of his 401(k) Contributions, to have 401(k) Contributions suspended, or to change his designation for future 401(k) Contributions between Pre-Tax and Roth 401(k) Contribution.

4.14 Automatic Escalation Provisions

If provided in the Adoption Agreement, except as otherwise provided in Section 4.16, an Employer shall automatically increase the amount of the 401(k) Contributions it makes on behalf of each of its Eligible Employees who is subject to the automatic escalation provision and is not making 401(k) Contributions equal to or greater than the maximum automatic contribution amount specified in the Adoption Agreement. Notwithstanding the foregoing, if provided in the Adoption Agreement, an Eligible Employee who is making 401(k) Contributions equal to or greater than the maximum automatic contribution amount may affirmatively elect to have his 401(k) Contributions automatically escalated. The automatic increase shall apply as of the adjustment date specified in the Adoption Agreement, with respect to Compensation earned on or after such adjustment date, as specified in the Adoption Agreement. The amount of the increase shall be equal to the amount specified in the Adoption Agreement or, if less, the amount required to increase the Eligible Employee's 401(k) Contribution to the maximum automatic contribution amount. The Compensation otherwise payable to an Eligible Employee on whose behalf increased 401(k) Contributions are made in accordance with the provisions of this Section shall be reduced by the amount of such increased 401(k) Contributions. Any additional 401(k) Contributions made in accordance with this Section shall be treated as Pre-Tax 401(k) Contributions and/or Roth 401(k) Contributions, as specified in the Adoption Agreement.

4.15 Notice of ACA or Automatic Escalation Provision

The Administrator shall provide each Eligible Employee who is or becomes subject to an ACA and/or automatic escalation provision a notice explaining (i) the automatic reduction in his Compensation for purposes of making 401(k) Contributions in accordance with the ACA and/or automatic escalation provision (including the amount of such reduction), (ii) the Eligible Employee's right to affirmatively elect either a different reduction amount or no reduction, (iii) the manner in which the Eligible Employee's 401(k) Contributions will be invested in the absence of an investment election by the Eligible Employee, and (iv) in the case of an EACA, the Eligible Employee's right to make a withdrawal in accordance with Section 13.10. The notice shall describe the procedures for affirmatively electing not to make 401(k) Contributions or to make 401(k) Contributions in a different amount and the period in which such an election may be made.

The notice shall be written in a manner calculated to be understood by the average Eligible Employee. The Employer shall provide such notice within a reasonable period before his Compensation is first subject to reduction in accordance with the provisions of the ACA and/or automatic escalation provision. In the case of an EACA, the Employer shall provide such notice within one of the following periods, whichever is applicable:

(a) for an Employee who is an Eligible Employee 90 days before the beginning of the Plan Year, within the period beginning 90 days and ending 30 days before the beginning of the Plan Year, or

(b) for an Employee who becomes an Eligible Employee after that date, within the period beginning 90 days before the date he becomes an Eligible Employee and ending on the date such employee becomes an Eligible Employee; or

(c) for an Employee who becomes an Eligible Employee after the date specified in paragraph (a) above and for whom it is not practicable to provide the notice before the date he becomes an Eligible Employee, as soon as practicable on or after the date he becomes an Eligible Employee, and before the pay date for the payroll period that includes the date he becomes an Eligible Employee.

An Eligible Employee shall have a reasonable period after receiving the notice described herein to elect not to have automatic 401(k) Contributions made on his behalf or to make 401(k) Contributions in a different amount.

If the ACA is an EACA and the Adoption Agreement provides that Employees making an affirmative election are excluded from the EACA, then notwithstanding any other provision of this Section, the Administrator shall not provide the notice described herein to an Eligible Employee who is excluded from the EACA because he makes an affirmative election not to have automatic 401(k) Contributions made on his behalf or to make 401(k) Contributions in a different amount.

4.16 Affirmative Elections under ACA or Automatic Escalation Provisions

An Eligible Employee who is subject to an ACA, as described in Section 4.10, may affirmatively elect, in accordance with rules prescribed by the Administrator, either (i) not to have 401(k) Contributions made on his behalf or (ii) to have 401(k) Contributions made on his behalf in a different amount. An Eligible Employee who is subject to the automatic escalation provision described in Section 4.14 may affirmatively elect, in accordance with rules prescribed by the Administrator, not to have his 401(k) Contributions increased as provided in Section 4.14. If the Plan provides for Roth 401(k) Contributions, any such Eligible Employee may also affirmatively designate that the 401(k) Contributions to be made on his behalf be treated as Roth 401(k) Contributions and/or Pre-Tax 401(k) Contributions, instead of as provided under the ACA or automatic escalation provision. An Eligible Employee's affirmative election will be effective as soon as reasonably practicable following receipt by the Administrator. To avoid having 401(k) Contributions made under the ACA or increased under the automatic escalation provision, an Eligible Employee's affirmative election must be received by the Administrator within a reasonable period of time before the first date 401(k) Contributions are to be withheld from his Compensation pursuant to the ACA or the automatic escalation provisions.

An Eligible Employee's affirmative election made in accordance with this Section shall continue in effect until the Eligible Employee makes a subsequent election or until the Eligible Employee's affirmative election expires, as provided in the Adoption Agreement.

Notwithstanding any other provision of the Plan to the contrary, if an Eligible Employee's 401(k) Contributions are suspended because the Eligible Employee receives a hardship withdrawal in accordance with the terms of the Plan or is on an unpaid leave of absence, and the Adoption Agreement does not provide that an Eligible Employee's affirmative election expires upon such suspension, any affirmative election made by the Eligible Employee prior to

such suspension shall be re-instated at the end of the mandatory suspension period or upon his return to active employment, as applicable.

If an Eligible Employee's affirmative election expires and the Eligible Employee becomes subject to the ACA, automatic 401(k) Contributions shall be made on the Eligible Employee's behalf in the amount specified in the Adoption Agreement.

4.17 Contributions Limited to Currently Available Compensation

Notwithstanding any other provision of the Plan or of an Eligible Employee's salary reduction authorization, in no event will 401(k) Contributions, including Catch Up 401(k) Contributions, be made for a payroll period in excess of an Eligible Employee's "effectively available" Compensation or, if the Adoption Agreement provides for the special bonus election described in Section 4.6, "effectively available" bonuses. Effectively available Compensation means the Compensation remaining after all other required amounts have been withheld, e.g., tax withholding, withholding for contributions to a cafeteria plan under Code Section 125, etc. Effectively available bonuses are the bonus amount remaining after all other required amounts have been withheld.

4.18 Delivery of 401(k) Contributions

As soon after the date an amount would otherwise be paid to an Eligible Employee as it can reasonably be separated from Employer assets, the Employer shall cause to be delivered to the Funding Agent in cash all 401(k) Contributions attributable to such amounts.

In no event shall the Employer deliver 401(k) Contributions to the Funding Agent on behalf of an Eligible Employee prior to the date the Eligible Employee performs the services with respect to which the 401(k) Contribution is being made, unless such pre-funding is to accommodate a bona fide administrative concern and is not for the principal purpose of accelerating deductions.

4.19 Vesting of Pick-Up and 401(k) Contributions

A Participant's vested interest in his Pick-Up Contributions and 401(k) Contributions Sub-Accounts shall at all times be 100%.

ARTICLE V
AFTER-TAX AND ROLLOVER CONTRIBUTIONS

5.1 After-Tax Contributions

If provided in the Adoption Agreement, effective as of the date he becomes an Eligible Employee, each Eligible Employee may elect, in accordance with rules prescribed by the Administrator, to make After-Tax Contributions to the Plan as provided in the Adoption Agreement. After-Tax Contributions may be made either by payroll withholding and/or by delivery of a cash amount to the Employer as provided in the Adoption Agreement. However, in no event may the After-Tax Contributions made by an Eligible Employee for a Plan Year exceed the maximum specified in the Adoption Agreement, if any. An Eligible Employee's election to make After-Tax Contributions by payroll withholding may be made effective as of the Entry Date on which he becomes an Eligible Employee. An Eligible Employee who does not timely elect to make After-Tax Contributions by payroll withholding as of the first Entry Date on which he becomes eligible to participate shall be deemed to have elected not to make After-Tax Contributions and may only change such deemed election pursuant to the provisions of this Article for amending his payroll withholding authorization.

After-Tax Contributions by payroll withholding shall commence as soon as reasonably practicable following the Eligible Employee's election.

5.2 Combined Limit on 401(k) and After-Tax Contributions

If provided in the Adoption Agreement, in no event may the After-Tax Contributions made by an Eligible Employee for the Plan Year, when combined with the 401(k) Contributions made on behalf of the Eligible Employee for the Plan Year, exceed the percentage specified in the Adoption Agreement of the Eligible Employee's Compensation for the Plan Year.

5.3 Amendments to Payroll Withholding Authorization

An Eligible Employee may elect, in the manner prescribed by the Administrator, to change the amount of his future Compensation that he contributes to the Plan as After-Tax Contributions by payroll withholding. An Eligible Employee may amend his payroll withholding authorization as of the date(s) prescribed by the Administrator by giving such number of days advance notice of his election as the Administrator may require. An Eligible Employee who changes his payroll withholding authorization shall be limited to selecting an amount of his Compensation that is otherwise permitted under the Adoption Agreement. After-Tax Contributions shall be made on behalf of such Eligible Employee pursuant to his properly amended payroll withholding authorization commencing with Compensation paid to the Eligible Employee on or after the date such amendment is effective, until otherwise altered or terminated in accordance with the Plan.

5.4 Suspension of After-Tax Contributions by Payroll Withholding

An Eligible Employee who is making After-Tax Contributions by payroll withholding may elect, in the manner prescribed by the Administrator, to have such contributions suspended at any time by giving such number of days advance notice to the Employer as the Administrator may prescribe. Any such voluntary suspension shall take effect commencing with Compensation paid to such Eligible Employee on or after expiration of any required notice period and shall remain in effect until After-Tax Contributions are resumed as hereinafter set forth.

5.5 Resumption of After-Tax Contributions by Payroll Withholding

An Eligible Employee who has voluntarily suspended his After-Tax Contributions by payroll withholding in accordance with Section 5.4 may elect, in the manner prescribed by the Administrator, to have such contributions resumed as of the date(s) prescribed by the Administrator for modification of contribution elections, by giving such number of days advance notice of his election as the Administrator may require. Notwithstanding the foregoing, the Administrator may establish a minimum suspension period, provided that such minimum suspension period is applied on a consistent and non-discriminatory basis.

5.6 Delivery of After-Tax Contributions

As soon after the date an amount would otherwise be paid to an Eligible Employee as it can reasonably be separated from Employer assets or as soon as reasonably practicable after an amount has been delivered to the Employer by an Eligible Employee, the Employer shall cause to be delivered to the Trustee in cash the After-Tax Contributions attributable to such amount.

5.7 Prior/Transferred After-Tax Contributions

If provided in the Adoption Agreement, the Plan may include assets attributable to After-Tax Contributions that were made under provisions of the Plan that are no longer in effect or made to another plan and transferred directly to the Plan from such other plan.

5.8 Separate Accounting for After-Tax Contributions

Any After-Tax Contributions made or transferred to the Plan on behalf of a Participant shall be allocated to a separate Sub-Account maintained with respect to such contributions. The Administrator shall maintain a record of the portion of a Participant's After-Tax Contributions Sub-Account that is not taxable upon distribution from the Plan. Earnings, losses, and other credits and charges shall be allocated on a reasonable and consistent basis among a Participant's After-Tax Contributions Sub-Account and his other Sub-Accounts under the Plan. No amounts other than After-Tax Contributions and properly attributable earnings shall be credited to a Participant's After-Tax Contributions Sub-Account. Notwithstanding the foregoing, After-Tax Rollover Contributions may be allocated to a Participant's After-Tax Contributions Sub-Account.

5.9 Rollover Contributions

If and to the extent provided in the Adoption Agreement, a Covered Employee or other individual who is eligible to receive or receives an "eligible rollover distribution," within the meaning of Code Section 402(c)(4) or a distribution from an individual retirement account or annuity that is eligible for rollover to the Plan in accordance with the provisions of Code Section 408(d)(3) and the Adoption Agreement, may elect to make a Rollover Contribution to the Plan. The Administrator shall require an individual making a Rollover Contribution to provide it with such information as it deems necessary or desirable to show that he is entitled to roll over such distribution to a qualified retirement plan. Certification by the individual making a Rollover Contribution that the amount presented is eligible for roll over into the Plan shall be conclusive evidence that the individual is entitled to roll over such amount to the Plan, unless the Administrator has actual knowledge to the contrary. An individual shall make a Rollover Contribution to the Plan by delivering or causing to be delivered to the Trustee the cash and/or, if provided in the Adoption Agreement, promissory notes that constitute the Rollover Contribution.

If the Adoption Agreement provides for "Participant rollovers," any individual making a Rollover Contribution of amounts that have previously been distributed to him must deliver to the Trustee the cash that constitutes his Rollover Contribution within 60 days of receipt of the distribution from the "eligible retirement plan." Such delivery must be made in the manner prescribed by the Administrator.

If the Plan accepts rollover of a promissory note, such loan shall continue to be administered in accordance with the provisions of such note rather than in accordance with the provisions of Article XII.

If the Adoption Agreement permits an individual who is not otherwise eligible to participate in the Plan to make Rollover Contributions to the Plan, such individual shall treated as a Participant with respect to his Rollover Contribution's Sub-Account and shall be bound by all the terms and conditions of the Plan and the Trust Agreement.

5.10 Roth In-Plan Rollover Contributions

If and to the extent provided in the Adoption Agreement, a Participant who is eligible to receive or receives from his Account an "eligible rollover distribution," within the meaning of Code Section 402(c)(4), may elect in accordance with rules prescribed by the Administrator to roll over all or any portion of such distribution, other than any amount attributable to his Roth 401(k) Contributions or Designated Roth Rollover Contributions, as an In-Plan Roth Rollover Contribution. If a Participant makes an election pursuant to this Section, his Roth In-Plan Rollover Contribution shall be irrevocably designated as being made pursuant to, and intended to comply with, Code Section 402A and the nontaxable portion of his Roth In-Plan Rollover Contribution shall be included in his gross income for the taxable year in which the Roth In-Plan Rollover Contribution is made.

If provided in the Adoption Agreement, a Participant's surviving Spouse or his Spouse or former Spouse who is an alternate payee under a qualified domestic relations order shall be entitled to make an In-Plan Roth Rollover Contribution upon the same terms as the Participant.

5.11 Special Rules Applicable to Designated Roth Rollover Contribution or In-Plan Roth Rollover Contribution

Notwithstanding any other provision of the Plan to the contrary, any distribution from a Participant's Designated Roth Contributions Sub-Account and/or In-Plan Roth Rollover Contributions Sub-Account made after the Participant's 5-taxable-year period of participation, as described in Code Section 402A(d)(2)(B), that is a qualified distribution under Code Section 402A(d)(2)(A), shall not be taxable to the Participant or his Beneficiary. A Participant's 5-taxable-year period of participation shall begin on January 1 of the taxable year in which occurs the earliest of the following:

(a) the date the Participant first makes a Roth 401(k) Contribution to the Plan that is not distributed as an "excess deferral" (as that term is defined in Section 7.1(g)) and is not returned as a permissible withdrawal in accordance with the provisions of Code Section 414(w);

(b) the date the Participant first makes a Designated Roth Rollover Contribution to the Plan;

(c) if the Participant makes a Designated Roth Rollover Contribution to the Plan directly from a designated Roth account under another plan, the date the Participant first made a contribution to the designated Roth account under such other plan that was not distributed or returned as described in paragraph (a) above; or

(d) the date the Participant first makes a Roth In-Plan Rollover Contribution.

In administering Designated Roth Rollover Contributions, the Trustee and the Administrator shall be entitled to rely on a statement from the distributing plan's administrator identifying (i) the Covered Employee's basis in the rolled over amounts and (ii) the date on which the Covered Employee's 5-taxable-year period of participation started under the distributing plan.

5.12 Separate Accounting for After-Tax Rollover Contributions, Designated Roth Rollover Contributions, and In-Plan Roth Rollover Contributions

To the extent the Plan accepts After-Tax Rollover Contributions, the Trustee shall account for such contributions separately from other Rollover Contributions. The Administrator shall maintain a record of the portion of a Participant's After-Tax Rollover Contributions Sub-Account that is not taxable upon distribution from the Plan. Earnings, losses, and other credits and charges shall be allocated on a reasonable and consistent basis among a Participant's After-Tax Rollover Contributions Sub-Account and his other Sub-Accounts under the Plan. No amounts other than After-Tax Rollover Contributions and properly attributable earnings shall be credited to a Participant's After-Tax Rollover Contributions Sub-Account. Notwithstanding the foregoing, as provided in Section 5.8, After-Tax Rollover Contributions may be allocated to and held in a Participant's After-Tax Contributions Sub-Account.

To the extent the Plan accepts Designated Roth Rollover Contributions or In-Plan Roth Rollover Contributions, the Trustee shall account for such amounts separately from other Rollover Contributions. The Administrator shall maintain a record of the portion of a Participant's Designated Roth Rollover Contributions Sub-Account and/or In-Plan Roth Rollover Contributions Sub-Account that is not taxable upon distribution from the Plan. Earnings, losses, and other credits and charges shall be allocated on a reasonable and consistent basis among a Participant's Designated Roth Rollover Contributions Sub-Account and/or In-Plan Roth Rollover Contributions Sub-Account and his other Sub-Accounts under the Plan. No amounts other than Designated Roth Rollover Contributions and/or In-Plan Roth Rollover Contributions and properly attributable earnings shall be credited to a Participant's Designated Roth Rollover Contributions Sub-Account and/or In-Plan Roth Rollover Contributions Sub-Account. Notwithstanding the foregoing, as provided in Section 4.5, Designated Roth Rollover Contributions and/or In-Plan Roth Rollover Contributions may be allocated to and held in a Participant's Roth 401(k) Contributions Sub-Account.

5.13 Vesting of After-Tax and Rollover Contributions

A Participant's vested interest in his After-Tax and Rollover Contributions Sub-Accounts shall be at all times 100%.

ARTICLE VI
EMPLOYER CONTRIBUTIONS

6.1 Contribution Period

The Contribution Period for Employer Contributions shall be as specified in the Adoption Agreement.

6.2 Amount and Allocation of Nonelective Contributions

If so provided in the Adoption Agreement, the Employer shall make a Nonelective Contribution to the Plan for a Contribution Period in accordance with the provisions of the Adoption Agreement. The Nonelective Contribution shall be allocated among the Eligible Employees who have met the allocation requirements for Nonelective Contributions described in the Adoption Agreement, as modified by any exceptions to the allocation requirements provided in the Adoption Agreement.

The allocable share of each such Eligible Employee shall be determined in accordance with the formula specified in the Adoption Agreement.

6.3 Amount and Allocation of Additional Nonelective Contributions

If the Adoption Agreement provides for additional Nonelective Contributions Agreement, any additional, discretionary Nonelective Contribution made by an Employer for the Contribution Period shall be allocated among the Eligible Employees who have met the allocation requirements for Nonelective Contributions described in the Adoption Agreement, as modified by any exceptions to the allocation requirements provided in the Adoption Agreement. The allocable share of each such Eligible Employee shall be determined in accordance with the formula specified in the Adoption Agreement.

6.4 Regular Matching Contributions

If so provided in the Adoption Agreement, an Employer shall make a Regular Matching Contribution to the Plan for each Contribution Period in accordance with the provisions of the Adoption Agreement. The Regular Matching Contribution shall be allocated among the Eligible Employees who have met the allocation requirements for Regular Matching Contributions described in the Adoption Agreement, as modified by any exceptions to the allocation requirements provided in the Adoption Agreement. The Regular Matching Contribution shall be allocated as follows:

(a) If the Adoption Agreement provides for a required contribution amount, the allocable share of each such Eligible Employee shall be the amount determined under the matching formula provided in the Adoption Agreement, subject to any limitations provided in the Adoption Agreement.

(b) If the Adoption Agreement provides for a discretionary contribution amount, the allocable share of each such Eligible Employee shall be equal to a uniform percentage, determined by the Employer, in its discretion, of the eligible contributions made for the Contribution Period by or on behalf of such Eligible Employee; provided, that:

(1) The Employer may designate a different uniform match percentage applicable to eligible contributions above and below designated dollar amounts or levels of Compensation. The match percentage may not increase as an Eligible Employee's eligible contributions increase.

(2) If provided in the Adoption Agreement, the Employer may designate different uniform match percentages to apply to different Employee groups. The Employer may determine any such groups in its discretion, provided that each separate group must be clearly identified using determinable characteristics and each separate match rate must satisfy the requirements of Code Section 401(a)(4) as a separate feature under the Plan.

Any Regular Matching Contribution under this paragraph (b) shall be subject to the limitations elected in the Adoption Agreement.

If the Adoption Agreement provides that Catch-Up 401(k) Contributions will not be matched, the Employer shall not make Matching Contributions with respect to Catch-Up 401(k) Contributions. If, due to application of an administrative Plan limit, Matching Contributions become attributable to Catch-Up 401(k) Contributions, such Matching Contributions plus any income and minus any loss allocable thereto, shall be forfeited and applied as provided in Section 7.4.

6.5 Additional Discretionary Matching Contributions

If Additional Discretionary Matching Contributions are provided in the Adoption Agreement, the Employer may make an Additional Discretionary Matching Contribution for a Plan Year in accordance with the provisions of the Adoption Agreement. Any Additional Discretionary Matching Employer Contribution shall be allocated among the Eligible Employees who have met the allocation requirements for Additional Discretionary Matching Contributions described in the Adoption Agreement, as modified by any exceptions to the allocation requirements provided in the Adoption Agreement. The allocable share of each such Eligible Employee shall be equal to a uniform percentage, determined by the Employer, in its discretion, of the eligible contributions made for the Contribution Period by or on behalf of such Eligible Employee; provided, that:

(a) The Employer may designate a different uniform match percentage applicable to eligible contributions above and below designated dollar amounts or levels of Compensation. The match percentage may not increase as an Eligible Employee's eligible contributions increase.

(b) If provided in the Adoption Agreement, the Employer may designate different uniform match percentages to apply to different Employee groups. The Employer may determine any such groups in its discretion, provided that each separate group must be clearly identified using determinable characteristics and each separate match rate must satisfy the requirements of Code Section 401(a)(4) as a separate feature under the Plan.

Any Additional Discretionary Matching Contribution shall be subject to the limitations elected in the Adoption Agreement.

6.6 True-Up Matching Contributions

If the Adoption Agreement provides for True-Up Matching Contributions, the Employer shall make a True-Up Matching Contribution for each Plan Year in accordance with the provisions of the Adoption Agreement. The True-Up Matching Contribution shall be allocated among the Eligible Employees during the Contribution Period who have met the allocation requirements for True-Up Matching Contributions described in the Adoption Agreement, as modified by any exceptions to the allocation requirements provided in the Adoption Agreement. Such True-Up Matching Contribution shall be in the amount which, when aggregated with the Regular Matching Contributions

made with respect to Contribution Periods within such Plan Year, will provide the maximum Regular Matching Contribution provided in the Adoption Agreement, taking into account the Eligible Employee's Compensation and eligible contributions for the full Plan Year. The maximum Regular Matching Contribution for a Plan Year shall be determined applying any limitations on Regular Matching Contributions provided in the Adoption Agreement.

If provided in the Adoption Agreement, the Employers may determine annually whether or not to make a True-Up Matching Contribution for the Plan Year.

6.7 Payment of Employer Contributions

Employer Contributions made for a Contribution Period shall be paid in cash to the Funding Agent.

6.8 Allocation Requirements

A Participant who was an Eligible Employee at any time during a Contribution Period shall be eligible receive an allocation of Employer Contributions for such Contribution Period only if:

(a) he is a Covered Employee with respect to such Employer Contributions, as provided in the Adoption Agreement:

(b) he satisfies any requirements specified in the Section of the Base Plan Document describing the contribution; and

(c) he meets the allocation requirements specified in the Adoption Agreement with respect to such Employer Contribution, as modified by any exceptions to the allocation requirements provided in the Adoption Agreement.

If the Adoption Agreement provides for Safe Harbor Matching Contributions or Safe Harbor Nonelective Contributions, a Participant who was an Eligible Employee at any time during the Contribution Period shall be eligible to receive an allocation of such contributions.

If the Adoption Agreement provides for an Hours of Service requirement, the number of Hours of Service required to receive an allocation of Employer Contributions hereunder shall be pro-rated for any short Contribution Period.

6.9 Vesting of Employer Contributions

A Participant's vested interest in his Employer Contribution Sub-Accounts shall be determined in accordance with the applicable vesting schedule specified in the Adoption Agreement.

Notwithstanding any other provision of the Plan to the contrary, if a Participant is employed by an Employer or "aggregated entity" (as defined in Section 7.1(a)) on or after Normal Retirement Age or, if provided in the Adoption Agreement, on or after his Early Retirement Date, date of death, or the date he becomes Disabled, as applicable, his vested interest in his full Employer Contributions Sub-Account shall be 100%. For purposes of this Section, a Participant who dies while performing qualified military service (as described in the Uniformed Services Employment and Reemployment Rights Act of 1994) shall be treated as having returned to employment with an Employer immediately prior to his death and as having died while employed as a Covered Employee.

6.10 Forfeitures to Reduce Employer Contributions

If provided in the Adoption Agreement, and notwithstanding any other provision of the Plan to the contrary, the amount of the Employer Contribution required under this Article for a Plan Year shall be reduced by the amount of

any forfeitures occurring during the Plan Year or any prior Plan Year that are not used to pay Plan expenses and that are applied against Employer Contributions.

ARTICLE VII
LIMITATIONS ON CONTRIBUTIONS

7.1 Definitions

For purposes of this Article, the following terms have the following meanings:

(a) An "**aggregated entity**" means any entity required to be aggregated with the Employer for a relevant purpose under to Code Section 414(b), (c), or (m).

(b) The "**annual addition**" with respect to a Participant for a "limitation year" means the sum of the following amounts allocated to the Participant for the "limitation year":

(1) all employer contributions allocated to the Participant's account under any qualified defined contribution plan maintained by the Employer or an "aggregated entity", including "elective contributions" and amounts attributable to forfeitures applied to reduce the employer's contribution obligation, but excluding "catch-up contributions"; plus

(2) all "employee contributions" allocated to the Participant's account under any qualified defined contribution plan maintained by the Employer or an "aggregated entity" or any qualified defined benefit plan maintained by the Employer if separate accounts are maintained under the defined benefit plan with respect to such employee contributions; plus

(3) all forfeitures allocated to the Participant's account under any qualified defined contribution plan maintained by the Employer or an "aggregated entity"; plus

(4) all amounts allocated to an individual medical account, as described in Code Section 415(l)(2), established for the Participant as part of a pension or annuity plan maintained by the Employer or an "aggregated entity"; plus

(5) if the Participant is a key employee, as defined in Code Section 419A(d)(3), all amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after that date, that are attributable to post-retirement medical benefits allocated to the Participant's separate account under a welfare benefit fund, as defined in Code Section 419(e), maintained by the Employer or an "aggregated entity"; plus

(6) all allocations to the Participant under a simplified employee pension.

(c) A "**catch-up contribution**" means any elective deferral, as defined in Code Section 414(v)(2)(C), that is treated as a catch-up contribution in accordance with the provisions of Code Section 414(v).

(d) A "**designated Roth contribution**" means any Roth 401(k) Contributions made to the Plan and any "elective contributions" made to another plan that would be excludable from a Participant's income, but for the Participant's election to designate such contributions as Roth contributions and include them in income.

(e) An "**elective contribution**" means any employer contribution made to a plan maintained by the Employer or an "aggregated entity" on behalf of a Participant in lieu of cash compensation pursuant to his election

(whether such election is an active election or a passive election) to defer under any qualified CODA as described in Code Section 401(k), any simplified employee pension cash or deferred arrangement as described in Code Section 402(h)(1)(B), any eligible deferred compensation plan under Code Section 457, or any plan as described in Code Section 501(c)(18), and any contribution made on behalf of the Participant by an Employer or an "aggregated entity" for the purchase of an annuity contract under Code Section 403(b) pursuant to a salary reduction agreement. "Elective contributions" include "designated Roth contributions". For purposes of applying the limitations described in this Article, the term "elective contribution" excludes "catch-up contributions".

(f) An "**employee contribution**" means any employee after-tax contribution allocated to an Eligible Employee's account under any qualified plan of the Employer or an "aggregated entity".

(g) An "**excess deferral**" with respect to a Participant means that portion of a Participant's 401(k) Contributions, other than Catch-Up 401(k) Contributions, for his taxable year that, when added to amounts deferred for such taxable year under other plans or arrangements described in Code Section 401(k), 408(k), 408(p), or 403(b) (other than any such plan or arrangement that is maintained by an Employer or an "aggregated entity"), would exceed the dollar limit imposed under Code Section 402(g) as in effect on January 1 of the calendar year in which such taxable year begins and is includible in the Participant's gross income under Code Section 402(g).

(h) A Participant's "**415 compensation**" for a "limitation year" means his 415 compensation as defined in the Adoption Agreement.

(1) "415 compensation" includes the following:

(A) any eligible amount that would have been received and included in the Participant's taxable gross income but for the Participant's his election (or deemed election) under Code Section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b);

(B) any "differential pay" (as defined hereunder) he receives or is entitled to receive from the Employer;

(C) if and to the extent provided in the Adoption Agreement, amounts received by a Participant who is permanently and totally disabled (as defined in Code Section 22(e)(3)); and

(D) if the Participant incurs a severance from employment (as defined in Treasury Regulations Section 1.415(a)-1(f)(5)), amounts paid to the Participant before (1) the end of the "limitation year" in which the Participant's severance from employment occurs or (2) within 2 1/2 months of such severance from employment, whichever is later, provided such amounts:

(I) would have been paid to the Participant in the course of employment and are regular compensation for services by the Participant or commissions, bonuses or other similar compensation, but only to the extent such amounts would have been included in the Participant's "415 compensation" if his employment had continued;

(II) if provided in the Adoption Agreement, are payments for accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use such leave if his employment had continued; or

(III) if provided in the Adoption Agreement, are payments received by the Participant pursuant to a non-qualified, unfunded deferred compensation plan, to the extent such payments are includible in income and the Participant would have received such payments at the same time if he had continued in employment.

For purposes of this subparagraph (1), "differential pay" means any payment made to the Participant by the Employer after December 31, 2008, with respect to a period during which the Participant is performing service in the uniformed services (as defined in Chapter 43 of Title 38 of the United States Code) while on active duty for a period of more than 30 days that represents all or a portion of the wages the Participant would have received if he had continued employment with the Employer as an Employee.

(2) Back pay, within the meaning of Treasury Regulations Section 1.415(c)-2(g)(8), shall be treated as "415 compensation" for the "limitation year" to which the back pay relates to the extent back pay represents wages and compensation that would otherwise be included in "415 compensation".

(3) Other post-termination or severance pay is not included in "415 compensation".

To be included in a Participant's "415 compensation" for a particular "limitation year", an amount must have been received by the Participant (or would have been received, but for the Participant's election, or deemed election, under Code Section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b)) within such "limitation year". Notwithstanding the foregoing, at the direction of the Administrator, amounts earned during a particular "limitation year", that are not paid until the next "limitation year" because of the timing of pay periods and pay dates, may be included in "415 compensation" for the "limitation year" in which they were earned if (1) the amounts are paid within the first few weeks of the next "limitation year", (2) are included on a uniform and consistent basis with respect to similarly-situated employees, and (3) are not also included as "415 compensation" in the "limitation year" in which they were paid.

In no event, however, shall the "415 compensation" of a Participant taken into account under the Plan for any "limitation year" exceed the limit in effect under Code Section 401(a)(17) ($250,000 for Plan Years beginning in 2012, subject to adjustment annually as provided in Code Sections 401(a)(17)(B) and 415(d); provided, however, that the dollar increase in effect on January 1 of any calendar year, if any, is effective for "limitation years" beginning in such calendar year).

(i) A "**limitation year**" means the period specified in the Adoption Agreement.

7.2 Code Section 402(g) Limit

In no event shall the amount of the 401(k) Contributions, excluding Catch-Up 401(k) Contributions, made on behalf of an Eligible Employee for his taxable year, when aggregated with any "elective contributions" made on behalf of the Eligible Employee under any other plan of the Employer for his taxable year, exceed the dollar limit imposed under Code Section 402(g), as in effect on January 1 of the calendar year in which such taxable year begins. In the event that the Administrator determines that the reduction percentage elected by an Eligible Employee will result in his exceeding the Code Section 402(g) limit, the Administrator may adjust the reduction authorization of such Eligible Employee by reducing the percentage of his 401(k) Contributions to such smaller percentage that will result in the Code Section 402(g) limit not being exceeded. If the Administrator determines that the 401(k) Contributions made on behalf of an Eligible Employee would exceed the Code Section 402(g) limit for his taxable year, the 401(k) Contributions for such Participant shall be automatically suspended for the remainder, if any, of such taxable year.

If the Employer notifies the Administrator that the Code Section 402(g) limit has nevertheless been exceeded by an Eligible Employee for his taxable year, the 401(k) Contributions that, when aggregated with "elective contributions"

made on behalf of the Eligible Employee under any other plan of the Employer, would exceed the Code Section 402(g) limit, plus any income and minus any losses attributable thereto, shall be either re-characterized as Catch-Up 401(k) Contributions or distributed to the Eligible Employee no later than the April 15 immediately following such taxable year. If an Eligible Employee to whom distribution must be made in accordance with the preceding sentence has made both Pre-Tax and Roth 401(k) Contributions for the year, the type of 401(k) Contributions to be distributed shall be determined as provided in the Adoption Agreement.

If an amount of 401(k) Contributions is distributed to a Participant in accordance with this Section or the Adoption Agreement provides that Catch-Up 401(k) Contributions will not be matched and 401(k) Contributions are re-characterized as Catch-Up 401(k) Contributions hereunder, Matching Contributions that are attributable solely to the distributed or re-characterized 401(k) Contributions, plus any income and minus any losses attributable thereto, shall be forfeited by the Participant no earlier than the date on which distribution of 401(k) Contributions pursuant to this Section occurs and no later than the last day of the Plan Year following the Plan Year for which the Matching Contributions were made.

7.3 Distribution of "Excess Deferrals"

If provided in the Adoption Agreement, and notwithstanding any other provision of the Plan to the contrary, if a Participant notifies the Administrator in writing (or in any other form acceptable to the Administrator) no later than the March 1 following the close of the Participant's taxable year that "excess deferrals" have been made on his behalf under the Plan for such taxable year, the "excess deferrals", plus any income and minus any losses attributable thereto, shall be distributed to the Participant no later than the April 15 immediately following such taxable year. If the Participant has made both Pre-Tax and Roth 401(k) Contributions for the year, the Participant must designate the extent to which the "excess deferrals" are Pre-Tax and/or Roth 401(k) Contributions.

If an amount of 401(k) Contributions is distributed to a Participant in accordance with this Section, Matching Contributions that are attributable solely to the distributed 401(k) Contributions, plus any income and minus any losses attributable thereto, shall be forfeited by the Participant no earlier than the date on which distribution of 401(k) Contributions pursuant to this Section occurs and no later than the last day of the Plan Year following the Plan Year for which the Matching Contributions were made.

7.4 Treatment of Forfeited Matching Contributions

Any Matching Contributions that are forfeited pursuant to the provisions of the preceding Sections of this Article shall be treated as a forfeiture under the Plan and applied in accordance with the provisions of the Adoption Agreement.

7.5 Determination of Income or Loss

The income or loss attributable to "excess deferrals" shall be determined using the method otherwise used for allocating income or loss to Participants' Accounts, unless the Adoption Agreement provides that the IRS alternative method is used. If the Adoption Agreement provides for use of the IRS alternative method, income or loss will be determined by multiplying the income or loss for the preceding Plan Year attributable to the Eligible Employee's Sub-Account to which the contributions were credited by a fraction, the numerator of which is the contributions made to such Sub-Account on the Eligible Employee's behalf for the preceding Plan Year and the denominator of which is (a) the balance of the Sub-Account on the first day of the preceding Plan Year, plus (b) the contributions made to such Sub-Account for the preceding Plan Year.

7.6 Code Section 415 Limitations on Crediting of Contributions and Forfeitures

Notwithstanding any other provision of the Plan to the contrary, the "annual addition" with respect to a Participant for a "limitation year" shall in no event exceed the lesser of (i) the maximum dollar amount permitted under Code Section 415(c)(1)(A) (adjusted as provided in Code Section 415(d)) or (ii) 100% of the Participant's "415 compensation" for the "limitation year"; provided, however, that the limit in clause (i) shall be pro-rated for any short "limitation year". The limit in clause (ii) shall not apply to any contribution for medical benefits within the meaning of Code Section 401(h) or 419A(f)(2) after separation from service which is otherwise treated as an "annual addition" under Code Section 419A(d)(2) or 415(l)(1). A Participant's 401(k) Contributions may be re-characterized as Catch-Up 401(k) Contributions and excluded from the Participant's "annual additions" for the "limitation year" to satisfy the preceding limitation.

If the Employer or an "aggregated entity" participates in a multiemployer plan, in determining whether the "annual additions" made on behalf of a Participant to the Plan, when aggregated with "annual additions" made on the Participant's behalf under the multiemployer plan satisfy the above limitation, only "annual additions" made by the Employer or an "aggregated entity" to the multiemployer plan shall be aggregated with the "annual additions" under the Plan and "415 compensation" shall include only compensation paid to the Participant by the Employer or an "aggregated entity".

Notwithstanding the foregoing provisions of this Section (other than the first paragraph), if the "annual addition" to the Account of a Participant in any "limitation year", nevertheless exceeds the amount that may be applied for his benefit under the limitations described in clauses (i) and (ii) of the first paragraph of this Section, correction may be made in accordance with the Employee Plans Compliance Resolution System, as set forth in Revenue Procedure 2013-12, or any superseding guidance.

7.7 Application of Code Section 415 Limitations Where Participant is Covered Under Other Qualified Defined Contribution Plan

If a Participant is covered by any other qualified defined contribution plan (whether or not terminated) maintained by the Employer or an "aggregated entity" concurrently with the Plan, and if the "annual addition" to be made for the "limitation year" would otherwise exceed the amount that may be applied for the Participant's benefit under the limitation contained in the preceding Section, contributions to be made to the Plan and/or such other plan shall be reduced as provided in the Adoption Agreement.

7.8 Scope of Limitations

The Code Section 415 limitations contained in the preceding Sections shall be applicable only with respect to benefits provided pursuant to defined contribution plans and defined benefit plans described in Code Section 415(k). For purposes of applying the Code Section 415 limitations contained in the preceding Sections, the term "aggregated entity" shall be adjusted as provided in Code Section 415(h).

ARTICLE VIII
FUNDS AND ACCOUNTS

8.1 General Fund

If the Adoption Agreement provides that Participants do not direct the investment of all or some contributions to the Plan and the Adoption Agreement does not specify a particular Investment Fund to which such contributions will be invested, a General Fund shall be maintained to hold and administer such contributions. A General Fund shall also be maintained to hold and administer Plan assets that are not allocated to an Investment Fund, unless otherwise

provided under the Funding Agreement or any other separate agreement governing the holding and investment of Plan assets. If a General Fund is maintained, it shall be held and administered as a separate common trust fund. The interest of each Participant or Beneficiary under the Plan in the General Fund shall be an undivided interest.

8.2 Investment Funds

If the Adoption Agreement provides for Participant direction of investments, the Investment Fiduciary shall determine the number and type of Investment Funds and shall communicate the same and any changes therein in writing to the Administrator and the Funding Agent. The interest of each Participant or Beneficiary under the Plan in any Investment Fund shall be an undivided interest. Each Investment Fund shall be held as a separate common fund.

If the Employer elected as settlor for the Plan to establish a self-directed brokerage Investment Fund, in addition to the Investment Funds selected by the Investment Fiduciary, a self-directed brokerage Investment Fund shall be established and maintained under the Plan. Notwithstanding any other provision of this paragraph, in the action directing establishment of the self-directed brokerage Investment Fund, the Employer may limit availability of the fund to Participants who have an Account balance in excess of a uniform, minimum dollar amount.

8.3 Loan Investment Fund

If a loan from the Plan to a Participant is approved in accordance with the provisions of Article XII, the Investment Fiduciary shall direct the establishment and maintenance of a loan Investment Fund in the Participant's name. The assets of the loan Investment Fund shall be held as a separate fund. A Participant's loan Investment Fund shall be invested in the note(s) reflecting the loan(s) made to the Participant in accordance with the provisions of Article XII. Notwithstanding any other provision of the Plan to the contrary, income received with respect to a Participant's loan Investment Fund shall be allocated and the loan Investment Fund shall be administered as provided in Article XII.

8.4 Income on Plan Assets

Any dividends, interest, distributions, or other income received by the Funding Agent with respect to any Plan assets shall be allocated by the Funding Agent to the Funding Arrangement for which the income was received.

8.5 Accounts

As of the first date a contribution is made by or on behalf of a Covered Employee there shall be established an Account in his name reflecting his interest in the Plan. Each Account shall be maintained and administered for each Participant and Beneficiary in accordance with the provisions of the Plan. The balance of each Account shall be the balance of the account after all credits and charges thereto, for and as of such date, have been made as provided herein.

A service provider for the Plan may place amounts intended to reduce its compensation for Plan services into a suspense account held under the Plan. The Administrator may either (i) apply amounts held in such account to pay Plan expenses or (ii) allocate such amounts among the Accounts of Participants and Beneficiaries as income.

8.6 Sub-Accounts

A Participant's Account shall be divided into such separate, individual Sub-Accounts as are necessary or appropriate to reflect the Participant's interest in the Plan.

ARTICLE IX
LIFE INSURANCE CONTRACTS

9.1 No Life Insurance Contracts

A Participant's Account may not be invested in life insurance contracts on the life of the Participant.

ARTICLE X
DEPOSIT AND INVESTMENT OF CONTRIBUTIONS

10.1 Future Contribution Investment Elections

If the Adoption Agreement provides for Participant direction of investments, each Eligible Employee shall make an investment election in the manner and form prescribed by the Administrator directing the manner in which the Sub-Accounts over which he has investment authority, as determined under the Adoption Agreement, shall be invested. If the Adoption Agreement provides that the Investment Fiduciary shall direct the investment of any or all Sub-Accounts, the Investment Fiduciary shall direct the manner in which the Sub-Accounts specified therein shall be invested.

An Eligible Employee's investment election shall be in the form required by the Administrator (or its delegate) and shall specify the percentage of contributions made on his behalf to be allocated to one or more of the Investment Funds with the sum of such percentages equaling 100%. The investment election by a Participant shall remain in effect until his entire interest under the Plan is distributed or forfeited in accordance with the provisions of the Plan or until he records a change of investment election with the Administrator (or its delegate), in such form as the Administrator (or its delegate) shall prescribe. Unless a later date is prescribed in the Adoption Agreement, if recorded in accordance with any rules prescribed by the Administrator (or its delegate), a Participant's change of investment election shall be implemented effective as of the business day it is received by the Administrator (or its delegate) or the next following business day.

10.2 Deposit of Contributions

All contributions made on a Participant's behalf shall be deposited in the Funding Arrangement and shall be invested as follows:

(a) to the extent the Participant does not have investment authority over such contributions, the contributions shall be invested in the General Fund;

(b) to the extent the Participant does not have investment authority over such contributions and the Adoption Agreement specifies the Investment Fund(s) in which such contributions shall be invested, the contributions shall be invested in the designated Investment Fund(s);

(c) to the extent the Participant has investment authority over such contributions, the contributions shall be invested among the Investment Funds in accordance with the Participant's currently effective investment election; or

(d) to the extent the Participant has investment authority over such contributions, but no investment election is recorded with the Administrator at the time contributions are to be deposited to the Participant's Account, the contributions shall be invested as provided in the Adoption Agreement.

10.3 Election to Transfer Between Funds

A Participant may elect to transfer investments over which he has investment authority from any Investment Fund to any other Investment Fund. The Participant's transfer election shall specify a percentage, of the amount eligible for transfer that is to be transferred, which percentage may not exceed 100%. If permitted under rules prescribed by the Administrator, a Participant may specify a dollar amount that is to be transferred. Any transfer election must be recorded with the Administrator, in such form as the Administrator shall prescribe. Subject to any restrictions pertaining to a particular Investment Fund, unless a later date is prescribed in the Adoption Agreement, if recorded in accordance with any rules prescribed by the Administrator (or its delegate), a Participant's transfer election shall be implemented effective as of the business day it is received by the Administrator (or its delegate) or the next following business day.

Notwithstanding any other provision of this Section to the contrary, the Administrator may prescribe such rules restricting Participants' transfer elections as it deems necessary or appropriate to preclude excessive or abusive trading or market timing.

ARTICLE XI
CREDITING AND VALUING ACCOUNTS

11.1 Crediting Accounts

All contributions made under the provisions of the Plan shall be credited to Accounts by the Funding Agent in accordance with procedures established in writing by the Administrator, either when received or on the succeeding Valuation Date after valuation of the Plan assets has been completed for such Valuation Date, as shall be determined by the Administrator.

11.2 Valuing Accounts

Accounts shall be valued by the Funding Agent on the Valuation Date, in accordance with procedures established in writing by the Administrator, either in the manner adopted by the Funding Agent and approved by the Administrator or in the manner set forth in Section 11.3 as Plan valuation procedures.

11.3 Plan Valuation Procedures

The Administrator may determine that the following valuation procedures shall be applied. As of each Valuation Date hereunder, the portion of any Accounts shall be adjusted to reflect any increase or decrease in the value of the Plan assets for the period of time occurring since the immediately preceding Valuation Date (the "valuation period") in the following manner:

(a) First, the value of the Plan assets shall be determined at fair market value.

(b) Next, the net increase or decrease in the value of the Plan assets attributable to net income and all profits and losses, realized and unrealized, during the valuation period shall be determined on the basis of the valuation under paragraph (a) taking into account appropriate adjustments for contributions, loan payments, and transfers to and distributions, withdrawals, loans, and transfers during the valuation period.

(c) Finally, the net increase or decrease in the value of the Plan assets shall be allocated among Accounts in the ratio of the balance of the portion of such Account as of the preceding Valuation Date less any distributions, withdrawals, loans, and transfers from such Account balance since the Valuation Date to the aggregate balances of the portions of all Accounts similarly adjusted, and each Account shall be credited or

charged with the amount of its allocated share. Notwithstanding the foregoing, the Administrator may adopt such accounting procedures as it considers appropriate and equitable to establish a proportionate crediting of net increase or decrease in the value of the Plan assets for contributions, loan payments, and transfers to and distributions, loans, withdrawals, and transfers from the Plan made by or on behalf of a Participant during the valuation period.

11.4 Unit Accounting Permitted

The Administrator may, for administrative purposes, establish unit values for one or more Investment Fund (or any portion thereof) and maintain the accounts setting forth each Participant's interest in such Investment Fund (or any portion thereof) in terms of such units, all in accordance with such rules and procedures as the Administrator shall deem to be fair, equitable, and administratively practicable. In the event that unit accounting is thus established for an Investment Fund (or any portion thereof), the value of a Participant's interest in that Investment Fund (or any portion thereof) at any time shall be an amount equal to the then value of a unit in such Investment Fund (or any portion thereof) multiplied by the number of units then credited to the Participant.

11.5 Finality of Determinations

The Funding Agent shall have exclusive responsibility for determining the value of each Account maintained hereunder. The Funding Agent's determinations thereof shall be conclusive upon all interested parties.

11.6 Notification

Within a reasonable period of time after the end of each Plan Year, the Administrator shall notify each Participant and Beneficiary of the value of his Account and Sub-Accounts as of a Valuation Date during the Plan Year.

ARTICLE XII
LOANS

12.1 Application for Loan

If the Adoption Agreement provides for Plan loans, a Participant may make application to the Administrator for a loan from his Account. Loans shall not be made from the portion(s) of a Participant's Account specified in the Adoption Agreement as unavailable for loans. In addition, loans shall not be made from a Participant's Qualified Voluntary Employee Contributions Sub-Account.

Loans shall be made to Participants in accordance with written guidelines which are hereby incorporated into and made a part of the Plan. To the extent such guidelines are more restrictive that the provisions of the Plan and are not inconsistent with the provisions of Code Section 72(p) and regulations issued thereunder, the guidelines shall be controlling.

Loans shall not be made available to Highly Compensated Employees in an amount greater than the amount made available to other Employees.

12.2 Collateral for Loan

As collateral for any loan granted hereunder, the Participant shall grant to the Plan a security interest in his vested interest under the Plan; provided, however, that in no event may the security interest exceed 50% of the Participant's vested interest under the Plan determined as of the date as of which the loan is originated in accordance with Plan

provisions. The portion(s) of a Participant's Account designated in the Adoption Agreement shall be excluded in determining the maximum amount of the Plan's security interest.

If provided in the Adoption Agreement, in the case of a Participant who is an active employee, the Participant also shall enter into an agreement to repay the loan by payroll withholding. No loan in excess of 50% of the Participant's vested interest under the Plan shall be made from the Plan.

A loan shall not be granted unless the Participant consents to the charging of his Account for unpaid principal and interest amounts in the event the loan is declared to be in default.

If elected by the Employer in the Adoption Agreement, a Participant's Spouse must consent in writing to any loan hereunder. Any spousal consent given pursuant to this Section must be made within the period designated by the Administrator prior to the date the Plan acquires a security interest in the Participant's Account and must acknowledge the effect of the loan. A Spouse's consent shall be binding with respect to the consenting Spouse and any subsequent Spouse with respect to the loan. A new spousal consent shall be required if the Participant's Account is used for security in any renegotiation, extension, renewal, or other revision of the loan. If the Adoption Agreement provides that a Participant's Domestic Partner is treated as a Spouse for certain Plan provisions, a Participant's Domestic Partner shall be treated as the Participant's Spouse for purposes of this paragraph.

12.3 Reduction of Account Upon Distribution

Notwithstanding any other provision of the Plan, the amount of a Participant's Account that is distributable to the Participant or his Beneficiary under Article XIII or XV shall be reduced by the portion of his vested interest that is held by the Plan as security for any loan outstanding to the Participant, provided that the reduction is used to repay the loan. If distribution is made because of the Participant's death prior to the commencement of distribution of his Account and the Participant's vested interest in his Account is payable to more than one individual as Beneficiary, then the balance of the Participant's vested interest in his Account shall be adjusted by reducing the vested account balance by the amount of the security used to repay the loan, as provided in the preceding sentence, prior to determining the amount of the benefit payable to each such individual.

12.4 Requirements to Prevent a Taxable Distribution

Notwithstanding any other provision of the Plan to the contrary, the following terms and conditions shall apply to any loan made to a Participant under this Article:

(a) Subject to the requirements of the Servicemembers Civil Relief Act, the interest rate on any loan to a Participant shall be a reasonable interest rate commensurate with current interest rates charged for loans made under similar circumstances by persons in the business of lending money.

(b) The amount of any loan to a Participant (when added to the outstanding balance of all other loans to the Participant from the Plan or any other plan maintained by the Employer) shall not exceed the lesser of:

(1) $50,000, reduced by the excess, if any, of the highest outstanding balance of any other loan to the Participant from the Plan or any other plan maintained by the Employer during the preceding 12-month period over the outstanding balance of such loans on the date a loan is made hereunder; or

(2) 50% of the vested portions of the Participant's Account and his vested interest under all other plans maintained by the Employer; provided, however, that if provided in the Adoption Agreement, the portion(s) of a Participant's Account designated in the Adoption Agreement shall be excluded in determining this limit.

(c) The term of any loan to a Participant shall be no greater than 5 years, except in the case of a loan used to acquire any dwelling unit which within a reasonable period of time is to be used (determined at the time the loan is made) as a principal residence (as defined in Code Section 121) of the Participant.

(d) Substantially level amortization shall be required over the term of the loan with payments made not less frequently than quarterly. If a loan is made from a Participant's Roth 401(k) Contributions Sub-Account and from his other Sub-Accounts under the Plan, the level amortization requirement shall be met with respect to both his Roth 401(k) Contributions Sub-Account and his other Sub-Accounts. Notwithstanding the foregoing, if so provided in the written guidelines applicable to Plan loans, the amortization schedule may be waived and payments suspended while a Participant is on a leave of absence from employment with the Employer (for periods in which the Participant does not perform military service as described in paragraph (e) below), provided that all of the following requirements are met:

(1) Such leave is either without pay or at a reduced rate of pay that, after withholding for employment and income taxes, is less than the amount required to be paid under the amortization schedule;

(2) Payments resume after the earlier of (i) the date such leave of absence ends or (ii) the one-year anniversary of the date such leave began;

(3) The period during which payments are suspended does not exceed 1 year;

(4) Payments resume in an amount not less than the amount required under the original amortization schedule; and

(5) The waiver of the amortization schedule does not extend the period of the loan beyond the maximum period permitted under this Article.

(e) If a Participant is absent from employment with the Employer for a period during which he performs services in the uniformed services (as defined in chapter 45 of title 38 of the United States Code), whether or not such services constitute qualified military service, the suspension of payments shall not be taken into account for purposes of applying either paragraph (c) or paragraph (d) of this Section provided that all of the following requirements are met:

(1) Payments resume upon completion of such military service;

(2) Payments resume in an amount not less than the amount required under the original amortization schedule and continue in such amount until the loan is repaid in full;

(3) Upon resumption, payments are made no less frequently than required under the original amortization schedule and continue under such schedule until the loan is repaid in full; and

(4) The loan is repaid in full, including interest accrued during the period of such military service, no later than the maximum period otherwise permitted under this Article extended by the period of such military service.

(f) The loan shall be evidenced by a legally enforceable agreement that demonstrates compliance with the provisions of this Section.

12.5 Administration of Loan Investment Fund

Upon approval of a loan to a Participant, the Administrator shall direct the Funding Agent to transfer an amount equal to the loan amount from the Investment Funds in which it is invested, as directed by the Administrator, to the loan Investment Fund established in the Participant's name. Any loan approved by the Administrator shall be made to the Participant out of the Participant's loan Investment Fund. All principal and interest paid by the Participant on a loan made under this Article shall be deposited to his Account and, if the Adoption Agreement provides for Participant direction of investments, shall be allocated upon receipt among the Investment Funds in accordance with the Participant's currently effective investment election. The balance of the Participant's loan Investment Fund shall be decreased by the amount of principal payments and the loan Investment Fund shall be terminated when the loan has been repaid in full.

12.6 Default

If either (1) a Participant fails to make or cause to be made, any payment required under the terms of the loan by the date required to prevent a default under the terms of the loan note, which date shall not be later than the end of the calendar quarter following the quarter in which the payment was due, unless payment is not made because the Participant is on a leave of absence and the amortization schedule is waived as provided in Section 12.4(d) or (e), or (2) there is an outstanding principal balance existing on a loan after the last scheduled repayment date (extended as provided in Section 12.4(e), if applicable), the Administrator shall direct the Funding Agent to declare the loan to be in default, and the entire unpaid balance of such loan, together with accrued interest, shall be immediately due and payable. In any such event, if such balance and interest thereon is not then paid, the Funding Agent shall charge the Account of the borrower with the amount of such balance and interest as of the earliest date a distribution may be made from the Plan to the borrower without adversely affecting the tax qualification of the Plan.

12.7 Deemed Distribution Under Code Section 72(p)

If a Participant's loan is in default as provided in Section 12.6, the Participant shall be deemed to have received a taxable distribution in the amount of the outstanding loan balance as required under Code Section 72(p), whether or not distribution may actually be made from the Plan without adversely affecting the tax qualification of the Plan or of the cash or deferred arrangement; provided, however, that the taxable portion of such deemed distribution shall be reduced in accordance with the provisions of Code Section 72(e) to the extent the deemed distribution is attributable to the Participant's After-Tax Contributions.

If a Participant is deemed to have received distribution of an outstanding loan balance hereunder, no further loans may be made to such Participant from his Account unless there is a legally enforceable arrangement among the Participant, the Plan, and the Participant's employer that repayment of such loan shall be made by payroll withholding.

12.8 Treatment of Outstanding Balance of Loan Deemed Distributed Under Code Section 72(p)

With respect to any loan made on or after January 1, 2002, the balance of such loan that is deemed to have been distributed to a Participant hereunder shall cease to be an outstanding loan for purposes of Code Section 72(p) and a Participant shall not be treated as having received a taxable distribution when his Account is offset by such outstanding loan balance as provided in Section 12.6. Any interest that accrues on a loan after it is deemed to have been distributed shall not be treated as an additional loan to the Participant and shall not be included in the Participant's taxable income as a deemed distribution. Notwithstanding the foregoing, however, unless a Participant repays such loan, with interest, the amount of such loan, with interest thereon calculated as provided in the original loan note, shall continue to be considered an outstanding loan for purposes of determining the maximum permissible amount of any subsequent loan under Section 12.4(b).

If a Participant elects to make payments on a loan after it is deemed to have been distributed hereunder, such payments shall be treated as After-Tax Contributions to the Plan solely for purposes of determining the taxable portion of the Participant's Account and shall not be treated as After-Tax Contributions for any other Plan purpose, including application of the limitations on contributions applicable under Code Sections 401(m) and 415.

The provisions of this Section shall apply with respect to any loan made prior to January 1, 2002, except to the extent provided under the transition rules in Q&A 22(c)(2) of Treasury Regulations Section 1.72(p)-1.

12.9 Prior Loans

Notwithstanding any other provision of this Article to the contrary, any loan made under the provisions of the Plan as in effect prior to this amendment and restatement or rolled over to the Plan from another plan or made under the provisions of a prior plan before the date such plan was merged into the Plan or the date assets and liabilities from such other plan were spun off to the Plan, as applicable, shall remain outstanding until repaid in accordance with its terms or the otherwise applicable Plan provisions.

ARTICLE XIII
WITHDRAWALS WHILE EMPLOYED

13.1 Non-Hardship Withdrawals

If provided in the Adoption Agreement, a Participant who is employed by the Employer and has satisfied any requirements applicable to non-hardship withdrawals provided in the Adoption Agreement may, subject to the limitations and conditions prescribed in this Article and the Adoption Agreement, elect to make a cash withdrawal from his vested interest in those Sub-Accounts specified in the Adoption Agreement.

13.2 Withdrawal of 401(k) Contributions Upon Deemed Severance from Employment Due to Qualified Military Service

Notwithstanding any other provision of the Plan to the contrary, if provided in the Adoption Agreement, a Participant who is absent from employment because of service with the uniformed services (as described in United Stated Code, Title 38, Chapter 43) for more than 30 days shall be treated as if he had incurred a severance from employment for purposes of receiving a distribution under Code Section 401(k)(2)(B)(i)(I). A Participant who is deemed to have incurred a severance from employment hereunder may elect, subject to the limitations and conditions prescribed in the Adoption Agreement, to receive a cash withdrawal from his vested interest in those Sub-Accounts specified in the Adoption Agreement.

If a Participant receives distribution in accordance with the provisions of this Section and would not otherwise be entitled to receive distribution under the terms of the Plan other than this Section, his 401(k) Contributions and After-Tax Contributions under the Plan and the Participant's "elective contributions" and "employee contributions", as defined in Section 7.1, under all other qualified and non-qualified deferred compensation plans maintained by the Employer shall be suspended for at least 6 months after his receipt of the withdrawal. However, if the Adoption Agreement provides for "qualified reservist withdrawals" and the distribution meets the requirements of Section 13.3 below, the suspension shall not apply.

Any distribution made hereunder shall be subject to the 10% excise tax imposed on early distributions under Code Section 72(t), unless such distribution is also a "qualified reservist distribution", as described in Section 13.3 below.

13.3 Qualified Reservist Withdrawals of 401(k) Contributions

Notwithstanding any other provision of the Plan to the contrary, if provided in the Adoption Agreement, a Participant who is a member of a reserve component (as defined in Section 101 of Title 37 of the United States Code) who is ordered or called to active duty for a period in excess of 179 days, or for an indefinite period, may elect to receive a cash withdrawal of all or any portion of his Pre-Tax and/or Roth 401(k) Contributions Sub-Account, as designated in the Adoption Agreement. Any distribution made to a Participant pursuant to this Section is subject to the limitations and conditions prescribed in the Adoption Agreement and must be made during the period beginning on the date of his order or call to active duty and ending on the close of his active duty period.

Any distribution made hereunder to a Participant who is ordered or called to active duty after September 11, 2001 shall not be subject to the 10% excise tax imposed under Code Section 72(t).

13.4 Overall Limitations on Non-Hardship Withdrawals

Withdrawals made pursuant to this Article shall be subject to the following conditions and limitations:

(a) A Participant must apply for a withdrawal such number of days prior to the date as of which it is to be effective as the Administrator may prescribe.

(b) Withdrawals may be made effective as soon as administratively practicable after the Administrator's approval of the Participant's withdrawal application.

(c) If elected by the Employer in the Adoption Agreement, the Participant's Spouse must consent to any non-hardship withdrawal hereunder. If the Adoption Agreement provides that a Participant's Domestic Partner is treated as a Spouse for certain Plan provisions, a Participant's Domestic Partner shall be treated as the Participant's Spouse for purposes of this paragraph.

13.5 Hardship Withdrawals

If elected by the Employer in the Adoption Agreement, a Participant who is employed by the Employer and who is determined by the Administrator to have incurred a hardship in accordance with the provisions of this Article may elect, subject to the limitations and conditions prescribed in this Article and the Adoption Agreement, to make a cash withdrawal from his vested interest in any of those Sub-Accounts designated as available for hardship withdrawal; provided, however, that a Participant may not withdraw any income credited to his Pre-Tax 401(k) Contributions Sub-Account after the later of (a) the last day of the Plan Year ending before July 1, 1989 or (b) December 31, 1988 or any income credited to his Roth 401(k) Contributions Sub-Account.

13.6 Hardship Determination

The Administrator shall grant a hardship withdrawal only if it determines that the withdrawal is necessary to meet an immediate and heavy financial need of the Participant for which a hardship withdrawal is available under the Adoption Agreement. If the Adoption Agreement provides that hardship withdrawals are based on the safe harbors specified in 401(k) regulations, an immediate and heavy financial need of the Participant includes a financial need on account of:

(a) expenses previously incurred by or necessary to obtain for the Participant, the Participant's Spouse, or any dependent of the Participant (as defined in Code Section 152 , without regard to subsections (b)(1), (b)(2) and (d)(1)(B) thereof) medical care deductible under Code Section 213(d), determined without regard to whether the expenses exceed any applicable income limit;

(b) costs directly related to the purchase (excluding mortgage payments) of a principal residence for the Participant;

(c) payment of tuition, related educational fees, and room and board expenses for the next 12 months of post-secondary education for the Participant, or the Participant's Spouse, child or other dependent (as defined in Code Section 152 , without regard to subsections (b)(1), (b)(2) and (d)(1)(B) thereof);

(d) payments necessary to prevent the eviction of the Participant from his principal residence or foreclosure on the mortgage on the Participant's principal residence;

(e) payment of funeral or burial expenses for the Participant's deceased parent, Spouse, child or dependent (as defined in Code Section 152, without regard to subsection (d)(1)(B) thereof);

(f) expenses for the repair of damage to the Participant's principal residence that would qualify for a casualty loss deduction under Code Section 165 (determined without regard to whether the loss exceeds any applicable income limit); or

(g) if provided in the Adoption Agreement, an immediate and heavy financial need of the Participant's primary Beneficiary under the Plan. A Participant's primary Beneficiary is any individual named as the Participant's Beneficiary under the Plan who has an unconditional right to all or a portion of the Participant's Account upon the death of the Participant. An immediate and heavy financial need of a Participant's primary Beneficiary means a financial need on account of:

(1) expenses previously incurred by or necessary to obtain for the primary Beneficiary medical care deductible under Code Section 213(d), determined without regard to whether the expenses exceed any applicable income limit;

(2) payment of tuition, related educational fees, and room and board expenses for the next 12 months of post-secondary education for the primary Beneficiary; or

(3) payment of funeral or burial expenses for the primary Beneficiary

If the Adoption Agreement provides for hardship withdrawals to be made under other non-discriminatory facts and circumstances, an immediate and heavy financial need includes any financial need described in the Adoption Agreement. If provided in the Adoption Agreement, a Participant's withdrawal of 401(k) Contributions may be limited to the safe harbors.

Certification by a Participant regarding the existence of an immediate and heavy financial need shall be conclusive evidence of the existence of the need, unless the Administrator has actual knowledge to the contrary.

13.7 Satisfaction of Necessity Requirement for Hardship Withdrawals

A withdrawal shall be deemed to be necessary to satisfy a Participant's immediate and heavy financial need only if the Participant satisfies either the IRS suspension safe harbor or the Employee certification requirements described below, whichever is provided in the Adoption Agreement.

If the Adoption Agreement provides for the IRS suspension safe harbor, all of the following requirements must be met:

(a) The withdrawal is not in excess of the amount of the immediate and heavy financial need of the Participant, including amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the withdrawal.

(b) The Participant has obtained all distributions, other than hardship distributions, and all non-taxable loans currently available under all plans maintained by the Employer, to the extent obtaining such distribution or loan would not increase the hardship.

(c) The Participant's 401(k) Contributions and After-Tax Contributions and the Participant's "elective contributions" and "employee contributions", as defined in Article VII, under all other qualified and non-qualified deferred compensation plans maintained by an Employer or any "aggregated entity" (as defined in Section 7.1(a)) shall be suspended for at least 6 months after his receipt of the withdrawal. If provided in the Adoption Agreement, the provisions of this paragraph (c) shall apply only with respect to hardship withdrawals from a Participant's 401(k) Contributions Sub-Account.

If the Adoption Agreement provides for Employee certification, the Participant must certify that his financial need cannot be relieved (i) through reimbursement or compensation by insurance or otherwise, (ii) by reasonable liquidation of the Participant's assets, (iii) by suspending elective contributions and employee contributions to all plans maintained by the Employer or a Related Company, (iv) by other distributions or nontaxable loans from plans maintained by the Employer or a Related Company, or (v) by borrowing from commercial sources.

13.8 Conditions and Limitations on Hardship Withdrawals

Hardship withdrawals made pursuant to this Article shall be subject to the following conditions and limitations:

(a) A Participant must apply for a hardship withdrawal such number of days prior to the date as of which it is to be effective as the Administrator may prescribe.

(b) Hardship withdrawals may be made effective as soon as administratively practicable after the Administrator's approval of the Participant's withdrawal application.

(c) If elected by the Employer in the Adoption Agreement, the Participant's Spouse must consent to any hardship withdrawal hereunder. If the Adoption Agreement provides that a Participant's Domestic Partner is treated as a Spouse for certain Plan provisions, a Participant's Domestic Partner shall be treated as the Participant's Spouse for purposes of this paragraph.

13.9 Order of Withdrawal from a Participant's Sub-Accounts

Distribution of a withdrawal amount shall be made from a Participant's Sub-Accounts, to the extent necessary, in the order prescribed by the Administrator, which order shall be uniform with respect to all Participants and non-discriminatory. If the Sub-Account from which a Participant is receiving a withdrawal is invested in more than one Investment Fund, the withdrawal shall be charged against the Investment Funds as directed by the Administrator.

13.10 Permissible Withdrawals under Eligible Automatic Contribution Arrangement

If provided in the Adoption Agreement, an Eligible Employee who has had 401(k) Contributions automatically made to the Plan pursuant to the provisions of an EACA may elect to withdraw such amounts from the Plan in accordance with this Section. An Eligible Employee's permissible withdrawal election must be made in such form as the Administrator shall require and must be submitted to the Administrator, in accordance with procedures established by the Administrator, within the period provided in the Adoption Agreement. Such period may extend beyond 90 days following the date the first automatic 401(k) Contribution is made to the Plan on the Eligible

Employee's behalf pursuant to the provisions of the EACA. For purposes of this Section, the date the first automatic 401(k) Contribution is made to the Plan is the first date Compensation subject to the EACA would otherwise have been included in the Eligible Employee's income. For purposes of determining an Eligible Employee's election period, 401(k) Contributions made on the Eligible Employee's behalf under any other EACA that is required to be aggregated with the EACA shall be taken into account.

The amount to be distributed to an Eligible Employee as a permissible withdrawal hereunder shall be equal to the amount of the automatic 401(k) Contributions made on his behalf under the EACA through the effective date of the Eligible Employee's withdrawal election, adjusted for allocable gains and losses to the date of distribution. An Eligible Employee's withdrawal election shall be effective no later than the earlier of (a) the pay date for the second payroll period beginning after the date the election is made or (b) the first pay date occuring at least 30 days after the election is made.

Any withdrawal hereunder shall be made in cash in accordance with the timing and procedures applicable to any other distribution payable from the Plan. The amount of the withdrawal may be reduced by any generally applicable fees, provided that the Plan shall not charge a higher distribution fee for withdrawals in accordance with this Section than would apply to any other cash distribution.

401(k) Contributions that are withdrawn in accordance with this Section shall not be taken into account in applying the limitation on elective deferrals under Code Section 402(g). In addition, such 401(k) Contributions shall not be taken into account in determining the amount of any Matching Contributions to be allocated to the Eligible Employee under the Plan. Any Matching Contributions that have been allocated to an Eligible Employee's Account based on 401(k) Contributions that are withdrawn in accordance with this Section shall be forfeited and treated as provided in Section 7.4.

Notwithstanding any other provision of this Section, if provided in the Adoption Agreement, if no automatic 401(k) Contributions are made on an Eligible Employee's behalf under the EACA for a full year, the Eligible Employee will be treated as if he had never had automatic 401(k) Contributions made on his behalf under the EACA and will be entitled to elect a permissible withdrawal hereunder if automatic 401(k) Contributions are subsequently made to the Plan on his behalf pursuant to the provisions of the EACA. For this purpose, automatic 401(k) Contributions made on the Eligible Employee's behalf under any other EACA that is required to be aggregated with this EACA shall be taken into account.

ARTICLE XIV
TERMINATION OF EMPLOYMENT AND SETTLEMENT DATE

14.1 Termination of Employment and Settlement Date

A Participant's Settlement Date shall occur on the date he terminates employment with the Employer because of death, disability, retirement, or other termination of employment. Written notice of a Participant's Settlement Date shall be given by the Administrator to the Funding Agent.

14.2 Separate Accounting for Non-Vested Amounts

If as of a Participant's Settlement Date the Participant's vested interest in his Employer Contributions Sub-Account is less than 100%, that portion of his Employer Contributions Sub-Account that is not vested shall be accounted for separately from the vested portion and shall be disposed of as provided in the following Section.

14.3 Disposition of Non-Vested Amounts

That portion of a Participant's Employer Contributions Sub-Account that is not vested upon the occurrence of his Settlement Date shall be forfeited on the date provided in the Adoption Agreement.

14.4 Treatment of Forfeited Amounts

Whenever the non-vested balance of a Participant's Employer Contributions Sub-Account is forfeited during a Plan Year in accordance with the provisions of the preceding Section, the amount of such forfeiture shall be treated as provided in the Adoption Agreement. If forfeitures offset the Employers' contribution obligations and either (a) forfeitures that occurred during the prior Plan Year remain after all contribution obligations for the current Plan Year have been satisfied or (b) forfeitures remain upon termination of the Plan, and such forfeitures cannot be used to pay Plan expenses, including expenses of the termination, the excess forfeitures shall be re-allocated among Covered Employees who are employed on the allocation date in the ratio that each such Covered Employee's Compensation for the Plan Year in which the allocation is made bears to the aggregate of such Compensation for all such Covered Employees.

14.5 Recrediting of Forfeited Amounts

If elected by the Employer in the Adoption Agreement, a former Participant who forfeited the non-vested portion of his Employer Contributions Sub-Account and who is reemployed by the Employer shall have such forfeited amounts restored and credited to a new Account in his name, without adjustment for interim gains or losses experienced by the Plan, if:

(a) The Participant returns to employment with the Employer before he incurs 5 consecutive Breaks in Vesting Service commencing after the date he received, or is deemed to have received, distribution of his vested interest in his Account. Unless paragraph (b) below applies, the forfeited amounts will be restored as of the Participant's reemployment date.

(b) If the Adoption Agreement provides that forfeited amounts will be restored only if the Participant repays any distribution, forfeited amounts shall be restored following such reemployment only if the following additional requirements are met:

(1) the Participant resumes employment covered under the Plan before the earlier of (i) the end of the 5-year period beginning on the date he is reemployed or (ii) the date he incurs 5 consecutive Breaks in Vesting Service commencing after the date he received, or is deemed to have received, distribution of his vested interest in his Account; and

(2) if the Participant received actual distribution of his vested interest in his Account, he repays to the Plan the full amount of such distribution before the earlier of (i) the end of the 5-year period beginning on the date he is reemployed or (ii) the date he incurs 5 consecutive Breaks in Vesting Service beginning after the date he received distribution of his vested interest in his Account. If the Adoption Agreement provides that the repayment provisions only apply to distributions of Employer Contributions, the reemployed Participant shall only be required to repay the portion of the distribution that is attributable to Employer Contributions and may not repay any portion of the distribution attributable to Pick-Up Contributions, 401(k) Contributions, After-Tax Contributions, or Rollover Contributions, including After-Tax Rollover Contributions, Designated Roth Rollover Contributions, and In-Plan Roth Rollover Contributions.

If the Adoption Agreement provides that a Participant may repay a distribution, a Participant who received an actual distribution and who returns to employment within the time period described in (a) above may elect to repay to the

Plan the full amount of such distribution before the earlier of (i) the end of the 5-year period beginning on the date he is reemployed or (ii) the date he incurs 5 consecutive Breaks in Vesting Service beginning after the date he received, or is deemed to have received, distribution of his vested interest in his Account. If the Adoption Agreement provides that the repayment provisions only apply to distributions of Employer Contributions, the reemployed Participant may only repay the portion of the distribution that is attributable to Employer Contributions and may not repay any portion of the distribution attributable to Pick-Up Contributions, 401(k) Contributions, After-Tax Contributions, or Rollover Contributions, including After-Tax Rollover Contributions, Designated Roth Rollover Contributions, and In-Plan Roth Rollover Contributions.

Funds needed in any Plan Year to recredit the Account of a Participant with the amounts of prior forfeitures in accordance with the preceding sentence shall come first from forfeitures that arise during such Plan Year, and then from Plan income earned in such Plan Year, to the extent that it has not yet been allocated among Participants' Accounts as provided in Article XI, unless the Employer chooses to make an additional Employer Contribution, and shall finally be provided by the Employer by way of a separate Employer Contribution.

ARTICLE XV
DISTRIBUTIONS

15.1 Distributions to Participants

A Participant whose Settlement Date occurs shall receive distribution of his vested interest in his Account in the form provided under Article XVI beginning as soon as reasonably practicable following his Settlement Date or the date his application for distribution is filed with the Administrator, if later.

15.2 Special In-Service Distributions

If provided in the Adoption Agreement, a Participant who continues in employment with an Employer or "aggregated entity" (as defined in Section 7.1(a)) may elect to receive distribution of all or any portion of his Account in the form provided under Article XVI at any time following:

(a) his Normal Retirement Date;

(b) April 1 of the calendar year following the calendar year in which he attains age 70 1/2; and/or

(c) the date the Administrator determines he is Disabled.

15.3 Partial Distributions

If provided in the Adoption Agreement, a Participant whose Settlement Date has occurred or who is entitled to an in-service distribution in accordance with Section 15.2 may elect to receive partial distribution of any portion of his Account at any time in the form provided in Article XVI.

15.4 Distributions to Beneficiaries

If a Participant dies prior to his Benefit Payment Date, his Beneficiary shall receive distribution of the Participant's vested interest in his Account in the form provided under Article XVI beginning as soon as reasonably practicable following the date the Beneficiary's application for distribution is filed with the Administrator, subject to the requirements of Section 15.5.

15.5 Code Section 401(a)(9) Requirements

The provisions of this Section take precedence over any inconsistent provision of the Plan; provided, however, that nothing in this Section is intended to provide a form of payment other than the form(s) provided in the Adoption Agreement.

(a) Distributions Prior to Participant's Death. Distribution to a Participant shall commence no later than his Required Beginning Date. Distributions required to commence under this paragraph (a) shall be made in the form provided under Article XVI, subject to the provisions of (1) and (2) below and of paragraph (d).

(1) Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before his Required Beginning Date, as of the first "distribution calendar year", distributions will be made to the Participant in accordance with the provisions of paragraph (2) below. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury regulations.

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

(A) the quotient obtained by dividing the "Participant's account balance" by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9, Q&A-2 of the Treasury regulations, using the Participant's age as of the Participant's birthday in the "distribution calendar year"; or

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

Required minimum distributions will be determined under this paragraph (2) beginning with the first "distribution calendar year" and up to and including the "distribution calendar year" that includes the Participant's date of death. Notwithstanding the foregoing, if the Adoption Agreement provides that a Participant will receive required minimum distributions only while employed, required minimum distributions to the Participant will be determined under this paragraph (2) only up to the "distribution calendar year" in which the Participant's employment terminates. The required minimum distribution for the "distribution calendar year" in which the Participant's employment terminates shall be made in a single sum or through purchase of an annuity that satisfies the requirements of paragraph (1) above, as permitted under Section 16.1 of the Plan, based on the provisions of the Adoption Agreement; provided, however, that if the Administrator cannot distribute the full balance of the Participant's vested interest in his Account in such form by December 31 of the "distribution calendar year" in which the Participant's employment terminates, the required minimum distribution for such "distribution calendar year" shall be determined under this paragraph (2).

(b) Death of Participant After Distribution Begins. If a Participant dies on or after the date distribution begins and before receiving distribution of his full vested interest in his Account, distributions to the Participant's Beneficiary shall be made no less rapidly than distributions were made under the method of payment in effect prior to the Participant's death and in accordance with the following:

(1) Unless the full balance of the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum before December 31 of the first "distribution calendar year" after the year of the Participant's death, beginning with such "distribution calendar year", distributions will be made in accordance with the provisions of paragraphs (2) or (3) below, as applicable. If the full balance of the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury regulations.

(2) If there is a "designated beneficiary", the minimum amount that will be distributed for each "distribution calendar year" after the year of the Participant's death is the quotient obtained by dividing the "Participant's account balance" by the longer of the remaining "life expectancy" of the Participant or the remaining "life expectancy" of the Participant's "designated beneficiary", determined as follows:

(A) The Participant's remaining "life expectancy" is calculated using the age of the Participant in the year of death, reduced by 1 for each subsequent year.

(B) If the Participant's surviving Spouse is the Participant's sole "designated beneficiary", the remaining "life expectancy" of the surviving Spouse is calculated for each "distribution calendar year" after the year of the Participant's death using the surviving Spouse's age as of the Spouse's birthday in that year. For "distribution calendar years" after the year of the surviving Spouse's death, the remaining "life expectancy" of the surviving Spouse is calculated using the age of the surviving Spouse as of the Spouse's birthday in the calendar year of the Spouse's death, reduced by 1 for each subsequent calendar year.

(C) If the Participant's surviving Spouse is not the Participant's sole "designated beneficiary", the "designated beneficiary's" remaining "life expectancy" is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by 1 for each subsequent year.

(3) If there is no "designated beneficiary" as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each "distribution calendar year" after the year of the Participant's death is the quotient obtained by dividing the "Participant's account balance" by the Participant's remaining "life expectancy" calculated using the age of the Participant in the year of death, reduced by 1 for each subsequent year.

(c) Death of Participant Before Distribution Begins. If a Participant dies before the date distribution begins and before receiving distribution of his full vested interest in his Account, the Participant's entire interest will be distributed, or begin to be distributed, in a form of payment permitted under Article XVI, based on the provisions of the Adoption Agreement, as follows:

(1) If the 5-year rule is the default in the Adoption Agreement, except as provided in paragraph (5) below, if there is a "designated beneficiary" as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire vested interest in his Account must be completed to such "designated beneficiary" by December 31 of the calendar year containing the fifth anniversary of the Participant's death. If the Participant's surviving Spouse is the Participant's sole "designated beneficiary" and the surviving Spouse dies after the Participant but before distribution commences to the surviving Spouse, the 5-year rule described in this paragraph (1) shall apply as if the surviving Spouse were the Participant.

(2) If the life expectancy rule is the default in the Adoption Agreement, except as provided in paragraph (5) below, and subject to the special rules in paragraph (3) below regarding commencement of distribution to a Spouse who qualifies as a Participant's sole "designated beneficiary", if there is a "designated beneficiary" as of September 30 of the year following the year of the Participant's death, distribution shall be made to the Participant's "designated beneficiary" as provided in this paragraph (2).

(A) Distribution must commence no later than December 31 of the calendar year following the calendar year in which the Participant died.

(B) Distribution shall be made over the "designated beneficiary's" life or over a period certain not exceeding the "designated beneficiary's" "life expectancy". For purposes of determining such period certain, a "designated beneficiary's" "life expectancy" is calculated based on his age on his birthday in the calendar year immediately following the calendar year of the Participant's death.

(C) The minimum amount that will be distributed to the "designated beneficiary" for each "distribution calendar year" during the "designated beneficiary's" lifetime is the quotient obtained by dividing the "Participant's account balance" by the remaining "life expectancy" of the Participant's "designated beneficiary", determined as provided in Section 15.5(b) above.

If a Participant's surviving Spouse is his sole "designated beneficiary", and the surviving Spouse dies before the date distributions are required to begin to the surviving Spouse under Section 15.5(c)(1) or Section 15.5(c)(3), as applicable, the life expectancy rule described in this paragraph (2) shall apply as if the surviving Spouse were the Participant.

(3) If a Participant's Spouse is his sole "designated beneficiary" with respect to all or any part of the Participant's Account, the surviving Spouse may elect to postpone commencement of distribution under the life expectancy rule described in subparagraph 15.5(c)(2)(B) above until the later of (i) December 31 of the calendar year immediately following the calendar year in which the Participant dies or (ii) December 31 of the calendar year in which the Participant would have attained age 70 1/2. Any such election must be made no later than September 30 of the calendar year in which distribution would be required to commence under this paragraph (3) or September 30 of the calendar year that contains the fifth anniversary of the Participant's death, whichever is earlier.

(4) If there is no "designated beneficiary" as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(5) If provided in the Adoption Agreement, Participants or Beneficiaries may elect on an individual basis whether the 5-year rule described in Section 15.5(c)(1) or the "life expectancy" rule described in 15.5(c)(2) 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 (1) September 30 of the calendar year in which distribution would be required to begin under Section 15.5(c) or (2) September 30 of the calendar year that contains the fifth anniversary of the Participant's (or, if applicable, surviving Spouse's) death. If neither the Participant nor the Beneficiary makes an election under this Section, distributions will be made as provided in the Adoption Agreement.

(d) 242(b)(2) Elections. Notwithstanding any other provisions of this Section 15.5 and subject to the automatic annuity and Qualified Preretirement Survivor Annuity requirements described in Article XVI, distribution on behalf of a Participant, including a 5% owner, may be made pursuant to a valid election under Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 and in accordance with all of the following requirements:

(1) The distribution is one which would not have disqualified the Trust under Code Section 401(a)(9) as in effect prior to amendment by the Deficit Reduction Act of 1984.

(2) The distribution is in accordance with a method of distribution elected by the Participant whose interest in the Trust is being distributed or, if the Participant is deceased, by a Beneficiary of such Participant.

(3) Such election was in writing, was signed by the Participant or the Beneficiary, and was made before January 1, 1984.

(4) The Participant had accrued a benefit under the Plan as of December 31, 1983.

(5) The method of distribution elected by the Participant or the Beneficiary specifies the time at which distribution will commence, the period over which distribution will be made, and in the case of any distribution upon the Participant's death, the Beneficiaries of the Participant listed in order of priority.

A distribution upon death shall not be made under this paragraph (d) unless the information in the election contains the required information described above with respect to the distributions to be made upon the death of the Participant. For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the Participant or the Beneficiary to whom such distribution is being made will be presumed to have designated the method of distribution under which the distribution is being made, if this method of distribution was specified in writing and the distribution satisfies the requirements in paragraphs (1) and (5) of this paragraph (d). If an election is revoked, any subsequent distribution will be in accordance with the other provisions of the Plan. Any changes in the election will be considered to be a revocation of the election. However, the mere substitution or addition of another Beneficiary (one not designated as a Beneficiary in the election), under the election will not be considered to be a revocation of the election, so long as such substitution or addition does not alter the period over which distributions are to be made under the election directly, or indirectly (for example, by altering the relevant measuring life).

(e) Special Definitions. For purposes of this Section 15.5, the following terms have the following meanings:

(1) A Participant's "**designated beneficiary**" means the individual who is designated as the Participant's Beneficiary under Article XVII of the Plan and is the designated beneficiary under Code Section 401(a)(9) and Section 1.401(a)(9)-4 of the Treasury regulations.

(2) A "**distribution calendar year**" means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first "distribution calendar year" is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first "distribution calendar year" is the calendar year in which distributions are required to begin under Section 15.5(a) or (b). The required minimum distribution for the Participant's first "distribution calendar year" will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other "distribution calendar years", including the required minimum

distribution for the "distribution calendar year" in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that "distribution calendar year".

(3) A Participant's or Beneficiary's "**life expectancy**" means his life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.

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

For purposes of this Section 15.5, distribution is considered to begin on the Participant's Required Beginning Date or, if distribution under an annuity irrevocably commences to the Participant before that date, the date distribution under the annuity actually commences. If a Participant's surviving Spouse is to be treated as if the Spouse were the Participant, as provided in Section 15.5(c)(2), distribution is considered to begin to such Spouse on the date distribution is required to begin to the Spouse under Section 15.5(c)(1) or Section 15.5(c)(3), as applicable, or, if distribution under an annuity irrevocably commences to the Spouse before that date, the date distribution under the annuity actually commences.

In lieu of the foregoing, the Employer may administer the Plan in accordance with a reasonable, good faith interpretation of Code Section 401(a)(9).

15.6 Cash Outs

Notwithstanding any other provision of the Plan to the contrary, if the Adoption Agreement provides for cash-outs and a Participant's vested interest in his Account does not exceed the dollar amount specified in the Adoption Agreement, distribution of such vested interest shall be made to the Participant in a single sum payment or through a direct rollover, as described in Section 16.4, as soon as reasonably practicable following his Settlement Date. If a Participant has no vested interest in his Account on his Settlement Date, he shall be deemed to have received distribution of such vested interest on his Settlement Date. If elected by the Employer in the Adoption Agreement, the amount of Rollover Contributions will not be included in determining whether a Participant's vested interest exceeds the dollar amount described above.

If distribution of a Participant's vested interest is to be made in accordance with this Section before the later of the Participant's Normal Retirement Date or the date the Participant attains age 62, and such vested interest exceeds $1,000, distribution of such vested interest shall be made through a direct rollover to an individual retirement plan selected by the Administrator, unless the Participant affirmatively elects distribution in a single sum payment or through a direct rollover to an "eligible retirement plan" (as defined in Section 16.4(c) below) specified by the Participant. Any distribution made pursuant to this Section to a Participant's surviving Spouse or other Beneficiary or to an alternate payee under a qualified domestic relations order shall not be subject to the automatic rollover provisions described in the preceding sentence.

15.7 Required Commencement of Distribution

Notwithstanding any other provision of the Plan to the contrary, distribution of a Participant's vested interest in his Account shall commence to the Participant no later than his Required Beginning Date, or, if elected by the Employer in the Adoption Agreement, the later of age 62 or Normal Retirement Date.

A Participant who continues in employment with the Employer after April 1 of the calendar year following the year in which he attains age 70 1/2, as elected by the Employer in the Adoption Agreement, either (i) shall be required to commence distributions, (ii) may elect to commence distributions, or (iii) may not commence distributions until his Required Beginning Date. Distributions required to commence under this Section shall be made in the form provided under Article XVI and in accordance with Code Section 401(a)(9) and regulations issued thereunder, as described in Section 15.5.

15.8 Reemployment of a Participant

If a Participant whose Settlement Date has occurred is reemployed by an Employer or "aggregated entity" (as defined in Section 7.1(a)) the following shall apply, as provided in the Adoption Agreement:

(a) he shall lose his right to any distribution or further distributions from the Plan arising from his prior Settlement Date and his interest in the Plan shall thereafter be treated in the same manner as that of any other Participant whose Settlement Date has not occurred; or

(b) he shall continue to have a right to any distribution or further distributions from the Plan arising from his prior Settlement Date and any amounts credited to his Account with respect to employment after his prior Settlement Date shall be accounted for separately.

15.9 Restrictions on Alienation

Except as required under any domestic relations order described in Code Section 414(p)(11) or as otherwise required by law, no benefit under the Plan at any time shall be subject in any manner to anticipation, alienation, assignment (either at law or in equity), encumbrance, garnishment, levy, execution, or other legal or equitable process; and no person shall have power in any manner to anticipate, transfer, assign (either at law or in equity), alienate or subject to attachment, garnishment, levy, execution, or other legal or equitable process, or in any way encumber his benefits under the Plan, or any part thereof, and any attempt to do so shall be void.

15.10 Facility of Payment

If the Administrator finds that any individual to whom an amount is payable hereunder is incapable of attending to his financial affairs because of any mental or physical condition, including the infirmities of advanced age, such amount may, in the discretion of the Administrator, be paid to such individual's court appointed guardian, to another person with a valid power of attorney, or to another person authorized under state law to receive the benefit. If the individual is receiving installment payments, the monthly payment for the month in which the individual dies shall, if not paid to such individual prior to his death, be paid to such individual's spouse, parent, brother, sister, or estate, or in accordance with local or state law, as the Administrator shall determine

If an amount is payable to a minor Beneficiary, the Administrator may, in its discretion, pay the amount to a duly qualified guardian or other legal representative, to the authorized person or entity (e.g., custodian or guardian) under the applicable state Uniform Gifts to Minors Act or Uniform Transfers to Minors Act, or to a trust that has been established for the benefit of the minor.

The Funding Agent shall make such payment only upon receipt of written instructions to such effect from the Administrator. Any payment made in accordance with the provisions of this Section shall be charged to the Account from which any such payment would otherwise have been paid and shall be a complete discharge of any liability therefore under the Plan.

15.11 Inability to Locate Payee

If any benefit becomes payable to any person, or to the executor or administrator of any deceased person, and if that person or his executor or administrator does not present himself to the Administrator within a reasonable period after the Administrator mails written notice of his eligibility to receive a distribution hereunder to his last known address and makes such other diligent effort to locate the person as the Administrator determines, such as (1) sending a registered letter, return receipt requested to the person's last known address, (2) using a commercial locator service, the internet, or other general search method, or (3) using the Social Security Administration search program, that benefit will be treated as a forfeiture under the Plan. However, if the payee is subsequently located, the benefit will be restored and shall not count as an "annual addition", as defined in Section 7.1(a), under Code Section 415.

If the Plan is joined as a party to any escheat proceedings involving a forfeited amount, the Plan shall comply with the final judgment as if it were a complaint filed by the payee and shall pay in accordance with the judgment.

15.12 Distribution Pursuant to Domestic Relations Orders

Notwithstanding any other provision of the Plan to the contrary, if a domestic relations order so provides, distribution may be made to an alternate payee pursuant to a domestic relations order described in Code Section 414(p)(11), regardless of whether the Participant's Settlement Date has occurred or whether the Participant is otherwise entitled to receive a distribution under the Plan.

15.13 Qualified Distributions for Retired Public Safety Officers

A Participant who is an eligible retired public safety officer may elect, after separation from service, to have qualified health insurance premiums deducted from amounts to be distributed to the Participant from the Plan that would otherwise be includible in gross income, and to have such amounts paid directly to the insurer or group health plan. The term "qualified health insurance premiums" means premiums for coverage for the Participant, the Participant's Spouse, and the Participant's dependents (as defined in Code Section 152) by an accident or health insurance plan (including a self-insured plan) or qualified long-term care insurance contract (within the meaning of Code Section 7702B(b)). The term "eligible retired public safety officer" means an individual who has separated from service, either by reason of disability or after attainment of normal retirement age, as a public safety officer with the Employer. The term "public safety officer" means an individual serving the Employer in an official capacity, with or without compensation, as a law enforcement officer, a firefighter, a chaplain, or a member of a rescue squad or ambulance crew. It is intended that, pursuant to Code Section 402(l), the amount deducted from the distribution pursuant to this Section shall be excluded from the Participant's gross income to the extent that the aggregate amount of the deduction for a taxable year does not exceed the lesser of (a) the amount used to pay the qualified health insurance premiums of the Participant, the Participant's Spouse, and the Participant's dependents (as defined in Code Section 152) for the taxable year, or (b) $3,000, determined by aggregating all distributions with respect to the Participant for the taxable year that are used to pay qualified health insurance premiums from all eligible retirement plans of the Employer.

ARTICLE XVI
FORM OF PAYMENT

16.1 Form of Payment

A Participant, or his Beneficiary, if the Participant has died, shall receive distribution in any of the following forms of payment, as elected by the Participant or Beneficiary and as provided in the Adoption Agreement. If provided in the Adoption Agreement, the Participant or Beneficiary may elect to receive distribution in a combination of the forms of payment offered under the Adoption Agreement.

(a) Single Sum Payment - Distribution shall be made in a single sum payment. Except to the extent the Adoption Agreement provides for in kind distributions, distribution shall be made in cash.

(b) Annuity - Distribution shall be made through the purchase of a single premium, nontransferable annuity contract for such term and in such form as the Participant, or his Beneficiary, as the case may be, shall select; provided, however, that unless the Adoption Agreement provides that the Participant or his Beneficiary may select any form of annuity, a Participant or his Beneficiary may only select among the forms of annuity provided in the Adoption Agreement. Notwithstanding any other provision of this Article, a Participant's Beneficiary may not elect to receive distribution of an annuity payable over the joint lives of the Beneficiary and any other individual. The terms of any annuity contract purchased hereunder and distributed to a Participant or his Beneficiary shall comply with the requirements of the Plan.

(c) Installment Payments - Distribution shall be made in a series of installments over a period specified by the Participant or his Beneficiary, if the Participant has died. Each installment shall be equal in amount except as necessary to adjust for any changes in the value of the Participant's Account unless otherwise specified in the Adoption Agreement. Except to the extent the Adoption Agreement provides for in kind distributions, installment payments shall be made in cash.

Any in kind distribution shall be valued by a third party appraisal.

16.2 Minimum Required Distributions

Notwithstanding any other provisions of the Plan to the contrary, if the Adoption Agreement provides for minimum required distributions, a Participant who satisfies the requirements provided in the Adoption Agreement or a Participant's Beneficiary may elect to receive distribution in periodic payments made not less frequently than annually, equal to the minimum amount necessary to satisfy the distribution requirements of Code Section 401(a)(9) and regulations issued thereunder. If the Adoption Agreement provides that minimum required distributions may be made with respect to Participants who commence payment April 1 of the calendar year following the year in which they attain age 70 1/2, but who have not reached their Required Beginning Date because they have not terminated employment with the Employer, the minimum required distribution shall be determined as if the Participant's Benefit Payment Date were his Required Beginning Date. Minimum required distributions shall continue to the Participant as provided under the Adoption Agreement.

16.3 Change of Election

A Participant or Beneficiary who has elected an optional form of payment may revoke or change his election at any time prior to his Benefit Payment Date by filing his election with the Administrator in the form prescribed by the Administrator.

16.4 Direct Rollover

Notwithstanding any other provision of the Plan to the contrary, in lieu of receiving distribution in a form of payment provided under this Article, a "qualified distributee" may elect in writing, in accordance with rules prescribed by the Administrator, to have a portion or all of any "eligible rollover distribution" paid directly by the Plan to the "eligible retirement plan" designated by the "qualified distributee". Any such payment by the Plan to another "eligible retirement plan" shall be a direct rollover.

Notwithstanding the foregoing, the Administrator may provide, on a non-discriminatory and uniform basis, that a "qualified distributee" may not elect a direct rollover with respect to an "eligible rollover distribution" if the total value of such distribution is less than $200 or with respect to a portion of an "eligible rollover distribution" if the value of such portion is less than $500. In determining whether the total value of a "qualified distributee's" "eligible

rollover distributions" for the year is less than $200, "eligible rollover distributions" from a Participant's Roth 401(k) Contributions Sub-Account, Designated Roth Rollover Contributions Sub-Account, and In-Plan Roth Rollover Contributions Sub-Account shall be considered separately from "eligible rollover distributions" from the Participant's other Sub-Accounts. In applying the $500 minimum on rollovers of a portion of a distribution, any "eligible rollover distribution" from a Participant's Roth 401(k) Contributions Sub-Account, Designated Roth Rollover Contributions Sub-Account, and In-Plan Roth Rollover Contributions Sub-Account shall be treated as a separate distribution from any "eligible rollover distribution" from the Participant's other Sub-Accounts (rather than as a part of such distribution), even if the distributions are made at the same time.

The Administrator shall provide a "qualified distributee" with a notice describing his right to make a direct rollover of his "eligible rollover distribution." A "qualified distributee" shall have a period of at least 30 days after receiving such notice to determine whether or not to roll over his "eligible rollover distribution." A Participant may waive this 30-day period if:

(a) the Administrator clearly informs the Participant of his right to consider whether to make a direct rollover for a period of at least 30 days following his receipt of the explanation; and

(b) the Participant, after receiving the explanation, affirmatively elects an early Benefit Commencement Date.

For purposes of this Section, the following terms have the following meanings:

(c) An "**eligible retirement plan**" with respect to the Participant, the Participant's Spouse, or the Participant's former Spouse who is an alternate payee under a qualified domestic relations order means any of the following: (i) an individual retirement account described in Code Section 408(a), (ii) an individual retirement annuity described in Code Section 408(b), (iii) an annuity plan described in Code Section 403(a) that accepts rollovers, (iv) a qualified trust described in Code Section 401(a) that accepts rollovers, (v) an annuity contract described in Code Section 403(b) that accepts rollovers, (vi) an eligible plan under Code Section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and that agrees to separately account for amounts transferred into such plan from the Plan, or (vii) a Roth IRA, as described in Code Section 408A.

Notwithstanding any other provision of this Section 16.4(c), the following special rules shall apply:

(1) A plan described in clause (vi) above shall not constitute an "eligible retirement plan" with respect to a distribution of After-Tax Contributions or After-Tax Rollover Contributions

(2) A plan or contract described in clause (iii), (iv), or (v) above shall not constitute an "eligible retirement plan" with respect to a distribution of After-Tax Contributions or After-Tax Rollover Contributions unless such plan or contract separately accounts for such distribution, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not includible in gross income.

(3) The portion of any "eligible rollover distribution" consisting of Roth 401(k) Contributions, Designated Roth Rollover Contributions, or In-Plan Roth Rollover Contributions may only be rolled over to another designated Roth account established for the individual under an applicable retirement plan described in Code Section 402A(e)(1) or to a Roth individual retirement account described in Code Section 408A.

An "**eligible retirement plan**" with respect to any other "qualified distributee" means either an individual retirement account described in Code Section 408(a) or an individual retirement annuity described in Code Section 408(b) (including any such individual retirement account or annuity designated as a Roth IRA

pursuant to Code Section 408A) (an "IRA"). Such IRA must be treated as an IRA inherited from the deceased Participant by the "qualified distributee" and must be established in a manner that identifies it as such.

(d) An "**eligible rollover distribution**" means any distribution of all or any portion of the balance of a Participant's Account; provided, however, that an eligible rollover distribution does not include the following:

(1) any distribution to the extent such distribution is required under Code Section 401(a)(9).

(2) any distribution that is one of a series of substantially equal periodic payment made not less frequently than annually for the life or life expectancy of the "qualified distributee" or the joint lives or life expectancies of the "qualified distributee" and the "qualified distributee's" designated beneficiary, or for a specified period of ten years or more.

(3) any hardship withdrawal made in accordance with the provisions of Article XIII.

(e) A "**qualified distributee**" means a Participant, the Participant's surviving Spouse, the Participant's Spouse or former Spouse who is an alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), or the Participant's non-Spouse Beneficiary who is his designated beneficiary within the meaning of Code Section 401(a)(9)(E).

16.5 Reemployment

If a Participant is reemployed by the Employer prior to receiving distribution of the entire balance of his vested interest in his Account, the form in which any subsequent distribution of his Account shall be made will be as provided in the Adoption Agreement.

ARTICLE XVII
BENEFICIARIES

17.1 Designation of Beneficiary

If a Participant does not have a Spouse, his Beneficiary shall be the person or persons the Participant designates in accordance with rules prescribed by the Administrator. If a Participant has a Spouse, his Beneficiary shall be his Spouse, unless the Participant designates a person or persons other than his Spouse as Beneficiary. If elected by the Employer in the Adoption Agreement, the Participant's Spouse must consent to the Participant's designation of a non-Spouse Beneficiary. A Participant who designates a Beneficiary and subsequently gets married must execute another designation, if he wishes to retain someone other than his new Spouse as his Beneficiary. For purposes of this Section, a Participant shall be treated as not having a Spouse if the Participant is not married on his Benefit Payment Date.

If no Beneficiary has been designated pursuant to the provisions of this Section, or if no Beneficiary survives the Participant and he has no surviving Spouse, then the Beneficiary under the Plan shall be the individual or individuals designated in the Adoption Agreement. If a Beneficiary dies after becoming entitled to receive a distribution under the Plan but before distribution is made to him in full, and if the Participant has not designated another Beneficiary to receive the balance of the distribution in that event, the estate of the deceased Beneficiary shall be the Beneficiary as to the balance of the distribution.

If the Adoption Agreement provides that a Participant's Domestic Partner is treated as a Spouse for certain Plan provisions, a Participant's Domestic Partner shall be treated as the Participant's Spouse for purposes of this Section 17.1.

17.2 Revocation of Beneficiary Designation Upon Divorce

Notwithstanding any other provision of this Article XVII to the contrary, if a Participant designates his Spouse as Beneficiary under the Plan, such designation shall automatically become null and void as of the date of any final divorce or similar decree or order unless either (i) the Participant re-designates such former Spouse as his or her Beneficiary after the date of the final decree or order or (ii) such former Spouse is designated as the Participant's Beneficiary under a domestic relations order; provided, however, that such former Spouse shall be the Participant's Beneficiary under this clause (ii) only to the extent required in accordance with the domestic relations order.

Similarly, if the Adoption Agreement provides that a Participant's Domestic Partner is treated as a Spouse for certain Plan provisions, and the Participant designates his Domestic Partner as his Beneficiary under the Plan, such designation shall automatically become null and void as of the date of the dissolution of the domestic partnership unless either (i) the Participant re-designates such former Domestic Partner as his or her Beneficiary after the date of the dissolution or (ii) such former Domestic Partner is designated as the Participant's Beneficiary under a qualified domestic relations order; provided, however, that such former Domestic Partner shall be the Participant's Beneficiary under this clause (ii) only to the extent required in accordance with the qualified domestic relations order.

ARTICLE XVIII
ADMINISTRATION

18.1 Authority of the Employer

The Employer, which shall be the plan administrator for purposes of the Code, shall be responsible for the administration of the Plan and, in addition to the powers and authorities expressly conferred upon it in the Plan, shall have all such powers and authorities as may be necessary to carry out the provisions of the Plan, including the power and authority to interpret and construe the provisions of the Plan, to make benefit determinations, and to resolve any disputes which arise under the Plan. The Employer may employ such attorneys, agents, and accountants as it may deem necessary or advisable to assist in carrying out its duties hereunder. The Employer may designate any person to carry out any of its powers, authority, or responsibilities for the operation and administration of the Plan except that no allocation by the Employer of, or designation by the Employer with respect to, any of such powers, authority, or responsibilities to another person shall become effective unless such allocation or designation shall first be accepted by such person in a writing signed by it and delivered to the Employer.

18.2 Discretionary Authority

In carrying out its duties under the Plan, including making benefit determinations, interpreting or construing the provisions of the Plan, and resolving disputes, the Employer (or any individual to whom authority has been delegated in accordance with Section 18.1) shall have absolute discretionary authority.

Any interpretation of Plan provisions and any findings of fact, including eligibility to participate and eligibility for benefits, made by the Employer (or any fiduciary to whom the Employer has allocated authority to make such interpretations and findings of fact) are final and will not be subject to "de novo" review unless shown to be arbitrary and capricious.

18.3 Action of the Employer

Any act authorized, permitted, or required to be taken under the Plan by the Employer and which has not been delegated in accordance with Section 18.1, may be taken by a majority of the members of the board of directors (or similar governing body) of the Employer, either by vote at a meeting, or in writing without a meeting, or by the Employee or Employees of the Employer designated by the board of directors (or similar governing body) to carry out such acts on behalf of the Employer. All notices, advice, directions, certifications, approvals, and instructions required or authorized to be given by the Employer under the Plan shall be in writing and signed by either (i) a majority of the members of the board of directors (or similar governing body) or by such member or members as may be designated by an instrument in writing, signed by all the members thereof, as having authority to execute such documents on its behalf, or (ii) the Employee or Employees authorized to act for the Employer in accordance with the provisions of this Section.

18.4 Claims Under the Plan

The Employer may establish a claims review procedure to apply whenever a claim for benefits under the Plan is filed by any person (referred to in this Section as the "claimant") and is denied, in whole or in part. The claims review procedure established by the Employer shall also control whenever a claimant seeks a remedy under any provision of the Code or other applicable law in connection with any error regarding his benefit under the Plan and such claim is denied, in whole or in part. The claims review procedures established by the Employer shall not control to the extent the provisions of any applicable collective bargaining agreement provide another method of resolving such claims under the Plan.

18.5 Exhaustion of Remedies

No civil action for benefits under the Plan shall be brought unless and until the aggrieved person has:

(a) submitted a timely claim for benefits in accordance with the provisions of the Plan;

(b) been notified by the Administrator that the claim has been denied (or such claim is deemed denied);

(c) filed a written request for a review of the claim in accordance with the claims procedures established by the Employer or effective under any applicable collective bargaining agreement, as applicable; and

(d) been notified in writing of an adverse benefit determination on review.

18.6 Grounds for Judicial Review

Any civil action by an aggrieved person shall be based solely on the contentions advanced by the aggrieved person in the administrative review process and the judicial review will be limited to the Plan document and the record developed during the administrative review process.

18.7 Qualified Domestic Relations Orders

The Employer shall establish reasonable procedures to determine the status of domestic relations orders and to administer distributions under domestic relations orders which it determines satisfy the requirements for a qualified domestic relations order, as described in Code Section 414(p)(11).

18.8 Indemnification

In addition to whatever rights of indemnification the Funding Agent or the members of the board of directors (or similar governing body) of the Employer or any Employee or Employees of the Employer to whom any power, authority, or responsibility is delegated pursuant to Section 18.3, may be entitled under the organizational authority or regulations of the Employer, under any provision of law, or under any other agreement, the Employer shall satisfy any liability actually and reasonably incurred by any such person or persons, including expenses, attorneys' fees, judgments, fines, and amounts paid in settlement (other than amounts paid in settlement not approved by the Employer), in connection with any threatened, pending or completed action, suit, or proceeding which is related to the exercising or failure to exercise by such person or persons of any of the powers, authority, responsibilities, or discretion as provided under the Plan, or reasonably believed by such person or persons to be provided hereunder, and any action taken by such person or persons in connection therewith, unless the same is judicially determined to be the result of such person or persons' gross negligence or willful misconduct.

18.9 Actions Binding

Subject to the provisions of Section 18.4, any action taken by the Employer which is authorized, permitted, or required under the Plan shall be final and binding upon the Employer, the Funding Agent, all persons who have or who claim an interest under the Plan, and all third parties dealing with the Employer or the Funding Agent.

ARTICLE XIX
AMENDMENT AND TERMINATION

19.1 Amendment by the Employer

The Employer may at any time and from time to time, by action in accordance with its organizational authority, amend the Plan, either prospectively or retroactively. Any such amendment shall be by written instrument executed by the Employer.

19.2 Amendment by Volume Submitter Practitioner

In the event that there is a change in the law applicable to the Plan, as reflected in the Code, regulations issued thereunder, revenue rulings, or other statements published by the Internal Revenue Service, the "volume submitter practitioner" (as defined in Section 19.2(b) below) may amend the Plan to comply with such changes on behalf of the Employers who have adopted its "specimen plan" (as defined in Section 19.2(a) below) prior to the date that its "specimen plan" is amended to comply with such change. In addition, the "volume submitter practitioner" may amend the Plan to correct its prior approved "specimen plan."

The "volume submitter practitioner" shall maintain, or have maintained on its behalf, a record of the Employers adopting its "specimen plan." The "volume submitter practitioner" shall make reasonable and diligent efforts to ensure that a copy of any amendment adopted hereunder is provided to each Employer at the Employer's last known address, as shown in the record maintained in accordance with the preceding sentence. The "volume submitter practitioner" shall make reasonable and diligent efforts to ensure that each Employer adopts new documents when necessary.

An amendment made by the "volume submitter practitioner" in accordance with the provisions of this Section may be made effective on a date prior to the first day of the Plan Year in which it is adopted if, in published guidance, the Internal Revenue Service either permits or requires such an amendment to be made to enable the Plan to satisfy the applicable requirements of the Code and all requirements for the retroactive amendment are satisfied.

The "volume submitter practitioner" may not amend a Plan on behalf of an Employer if (a) the Employer modifies the "specimen plan" to incorporate a type of plan or provision that is not permitted under the volume submitter program, as described in applicable Revenue Procedures or other statements of the Internal Revenue Service, (b) the Internal Revenue Service has advised the Employer that the Plan modifies the "specimen plan" in such a manner or to such an extent that the Plan must be treated as an individually-designed plan and will not receive the extended 6-year remedial amendment cycle applicable to volume submitter plans, or (c) the Employer's Plan does not attain or retain qualified status under Code Section 401(a).

For purposes of this Section, the following terms have the following meanings:

(a) The "**specimen plan**" means the plan with respect to which the Internal Revenue Service has issued an advisory letter to the "volume submitter practitioner."

(b) The "**volume submitter practitioner**" means Thompson Hine, LLP d/b/a Plan Document Systems.

19.3 Limitation on Amendment

No amendment shall be made hereunder which shall permit any part of the Plan assets to revert to the Employer or be used or be diverted to purposes other than the exclusive benefit of Participants and Beneficiaries.

19.4 Termination

The Employer reserves the right, by action in accordance with the requirements of its organizational authority to terminate the Plan at any time (the effective date of such termination being hereinafter referred to as the "termination date"). Upon any such termination of the Plan, the following actions shall be taken for the benefit of Participants and Beneficiaries:

(a) As of the termination date, each Investment Fund shall be valued and all Accounts and Sub-Accounts shall be adjusted in the manner provided in Article XI, with any unallocated contributions being allocated as of the termination date in the manner otherwise provided in the Plan. Notwithstanding any other provision of the Plan to the contrary (including any provision of the Adoption Agreement), the Administrator may direct that unallocated forfeitures shall be used to pay expenses in connection with the termination. Any forfeitures remaining shall be allocated among Participants in the manner otherwise provided in the Adoption Agreement or Section 14.4, as applicable. The termination date shall become a Valuation Date for purposes of Article XI. In determining the net worth of the Plan assets, there shall be included as a liability such amounts as shall be necessary to pay all expenses in connection with the termination of the Plan and the liquidation and distribution of the property of the Plan, as well as other expenses, whether or not accrued, and shall include as an asset all accrued income.

(b) All Accounts shall then be disposed of to or for the benefit of each Participant or Beneficiary in accordance with the provisions of Article XV as if the termination date were his Settlement Date.

(c) Notwithstanding the provisions of paragraph (b) of this Section, no distribution shall be made to a Participant of any portion of the balance of his 401(k) Contributions Sub-Account prior to his severance from employment (other than a distribution made in accordance with Article XIII or required in accordance with Code Section 401(a)(9)) unless (i) the Employer does not establish or maintain another defined contribution plan (other than a simplified employee pension plan as defined in Code Section 408(k), a SIMPLE IRA plan as defined in Code Section 408(p), a plan or contract described in Code Section 403(b) or a plan described in Code Section 457(b) or (f)) either at the time the Plan is terminated or at any time during the period ending 12 months after distribution of all assets from the Plan; provided, however, that this provision shall not apply if fewer than 2% of the Eligible Employees under the Plan were eligible to

participate at any time in such other defined contribution plan during the 24- month period beginning 12 months before the Plan termination, and (ii) the distribution the Participant receives is a "lump sum distribution" as defined in Code Section 402(e)(4), without regard to clauses (I), (II), (III), and (IV) of sub-paragraph (D)(i) thereof.

Notwithstanding anything to the contrary contained in the Plan, upon any such Plan termination, the vested interest of each Participant and Beneficiary in his Employer Contributions Sub-Account shall be 100%; and, if there is a partial termination of the Plan, the vested interest of each Participant and Beneficiary who is affected by the partial termination in his Employer Contributions Sub-Account shall be 100%. For purposes of the preceding sentence only, the Plan shall be deemed to terminate automatically if there shall be a complete discontinuance of contributions hereunder.

19.5 Effect of Failure to Qualify Under Code.

Notwithstanding any other provision of the Plan to the contrary, if the Plan maintained by an Employer using the "volume submitter practitioner's" "specimen plan" plan fails to qualify or remain qualified under Code Section 401(a), the Plan as maintained by such Employer may no longer participate in this volume submitter plan arrangement and shall be considered an individually-designed plan.

ARTICLE XX
ADOPTION BY OTHER ENTITIES

20.1 No Adoption

No other entity may become an Employer hereunder.

ARTICLE XXI
MISCELLANEOUS PROVISIONS

21.1 No Commitment as to Employment

Nothing contained herein shall be construed as a commitment or agreement upon the part of any person to continue his employment with the Employer, or as a commitment on the part of the Employer to continue the employment, compensation, or benefits of any person for any period.

21.2 Benefits

Nothing in the Plan nor the Funding Agreement shall be construed to confer any right or claim upon any person, firm, or corporation other than the Employer, the Funding Agent, Participants, and Beneficiaries.

21.3 No Guarantees

The Employer, the Investment Fiduciary, the Administrator, and the Funding Agent do not guarantee the Plan from loss or depreciation, nor do they guarantee the payment of any amount which may become due to any person hereunder.

21.4 Expenses

The expenses of administration of the Plan, including the expenses of the Administrator and fees of the Funding Agent, may be paid from Plan assets as provided in the Adoption Agreement. If provided in the Adoption Agreement, forfeitures may be used to pay Plan expenses.

21.5 Precedent

Except as otherwise specifically provided, no action taken in accordance with the Plan shall be construed or relied upon as a precedent for similar action under similar circumstances.

21.6 Duty to Furnish Information

The Employer, the Investment Fiduciary, the Administrator, and the Funding Agent shall furnish to any of the others any documents, reports, returns, statements, or other information that the other reasonably deems necessary to perform its duties hereunder or otherwise imposed by law.

21.7 Condition on Employer Contributions

Notwithstanding anything to the contrary contained in the Plan or the Funding Agreement, any contribution of the Employer hereunder is conditioned upon the continued qualification of the Plan under Code Section 401(a). Except as otherwise provided in this Section and Section 21.8, however, in no event shall any portion of the property of the Plan ever revert to or otherwise inure to the benefit of the Employer.

21.8 Return of Contributions to the Employer

Notwithstanding any other provision of the Plan or the Funding Agreement to the contrary, in the event any contribution of the Employer is made under a mistake of fact, such contribution may be returned to the Employer within 1 year after the payment of the contribution. The amount returned will be reduced for any losses experienced by the Plan.

21.9 Validity of Plan

The validity of the Plan shall be determined and the Plan shall be construed and interpreted in accordance with the laws of the state or commonwealth in which the Employer has its principal place of business, except as preempted by Federal law. The invalidity or illegality of any provision of the Plan shall not affect the legality or validity of any other part thereof.

21.10 Funding Agreement

If Plan assets are to be held outside of any custodial account, insurance contract, or group annuity contract that would, except for the fact that it is not a trust, constitute a qualified trust under Code Section 401, a separate Funding Agreement shall be adopted by the Employer. If such Funding Agreement has not been approved by the Internal Revenue Service for use with this volume submitter plan, the provisions of the Funding Agreement shall be treated as modifications to the pre-approved specimen plan.

The Funding Agreement shall be deemed to be a part of the Plan as if fully set forth herein and the provisions of the Funding Agreement are hereby incorporated by reference into the Plan.

21.11 Parties Bound

The Plan shall be binding upon the Employer, all Participants and Beneficiaries hereunder, and, as the case may be, the heirs, executors, administrators, successors, and assigns of each of them.

21.12 Application of Certain Plan Provisions

For purposes of the general administrative provisions and limitations of the Plan, a Participant's Beneficiary or alternate payee under a qualified domestic relations order shall be treated as any other person entitled to receive benefits under the Plan. Upon any termination of the Plan, any such Beneficiary or alternate payee under a qualified domestic relations order who has an interest under the Plan at the time of such termination, which does not cease by reason thereof, shall be deemed to be a Participant for all purposes of the Plan. A Participant's Beneficiary, if the Participant has died, or alternate payee under a domestic relations order shall be treated as a Participant for purposes of directing investments as provided in Article X.

21.13 Special Rules Applicable to Participants Absent Due to Military Service

Notwithstanding any other provision of the Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with Code Section 414(u) and the regulations thereunder. The Administrator shall notify the Funding Agent of any Participant with respect to whom additional contributions are made because of qualified military service. Additional contributions made to the Plan pursuant to Code Section 414(u) shall be treated as 401(k) Contributions (if 401(k) Contributions are provided in the Adoption Agreement, including if provided in the Adoption Agreement to the extent designated by the Participant, Roth 401(k) Contributions), Pick-Up Contributions, After-Tax Contributions, Matching Contributions, or Nonelective Contributions, based on the character of the contribution they are intended to replace.

For purposes of this Section, the following shall apply:

(a) If provided in the Adoption Agreement, a Participant who dies while performing qualified military service shall be treated as having returned to employment as a Covered Employee immediately prior to his death and shall be entitled to have additional Nonelective Contributions and Matching Contributions made to his Account. If provided in the Adoption Agreement, the amount of any Matching Contributions to be made on the deceased Participant's behalf for the period of such military leave shall be determined assuming that while on military leave the Participant made contributions eligible for the match equal to the Participant's average actual contributions for (a) the 12-consecutive-month period of service with his Employer immediately preceding his period of qualified military service or (b), if the Participant has fewer than 12 months of service with his Employer prior to such military service, his actual length of continuous service with the Employer prior to such military service. All Employees of the Employer and any "aggregated entity" (as defined in Section 7.1(a)) who die while performing qualified military service must receive plan contributions on reasonably equivalent terms.

(b) If provided in the Adoption Agreement, a Participant who becomes disabled while performing qualified military service and cannot therefore return to employment as a Covered Employee shall nevertheless be treated as having returned to covered employment immediately prior to his disability date and shall be entitled to have additional Nonelective Contributions made to his Account. The amount of any Matching Contributions to be made on behalf of the disabled Participant shall be determined as provided in the Adoption Agreement.

If provided in the Adoption Agreement, such a disabled Participant shall also be entitled to make Pick-Up, 401(k), and After-Tax Contributions for his period of military leave up to the date he became disabled in an amount up to the maximum amount he would have been permitted to contribute under Code Section

414(u)(8)(c) if he had actually returned to employment immediately prior to his disability date. The Administrator shall designate the period in which the disabled Participant must make such contributions hereunder.

(c) If provided in the Adoption Agreement, a Participant who becomes disabled while performing qualified military service shall be credited with Vesting Service for his period of military leave as if he returned to employment immediately prior to the date he became disabled and then terminated employment on his disability date.

(d) The Administrator shall determine whether a Participant is disabled on the basis of medical evidence satisfactory to it. All Employees of the Employer who become disabled while performing qualified military service must receive plan contributions and service credit on reasonably equivalent terms.

(e) Notwithstanding any provision of the Plan to the contrary, if a Participant who is absent from employment as a Covered Employee because of military service dies after December 31, 2006, while performing qualified military service (as defined in Code Section 414(u)), the Participant shall be treated as having returned to employment as a Covered Employee on the day immediately preceding his death for purposes of determining the Participant's vested interest in his Account (e.g., his Vesting Service) and his Beneficiary's eligibility for death benefits under the Plan.

21.14 Delivery of Cash Amounts

To the extent that the Plan requires the Employer to deliver cash amounts to the Funding Agent, such delivery may be made through any means acceptable to the Funding Agent, including wire transfer.

21.15 Written Communications

Any communication among the Employer, the Administrator, and the Funding Agent that is stipulated under the Plan to be made in writing may be made in any medium that is acceptable to the receiving party and permitted under applicable law.

21.16 Transferred Funds

If funds from another qualified plan are transferred or merged into the Plan, such funds shall be held and administered in accordance with any restrictions applicable to them under such other plan to the extent required by law and shall be accounted for separately to the extent necessary to accomplish the foregoing.

21.17 Plan Correction Procedures

The Employer shall take such action as it deems necessary to correct any Plan failure, including, but not limited to, operational failures, documentation failures (such as a failure to timely amend), failures affecting Plan qualification, etc. Subject to the requirements of the Employee Plans Compliance Resolution System, as set forth in Revenue Procedure 2013-12, or any superseding guidance ("EPCRS"), the Employer may adopt any correction method that it deems appropriate under the circumstances. In addition to any correction method specified in the Plan, the Employer may, where appropriate, make correction in accordance with EPCRS, including the making of a qualified nonelective contribution permitted under EPCRS, but not otherwise provided under the Plan.

* * *

Section XXVIII of the Adoption Agreement must contain the signature of an authorized representative of the Employer evidencing the Employer's agreement to be bound by the terms of the Basic Plan Document and the Adoption Agreement.

INTERIM COMPLIANCE AMENDMENT
TO THE
DOCUMENT AGILITY, INC. GOVERNMENTAL VOLUME SUBMITTER 401(a) PLAN
BASE PLAN DOCUMENT NO. 02

Document Agility, Inc., as volume submitter practitioner and successor sponsor to the PDS Premier Governmental Volume Submitter 401(a) Plan, Base Plan Document No. 02 (hereinafter referred to as "the Plan") hereby amends the Plan, to formally change the name of the volume submitter practitioner and provide general disaster relief that may be granted to qualified plans by guidance promulgated by the United States government or an authorized department or agency.

As permitted in Section 19.2 of the Plan document, in the event that there is a change in the law applicable to the Plan as reflected in the Code, regulations issued thereunder, revenue rulings, or other statements published by the Internal Revenue Service (IRS), the volume submitter practitioner may amend the Plan to comply with such changes on behalf of the Plan Sponsors who have adopted its "specimen plan" prior to the date that its specimen plan is amended (if required) to comply with such change.

The following sections in the Base Plan Document are hereby amended:

1. Effective August 1, 2017, for purposes of Section 19.2(b), the following term has the following meaning:

   (b) The "volume submitter practitioner" means Document Agility, Inc.

2. Effective as of the date signed herein, Article XXI MISCELLANEOUS PROVISIONS is amended by adding a new section at the end of the Article entitled "Disaster Relief Policy" that shall read as follows:

   Disaster Relief Policy. The Plan may, pursuant to a written policy established by the Plan Administrator, grant temporary disaster relief to affected Participants pursuant to any applicable statute enacted by the government of the United States, or pursuant to any applicable guidance promulgated by an authorized department or agency of the government of the United States. Such administrative policy may include, but is not limited to, provisions which, to the extent permitted by law, (a) increase the statutory limits on, delay the repayment of, and/or waive the adequate security requirement for, Participant loans; (b) permit the Plan to disregard any procedural requirements, including the consent of the Participant's spouse, if any, so long as the Administrator makes a good faith effort under the circumstances to comply with such requirements and makes a reasonable attempt to assemble any required documentation as soon as practical thereafter; and/or (c) permits the re-contribution by Participants of prior disaster distributions.

   In order to make a loan or distribution (including a hardship distribution), a qualified plan must contain language authorizing such loan or distribution. For this purpose, a "qualified plan" means a plan or contract meeting the requirements of Code Section 401(a), 403(a) or 403(b), and for purposes of hardship relief, that could, if it contained enabling language, make hardship distributions. All loans must meet the requirements of Code Section 72(p). Plans wishing to make a loan or distribution that do not contain such language must be amended no later than the date promulgated by official notice or announcement and must make a reasonable attempt to assemble any forgone documentation that would be normally required for such loans or distributions.

EXECUTED this 7th day of September, 2017.

By: _____
Ron MacInnis

CITY OF EL PASO PROFIT SHARING PLAN

ADOPTED USING

DOCUMENT AGILITY, INC. GOVERNMENTAL VOLUME SUBMITTER 401(A) PLAN

ADOPTION AGREEMENT NO. 001

WITH

BASE PLAN DOCUMENT NO. 02

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CITY OF EL PASO PROFIT SHARING PLAN

ADOPTED USING

DOCUMENT AGILITY, INC. GOVERNMENTAL VOLUME SUBMITTER 401(A) PLAN

ADOPTION AGREEMENT NO. 001 WITH BASE PLAN DOCUMENT NO. 02

SECTION 1. SERVICE PROVIDER INFORMATION

1.1 SERVICE PROVIDER'S NAME AND ADDRESS

Name: Prudential Retirement Insurance and Annuity Company

Address: 280 Trumbull Street

Hartford, CT 06103

SECTION 2. EMPLOYER INFORMATION

2.1 EMPLOYER NAME, ADDRESS, PHONE NUMBER, AND EMPLOYER IDENTIFICATION NUMBER (EIN)

Name: City of El Paso

Address: 300 N Campbell

El Paso, TX 79901

Phone: (915) 212-1275

EIN: 74-6000749

2.2 EMPLOYER'S FISCAL YEAR means the 12-consecutive month period:

a. ☒ Beginning on January 1st *(month day, e.g., January 1st).*

b. ☐ Other: _____ *(must be the period used for IRS reporting purposes)*

2.3 TYPE OF ENTITY

a. ☐ Rural cooperative

b. ☐ Indian tribal government, subdivision of an Indian tribal government, agency or instrumentality of an Indian tribal government, or subdivision of an agency or instrumentality of an Indian tribal government

c. ☒ Other governmental entity *(state, political subdivision of state, or an agency or instrumentality of a state or political subdivision of a state)*

SECTION 3. GENERAL PLAN INFORMATION

3.1 PLAN TYPE:

a. ☒ Profit-sharing plan

b. ☐ Money purchase pension plan

c. ☐ 401(k) plan

(Note: A governmental plan other than a rural cooperative plan or a plan maintained by a qualifying Indian tribal employer described in 2.3b above may only provide for 401(k) Contributions if it is a grandfathered 401(k) plan. For a further description, see the Note following 7.1b below.)

3.2 PLAN NAME: City of El Paso Profit Sharing Plan

3.3 PLAN NUMBER: _____

3.4 PLAN EFFECTIVE DATES

a. ☐ This is a new Plan effective _____ *(month/day/year)*

(May not be earlier than the first day of the Plan Year in which the Plan is adopted)

b. ☒ This is an amendment and restatement of a plan originally effective September 1, 2005 *(month/day/year)*. The effective date of this amendment and restatement is February 1, 2021 *(month/day/year)*. Except as otherwise specifically indicated in Section 3.5, the restated Plan applies only to Covered Employees who retire, die, or otherwise terminate their employment on or after the restatement effective date.

(If this is the initial PPA restatement of the Plan, the restatement effective date should be the 1st day of the current Plan Year.)

i. ☐ The Plan name was changed upon restatement. Prior plan name: _____
_____

3.5 VARYING EFFECTIVE DATES

a. ☐ Special effective dates apply to Plan provisions that cannot be specified elsewhere in this Adoption Agreement *(e.g., certain provisions are effective after the plan/restatement effective date)*. Other specified Plan provisions and their effective dates are:

_____
_____
_____

3.6 FROZEN PLAN

a. ☐ The Plan is frozen effective: _____ *(month/day/year)*

(Regardless of any other Plan provisions, no further contributions shall be made by or on behalf of a Participant after the freeze effective date. If the Plan is freezing part way through a Plan Year, the Adoption Agreement will reflect the contribution provisions that were in effect prior to the freeze date.)

3.7 PLAN YEAR means:

a. ☒ The 12-consecutive-month period beginning each January 1st *(month day, e.g., January 1st)*.

i. ☐ There is a short initial Plan Year beginning on _____ *(Plan's original effective date: month/day/year)* and ending on _____ *(month/day/year)*

b. ☐ Other period due to change in Plan Year

i. Original Plan Year is the 12-consecutive-month period beginning each _____ *(month day, e.g., January 1st)*.

A. ☐ There is a short initial Plan Year beginning on _____ *(Plan's original effective date: month/day/year)* and ending on _____ *(month/day/year)*

ii. Short Plan Year due to change beginning on _____ *(month/day/year)* and ending on _____ *(month/day/year)*

iii. After the change, the Plan Year is the 12-consecutive-month period beginning each _____ *(month day, e.g., January 1st)*.

3.8 LIMITATION YEAR MEANS:

a. ☒ Plan Year

b. ☐ Employer's fiscal year

c. ☐ Calendar year

d. ☐ Other specified 12-consecutive month period: _____

SECTION 4. PLAN ADMINISTRATOR AND INVESTMENT FIDUCIARY INFORMATION

4.1 PLAN ADMINISTRATOR NAME, ADDRESS, AND TELEPHONE NUMBER

a. ☒ Employer *(use Employer's address and telephone number)*

b. ☐ Use name, address and telephone number below:

Name: _____

Address: _____

_____

Phone: _____

4.2 INVESTMENT FIDUCIARY NAME, ADDRESS, AND TELEPHONE NUMBER

a. ☒ Employer *(use Employer's address and telephone number)*

b. ☐ Plan Administrator *(use Plan Administrator's address and telephone number)*

c. ☐ Use name, address and telephone number below:

Name: _____

Address: _____

_____

Phone: _____

SECTION 5. MERGERS AND SPIN-OFFS

5.1 SPIN-OFF PLAN

a. ☐ The Plan is a spin-off from: _____ *(name of other plan)*

5.2 MERGER DOCUMENTATION

a. ☐ Other plan(s) merged into the existing Plan.

SECTION 6. GRANDFATHERED PROVISIONS

(Government plans are not subject to the requirements of Code Section 411(d)(6), protecting accrued benefits, retirement subsidies, forms of payment, etc. However, many government employers elect to grandfather prior plan features in any event.)

6.1 ☐ **GRANDFATHERED ANNUITIES.**

6.2 ☐ **GRANDFATHERED IN-SERVICE WITHDRAWAL PROVISIONS.**

6.3 ☐ **GRANDFATHERED VESTING SCHEDULES.**

SECTION 7. PERMITTED CONTRIBUTIONS

7.1 EMPLOYEE CONTRIBUTIONS. The Plan includes the following Employee Contributions: *(select all that apply)*

a. ☐ Pick-Up Contributions

(Employee contributions that are "picked up" by the Employer pursuant to Code Section 414(h)(2))

i. ☐ Ongoing Pick-Up Contributions

ii. ☐ Frozen Pick-Up Contributions

b. ☐ 401(k) Contributions

(Note: A governmental plan other than a rural cooperative plan or a plan maintained by a qualifying Indian tribal employer described in 2.3b above may only provide for 401(k) Contributions if it is a grandfathered 401(k) plan. A grandfathered 401(k) plan is a plan that provided for 401(k) Contributions before May 7, 1986, is maintained by an Employer that was contractually bound before May 7, 1986 to provide for 401(k) Contributions in its plan, or is maintained by a governmental unit that also maintains or maintained another plan that provided for 401(k) Contributions before May 7, 1986.)

i. ☐ Ongoing 401(k) Contributions

ii. ☐ Frozen 401(k) Contributions

iii. ☐ Pre-Tax 401(k) Contributions

iv. ☐ Roth 401(k) Contributions

c. ☐ After-Tax Contributions. The following type(s) of After-Tax Contributions are included in the Plan: *(select all that apply)*

i. ☐ Ongoing After-Tax Contributions

ii. ☐ Transferred After-Tax Contributions

iii. ☐ Frozen After-Tax Contributions

iv. ☐ After-Tax Contributions attributable to loan repayments made after default

d. ☐ Rollover Contributions.

7.2 EMPLOYER CONTRIBUTIONS. The Plan includes the following Employer Contributions: *(select all that apply)*

a. ☒ Current Nonelective Contributions

b. ☐ Prior Nonelective Contributions

c. ☐ Current Matching Contributions

d. ☐ Prior Matching Contributions

e. ☐ Prior Money Purchase Pension Plan Contributions

SECTION 8. COVERED EMPLOYEES

8.1 COVERED EMPLOYEES INCLUDE. Subject to any exclusions selected in 8.2 below, Covered Employees include the following:

Note: If the Plan is maintained by an Indian tribal government, only Employees substantially all of whose services are in the performance of essential governmental functions and not in the performance of commercial activities may be included as Covered Employees. This Section should be completed in a manner that reflects this restriction.

		All Contributions	Employee[1]	Matching	Nonelective
a.	All Employees of adopting Employer	1. ☐ OR	2. ☐	3. ☐	4. ☐
b.	Only hourly rate Employees	1. ☐ OR	2. ☐	3. ☐	4. ☐
c.	Only salaried Employees	1. ☐ OR	2. ☐	3. ☐	4. ☐
d.	Only collectively-bargained Employees *(less than 50% of which are officers or executives)* Name of the union(s): _____ _____	1. ☐ OR	2. ☐	3. ☐	4. ☐

e.	Only specified Employees Covered Employees[2]: Employees designated by the City Manager or designated by action of the Mayor and City Council as an Eligible Employee, including the City Manager	1. ☒ OR	2. ☐	3. ☐	4. ☐

[1] ***Note:*** *Employee Contributions include Pick-Up, 401(k), After-Tax, and Rollover Contributions, as applicable. Matching Contributions include Regular, Additional Discretionary, and/or True-Up Matching Contributions.*

[2] ***Note:*** *The covered class must be definitely determinable and may not be defined by listing specific individuals by name. The covered class may not be defined in a manner that excludes Employees on the basis of attainment of a specified maximum age.*

8.2 **COVERED EMPLOYEES EXCLUDE.** Select available options below:

*(**Note:** Persons classified by the Employer as independent contractors such that the Employer does not withhold income or employment taxes from their pay and who are recharacterized by the DOL, another agency, or a court as Employees of the Employer, are automatically excluded from coverage unless and until the Employer elects to extend coverage to such persons.)*

		All Contributions	**Employee**	**Matching**	**Nonelective**
a.	Leased Employees	1. ☐ OR	2. ☐	3. ☐	4. ☐
b.	Collectively-bargained Employees	1. ☐ OR	2. ☐	3. ☐	4. ☐
	i. Include bargained Employees covered by an agreement that provides for their participation.	1. ☐ OR	2. ☐	3. ☐	4. ☐
c.	Non-resident aliens who do not have United States source income	1. ☐ OR	2. ☐	3. ☐	4. ☐
d.	Highly Compensated Employees *(HCEs)*	1. ☐ OR	2. ☐	3. ☐	4. ☐
e.	Employees who normally work fewer than 20 hours per week	1. ☐ OR	2. ☐	3. ☐	4. ☐
f.	Employees at the following locations: _____ _____	1. ☐ OR	2. ☐	3. ☐	4. ☐
g.	Employees who are ***not*** employed at the following covered location(s): _____ _____ _____	1. ☐ OR	2. ☐	3. ☐	4. ☐
h.	Other excluded Employees[1]: _____ _____ _____ _____	1. ☐ OR	2. ☐	3. ☐	4. ☐

[1] ***Note:*** *The excluded class must be definitely determinable and may not be defined in such a manner as to exclude all employees except specific individuals who are listed by name. The excluded class may not be defined to exclude Employees on the basis of attainment of a specified maximum age.*

SECTION 9. GENERAL SERVICE CREDITING PROVISIONS

(Note: Employee Contributions include Pick-Up, 401(k), After-Tax, and Rollover Contributions, as applicable. Matching Contributions include Regular, Additional Discretionary, and True-Up Matching Contributions, as applicable.)

9.1 AGE AND SERVICE REQUIREMENTS:

		All Contributions	Employee	Matching	Nonelective
a.	No age or service requirement	1. ☒ OR	2. ☐	3. ☐	4. ☐
b.	Age requirement	1. ☐ ____ OR	2. ☐ ____	3. ☐ ____	4. ☐ ____
c.	1 year of Eligibility Service	1. ☐ OR	2. ☐	3. ☐	4. ☐
	i. Hours of Service	1. ☐ OR	2. ☐	3. ☐	4. ☐
	ii. Elapsed time	1. ☐ OR	2. ☐	3. ☐	4. ☐
d.	More than 1 year of Eligibility Service *(whole years)* ***Note:*** *Cannot be selected for 401(k) Contributions*	1. ☐ ____ OR	2. ☐ ____	3. ☐ ____	4. ☐ ____
	i. Hours of Service	1. ☐ OR	2. ☐	3. ☐	4. ☐
	ii. Elapsed time	1. ☐ OR	2. ☐	3. ☐	4. ☐
e.	Specified number of days of service *(elapsed time)* *(≤ 365 for 401(k) Contributions)*	1. ☐ ____ OR	2. ☐ ____	3. ☐ ____	4. ☐ ____
f.	Specified number of months of service *(elapsed time)* *(≤ 12 for 401(k) Contributions)*	1. ☐ ____ OR	2. ☐ ____	3. ☐ ____	4. ☐ ____
g.	Earlier of (i) completion of the specified number of Hours of Service within the specified number of consecutive months of employment or (ii) 1 year of Eligibility Service	1. ☐ OR	2. ☐	3. ☐	4. ☐
	i. Required Hours of Service *(not to exceed 1,000)*	1. ____ OR	2. ____	3. ____	4. ____
	ii. Required consecutive months of employment *(not to exceed 12)*	1. ____ OR	2. ____	3. ____	4. ____
	A year of Eligibility Service is credited using the following method				
	iii. Hours of Service	1. ☐ OR	2. ☐	3. ☐	4. ☐
	iv. Elapsed time	1. ☐ OR	2. ☐	3. ☐	4. ☐
h.	Employees who are regularly scheduled to work at least 1,000 hours per year must complete the specified number of months of	1. ☐ ____ OR	2. ☐ ____	3. ☐ ____	4. ☐ ____

employment, otherwise 1 year of Eligibility Service

A year of Eligibility Service is credited using the following method:

i.	Hours of Service	1. ☐ OR	2. ☐	3. ☐	4. ☐
ii.	Elapsed time	1. ☐ OR	2. ☐	3. ☐	4. ☐

9.2 SPECIAL ELIGIBILITY SERVICE CREDITING PROVISIONS:

a. ☐ If the elapsed time method is selected above, a full month of service is credited for any partial calendar month in which an Employee has service.

b. ☐ Hours of Service method

i. Specify the number of Hours of Service that must be completed in an eligibility computation period for one year of Eligibility Service:

A. ☐ 1,000 hours

B. ☐ Other: _____ hours

ii. ☐ The eligibility computation period switches to the Plan Year

iii. An Employee will incur a Break in Eligibility Service if he works fewer than:

A. ☐ 501 hours

B. ☐ Other number of hours: _____

c. ☐ Eligibility Service does ***not*** include periods of employment with the Employer in a capacity other than as a Covered Employee described in Section 8.

d. Except as provided below, a reemployed Employee retains all Eligibility Service earned before reemployment *(select all that apply)*

i. ☐ If a non-vested, former Employee is reemployed after 5 consecutive Breaks in Eligibility Service, his Eligibility Service earned prior to the break is excluded upon re-hire.[1]

A. ☐ 5-year break rule applies only if an Employee terminates employment before becoming eligible.

ii. ☐ If the Plan requires more than 1 year of service to participate, an Employee who terminates employment and incurs a Break in Eligibility Service before meeting the service requirement loses all prior Eligibility Service.

iii. ☐ Reemployed Employees lose all prior Eligibility Service and must again satisfy any applicable Eligibility Service requirements.

iv. ☐ If an Employee incurs a Break in Eligibility Service following termination of employment, his eligibility computation period under the Hours of Service method is re-determined using his reemployment date as the first day of the initial computation period *(must select if 9.2d.i, 9.2d.ii, or 9.2d.iii is selected above).*

[1]***Note:*** *A break in service under the elapsed time rules means a 12-consecutive-month period beginning on an Employee's Severance Date (and anniversaries of that date) in which he does not work any hours.*

9.3 ENTRY DATES

		All Contributions	Employee	Matching	Nonelective
a.	Daily	1. ☒ OR	2. ☐	3. ☐	4. ☐
b.	Monthly	1. ☐ OR	2. ☐	3. ☐	4. ☐
c.	First day of each payroll period	1. ☐ OR	2. ☐	3. ☐	4. ☐
d.	Quarterly: _____ *(month/day)*	1. ☐ OR	2. ☐	3. ☐	4. ☐

e.	Semi-annually: _____ *(month/day)*	1. ☐ OR	2. ☐	3. ☐	4. ☐
f.	Annually: _____ *(month/day)*	1. ☐ OR	2. ☐	3. ☐	4. ☐
g.	Other dates:	1. ☐ ____ OR	2. ☐ ____	3. ☐ ____	4. ☐ ____

9.4 EFFECTIVE DATE OF PARTICIPATION:

Covered Employees participate as of the Entry Date:		**All Contributions**	**Employee**	**Matching**	**Nonelective**
a.	Coinciding with or next following satisfaction of eligibility requirements	1. ☒ OR	2. ☐	3. ☐	4. ☐
b.	Following satisfaction of eligibility requirements	1. ☐ OR	2. ☐	3. ☐	4. ☐
c.	Preceding satisfaction of eligibility requirements	1. N/A	2. N/A	3. ☐	4. ☐
d.	Closest to satisfaction of eligibility requirements	1. N/A	2. N/A	3. ☐	4. ☐

9.5 SPECIAL ENTRY PROVISIONS:

		All Contributions	**Employee**	**Matching**	**Nonelective**
a.	Entry Dates to include effective date of the Plan or restatement, as applicable.	1. ☐ OR	2. ☐	3. ☐	4. ☐
b.	Reemployed Employees must wait until applicable Entry Date before again participating in Plan.	1. ☐ OR	2. ☐	3. ☐	4. ☐
c.	Persons employed as of _____ participate immediately regardless of whether they have met the following requirements:				
	i. Age requirement	1. ☐ OR	2. ☐	3. ☐	4. ☐
	ii. Service requirement	1. ☐ OR	2. ☐	3. ☐	4. ☐

9.6 ELECTIONS NOT TO PARTICIPATE

a. ☐ A Covered Employee may elect not to participate in some or all aspects of the Plan.

i. ☐ Before becoming eligible, a Covered Employee may make a one-time, irrevocable election never to make Pick-Up Contributions to the Plan.

A. ☐ A Covered Employee's one-time, irrevocable election not to participate also applies to his eligibility to make or receive all other types of contributions provided under the Plan.

ii. ☐ Before becoming eligible, a Covered Employee may make a one-time, irrevocable election never to make 401(k) Contributions to the Plan.

A. ☐ A Covered Employee's one-time, irrevocable election not to participate also applies to his eligibility to make or receive all other types of contributions provided under the Plan.

iii. ☐ A Covered Employee may make a one-time, irrevocable election not to participate by receiving Employer Contributions under the Plan.

A. ☐ A Covered Employee's election must be made at the time he first becomes eligible to participate in the Plan.

B. ☐ A Covered Employee's election may be made at any time.

SECTION 10. GENERAL SERVICE CREDITING PROVISIONS

10.1 ELAPSED TIME SERVICE CREDITING

Note: *Except as otherwise specified below, or in the special rules for crediting Eligibility Service or Vesting Service, elapsed time crediting will reflect the rules applicable to non-governmental plans.*

a. ☐ Service is credited for approved leaves of up to 2 years

(Service under the elapsed time rules is only required to be credited to an Employee who is absent from employment without otherwise terminating for the 1st 12 months of absence. This option imputes service for up to an additional 12 months of absence.)

b. ☐ Service is credited for 2nd year of Maternity/Paternity Absence

(Under elapsed time rules, an Employee on a Maternity/Paternity Absence is required to receive service credit for the first 12 months of such absence. If he is absent for more than 12 months, the 2nd 12 months does not count as either service or a break in service. This option imputes service for the 2nd 12 months of Maternity/Paternity Absence.)

c. ☐ Service spanning rule does not apply *(no service is credited following termination even if the Employee is rehired within 12 months)*

10.2 HOURS OF SERVICE CREDITING

Note: *Except as otherwise specified below, or in the special rules for crediting Eligibility Service or Vesting Service, Hours of Service crediting will reflect the rules applicable to non-governmental plans.*

a. ☐ The Plan limits the number of Hours of Service credited during a paid absence

i. The limit is:

A. ☐ 0 hours are credited during a paid absence

B. ☐ 501 hours are credited during a paid absence

C. ☐ Other number of hours are credited during a paid absence: _____

ii. ☐ Certain specified absences are excluded from the limitation. The limit does not apply to absences because of:

_____

b. ☐ Hours are credited for unpaid leave *(other than a Maternity/Paternity Absence)* based on an Employee's regular schedule immediately preceding the leave

i. ☐ The period of the unpaid leave for which hours are credited is limited

A. The limit is:

1. ☐ 1 year

2. ☐ 2 years

3. ☐ Other period: _____

ii. ☐ To receive hours credit, the Employee must return at the end of his leave

c. ☐ Hours are credited for a Maternity/Paternity Absence as follows:

i. ☐ Hours are credited only to prevent a break in service *(as required for non-governmental plans)*

ii. ☐ Hours count towards service credit

(Hours are credited based on an Employee's regular schedule immediately preceding the Maternity/Paternity Absence.)

A. ☐ The period of Maternity/Paternity Absence for which hours are credited is limited

1. The limit is:

a. ☐ 1 year

b. ☐ 2 years

c. ☐ Other period: _____

B. ☐ To receive hours credit, the Employee must return at the end of his leave

10.3 SERVICE WITH OTHER EMPLOYERS

a. When will service with predecessor organization be credited?

i. ☒ Only if the Employer maintains plan of Predecessor Employer

ii. ☐ Regardless of whether Employer maintains plan of predecessor

b. ☐ Service with an Employer prior to its becoming part of the controlled group will be credited. The following will be credited:

i. ☐ Vesting Service

ii. ☐ Eligibility Service

iii. ☐ Service for purposes of meeting any applicable contribution allocation requirements

c. ☐ Prior service with other specified employers is credited for the following purposes:

		Eligibility Service	Vesting Service	Service for Contribution Allocation Requirements
i.	Employer Name:_____	1. ☐	2. ☐	3. ☐
ii.	Employer Name:_____	1. ☐	2. ☐	3. ☐
iii.	Employer Name:_____	1. ☐	2. ☐	3. ☐
iv.	Employer Name:_____	1. ☐	2. ☐	3. ☐

v. ☐ The following limitations apply to service credited under the Plan for employment with another employer:

A. ☐ Only employment with the specified employer ***prior to*** the date specified below is included.

1. Employer Name: _____ Date: _____
2. Employer Name: _____ Date: _____
3. Employer Name: _____ Date: _____
4. Employer Name: _____ Date: _____

B. ☐ Only employment with the specified employer ***on or after*** the date specified below is included.

1. Employer Name: _____ Date: _____
2. Employer Name: _____ Date: _____
3. Employer Name: _____ Date: _____
4. Employer Name: _____ Date: _____

C. ☐ Only employment with the specified employer while in the specified class is included.

1. Employer Name: _____ Eligible Employee Group:_____
2. Employer Name: _____ Eligible Employee Group:_____
3. Employer Name: _____ Eligible Employee Group:_____
4. Employer Name: _____ Eligible Employee Group:_____

(The employee groups identified above must be clearly defined.)

SECTION 11. RETIREMENT DATES

Note: *If the Plan is a money purchase pension plan that provides for in-service distributions at Normal Retirement Date, effective for Plan Years beginning on or after the later of January 1, 2015 or the close of the first legislative session of the body governing the Plan that is at least 3 months after the date final regulations concerning normal retirement under governmental plans are published, a normal retirement age of less than age 62 must meet the requirements of Treasury Regulations Section 1.401(a)-1(b)(2), taking into account the exception in the regulations for any group of Employees covered by the Plan, substantially all of whom are qualified public safety employees.*

11.1 NORMAL RETIREMENT AGE (NRA) means the:

a. ☒ Attainment of a specified age: 65 *(≤ 65)* unless the Employer enforces a mandatory retirement age in which case Normal Retirement Age is the lesser of that mandatory age or age 65.

b. ☐ Later of age _____ *(≤ 65)* or _____ *(≤ 10th)* anniversary of:

i. ☐ The date the Participant's employment with the Employer commenced

ii. ☐ The date the Participant commenced participation in the Plan

iii. ☐ The first day of the Plan Year in which the Participant commenced participation in the Plan

c. ☐ Earlier of age _____ *(≤ 65)* or completion of _____ years of Vesting Service

11.2 NORMAL RETIREMENT DATE means the**:**

a. ☐ Participant's NRA above

b. ☒ Plan's anniversary date coincident with or next following a Participant's Normal Retirement Age

c. ☐ First day of the month next following the Participant's NRA above

d. ☐ First day of the month nearest the Participant's NRA above

11.3 EARLY RETIREMENT PROVISIONS

a. ☐ Plan includes early retirement provisions.

i. Requirements for early retirement are:

A. ☐ Attainment of a specified age: _____ *(< 65)*

B. ☐ Later of specified age: _____ *(< 65)* or completion of: _____ years of Vesting Service

C. ☐ Later of specified age: _____ *(< 65)* or completion of: _____ years of Eligibility Service

ii. Early Retirement Date is the:

A. ☐ Date the Participant satisfies the early retirement requirements above

B. ☐ First day of the month coinciding with or next following the date the Participant satisfies the early retirement requirements above

C. ☐ First day of the month next following the date the Participant satisfies the early retirement requirements above

SECTION 12. COMPENSATION

12.1 DEFINITION OF CONTRIBUTION COMPENSATION[1]

*(**Note**: Employee Contributions include Pick-Up, 401(k), After-Tax, and Rollover Contributions, as applicable. Matching Contributions include Regular, Additional Discretionary, and True-Up Matching Contributions.)*

	All Contributions	Employee	Matching	Nonelective
Safe Harbor Compensation Definition				
a. W-2	1. ☒ OR	2. ☐	3. ☐	4. ☐

b.	W-2 less moving expenses only	1. ☐ OR	2. ☐	3. ☐	4. ☐
c.	Section 3401(a) wages for withholding purposes	1. ☐ OR	2. ☐	3. ☐	4. ☐
d.	General Section 415 *(all specific inclusions in 1.415(c)-2(b) and all specific exclusions in 1.415(c)-2(c))*	1. ☐ OR	2. ☐	3. ☐	4. ☐
e.	Modified Section 415 *(safe harbor definition in 1.415(c)-2(d)(2): includes only general inclusions in 1.415(c)-2(b)(1) or (2) and all specific exclusions under 1.415(c)-2(c))*	1. ☐ OR	2. ☐	3. ☐	4. ☐
	Non-Safe Harbor Compensation Definition				
f.	Base pay	1. ☐ OR	2. ☐	3. ☐	4. ☐
g.	Total Compensation excluding non-cash Compensation	1. ☐ OR	2. ☐	3. ☐	4. ☐
h.	Regular rate of pay	1. ☐ OR	2. ☐	3. ☐	4. ☐
i.	Other[2]: _____ _____ _____	1. ☐ OR	2. ☐	3. ☐	4. ☐

[1] Unless otherwise elected, Compensation (1) includes(i) amounts paid within the severance window described in Section 12.2 below if such amounts would have been paid to the Participant in the course of employment and are regular compensation for services by the Participant or commissions, bonuses or other similar compensation and (ii) amounts deferred or excluded from taxable compensation under Code Section 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) and (2) excludes all other post-severance payments.

[2]Compensation must be defined so that it is definitely determinable.

12.2 ADJUSTMENTS TO CONTRIBUTION COMPENSATION - INCLUSIONS.

a. Contribution Compensation inclusions, as described in Section 12.2b below:

	List # in 12.2b	All Contributions	Employee	Matching	Nonelective
i.	*(deemed 125 contributions)*	1. ☐ OR	2. ☐	3. ☐	4. ☐
ii.	*(post-severance accrued leave)*	1. ☒ OR	2. ☐	3. ☐	4. ☐
iii.	*(post-severance deferred comp)*	1. ☒ OR	2. ☐	3. ☐	4. ☐
iv.	*(post severance disability payments)*	1. ☐ OR	2. ☐	3. ☐	4. ☐

b. Description of Compensation inclusions:

i. Deemed 125 contributions. Where group health plan does not permit cash distribution in lieu of coverage unless Participant can certify that he has other health coverage, amounts not receivable because Participant cannot make requisite certification are treated as excluded under Code Section 125.

ii. Post-severance accrued leave. Includes accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use such leave if his employment had continued and such amounts would have been included in Compensation if paid prior to severance from employment[1]

iii. Post-severance deferred compensation. Includes amounts received by the Participant pursuant to a non-qualified, unfunded deferred compensation plan, but only if and to the extent (1) the Participant would have received such payment at the same time

if he had continued in employment, (2) such amounts would have been included in Compensation if paid prior to severance from employment, and (3) the payment is includable in the Participant's gross income. [1]

iv. Post-severance amounts received by a Participant who is permanently and totally Disabled

A. ☐ Such amounts are only included in Compensation of non-HCEs

B. ☐ Such amounts are only included in Compensation for the following period: _____

[1]To be included, such amounts must be paid no later than the end of the post-severance window, which ends the later of (i) 2½ months following severance or (2) the end of the year in which severance occurs.

12.3 ADJUSTMENTS TO CONTRIBUTION COMPENSATION - EXCLUSIONS.

a. Contribution Compensation exclusions, as described in Section 12.3b below:

List # in 12.3b	All Contributions	Employee	Matching	Nonelective
i. *(all elective contributions made by the participant that are not required to be included in taxable income)*	1. ☐ OR	2. ☐	3. ☐	4. ☐
ii. *(elective contributions described in i above, except 401(k) Contributions)*	1. ☐ OR	2. ☐	3. ☐	4. ☐
iii. *(reimbursements, expense allowances, fringe benefits, etc.)*	1. ☐ OR	2. ☐	3. ☐	4. ☐
iv. *(bonuses)*	1. ☐ OR	2. ☐	3. ☐	4. ☐
v. *(overtime)*	1. ☐ OR	2. ☐	3. ☐	4. ☐
vi. *(commissions)*	1. ☐ OR	2. ☐	3. ☐	4. ☐
vii. *(taxable value of stock)*	1. ☐ OR	2. ☐	3. ☐	4. ☐
viii. *(regular post-severance compensation)*	1. ☐ OR	2. ☐	3. ☐	4. ☐
ix. *(pre-participation Compensation)*	1. ☒ OR	2. ☐	3. ☐	4. ☐
x. *(differential pay)*	1. ☐ OR	2. ☐	3. ☐	4. ☐
xi. *(Compensation exceeding specified dollar amount)*	1. ☐ OR	2. ☐	3. ☐	4. ☐
xii. *(Other amounts)*	1. ☐ OR	2. ☐	3. ☐	4. ☐
xiii. *(Special exclusions for HCEs)*	1. ☐ OR	2. ☐	3. ☐	4. ☐

b. Description of Compensation exclusions:

i. Exclude amounts deferred or excluded from taxable compensation under Code Section 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b)

ii. Exclude amounts described in i above, except for 401(k) Contributions

iii. Exclude reimbursements or other expense allowances, fringe benefits, moving expenses, deferred compensation, and welfare benefits.

iv. Exclude bonuses

v. Exclude overtime

vi. Exclude commissions

vii. Exclude taxable value of stock: Amounts realized from the exercise of any non-qualified stock option, or where restricted stock *(or property)* held by the Participant either becomes freely transferable or is no longer subject to a substantial risk of forfeiture, and amounts realized from the sale, exchange, or other disposition of stock acquired under a qualified stock option are all excluded from Compensation.

viii. Exclude regular post-severance compensation paid within post-severance window[1]: Amounts that would have been paid to the Participant in the course of employment and are regular compensation for services by the Participant or commissions, bonuses or other similar compensation that would be included in contribution Compensation if paid prior to termination.

ix. Compensation earned before meeting the participation requirements described in Section 8 and Section 9.

x. Exclude differential pay

xi. Exclude Compensation in excess of: $_____ *(<Code Section 401(a)(17) limit - $250,000 in 2012)*

xii. Other exclusions *(contribution Compensation)*[2]:

_____

_____

xiii. Special Compensation exclusions apply to HCEs only[2]:

_____

_____

[1]*The post-severance window begins on the Participant's severance date and ends the later of (i) 2½ months following severance or (2) the end of the year in which severance occurs.*

[2]*Any exclusion from Compensation must be described in such a manner that it is definitely determinable.*

12.4 DEFINITION OF 415 COMPENSATION. Compensation for purposes of applying the limits under Code Section 415 is:

("415 compensation" also applies for purposes of HCE determinations.)

a. ☒ W-2

b. ☐ W-2 less moving expenses only

c. ☐ Section 3401(a) wages for withholding purposes

d. ☐ General Section 415 *(all specific inclusions in 1.415(c)-2(b) and all specific exclusions in 1.415(c)-2(c))*

e. ☐ Modified Section 415 *(safe harbor definition in 1.415(c)-2(d)(2): includes only general inclusions in 1.415(c)-(b)(1) and (2) and all specific exclusions under 1.415(c)-2(c))*

12.5 ADJUSTMENTS TO 415 COMPENSATION

a. "415 compensation"[1] inclusions, as described in Section 12.2 above:

i. ☐ Deemed 125 amounts

ii. ☒ Post-severance accrued leave

iii. ☒ Post-severance deferred compensation

iv. ☐ Post-severance disability payments

A. ☐ Such amounts are only included in Compensation of non-HCEs

B. ☐ Such amounts are only included in Compensation for the following period: _____

[1]*"415 compensation" includes amounts paid within the severance window (as described in Section 13.2 above) if such amounts would have been paid to the Participant in the course of employment and are regular compensation for services by the Participant or commissions, bonuses or other similar compensation. Except as elected above, "415 compensation" excludes all other post-severance payments.*

SECTION 13. EMPLOYEE CONTRIBUTIONS

13.1 PICK-UP CONTRIBUTIONS

a. Required amount of Pick-Up Contributions:

i. ☐ Single percentage of Compensation for all Participants: _____%

ii. ☐ Different percentages of Compensation based on job description:

Job Description	Required Percentage of Compensation
A. _____ _____	_____%
B. _____ _____	_____%
C. _____ _____	_____%
D. _____ _____	_____%
E. _____ _____	_____%
F. _____ _____	_____%

iii. ☐ Participant designates percentage of Compensation for Pick-Up Contributions: from _____% to _____%

b. Pick-Up Contributions will commence as soon as administratively practicable after eligibility

13.2 401(K) CONTRIBUTIONS

a. 401(k) Contribution election limit:

i. Limit applicable to non-HCEs:

A. ☐ Up to _____% of Compensation each payroll period

1. ☐ Minimum 401(k) Contribution is _____% of Compensation each payroll period

B. ☐ No limit – Participants may contribute up to 100% of currently available Compensation each payroll period, subject to the limitations under Code Sections 402(g) and 415

ii. ☐ Separate contribution limit for HCEs will be:

A. ☐ Percentage of Compensation specified in Plan: _____% of Compensation each payroll period

B. ☐ Administrator determines and communicates contribution limit annually based on prior year's participation by non-HCEs

(Even absent a selection above, the Plan allows contributions for HCEs to be limited or suspended during the Plan Year if the Administrator anticipates a testing failure or 402(g) violation.)

iii. ☐ Participants may make separate elections in excess of the payroll period limit as follows: *(select all that apply)*

(A Participant's annual 401(k) Contributions, including those made by separate election, may not exceed the payroll period limit elected above, if any, multiplied by the number of payroll periods in the Plan Year.)

A. ☐ True-up 401(k) Contribution. Participants may defer up to 100% of Compensation for designated payroll periods provided the annual 401(k) Contribution limit above, if any, is not exceeded

B. ☐ Separate bonus election. Participants may contribute up to: _____% of designated bonuses. *(Compensation must include bonuses.)*

b. ☐ Participants may make Catch-Up 401(k) Contributions

c. ☐ Participants may designate 401(k) Contributions as Roth 401(k) Contributions

d. 401(k) Contributions will commence as soon as administratively practicable after a Participant's election

e. ☐ Automatic Contribution Arrangement. Eligible Participants who do not affirmatively elect against automatic contributions will have 401(k) Contributions made to the Plan in accordance with the applicable Addendum.

i. ☐ The Automatic Contribution Arrangement ("ACA") is ***not*** an EACA. The ACA is effective _____ *(if this is a new feature, may not be earlier than the date the Employer adopts the Plan.)*

ii. ☐ The Automatic Contribution Arrangement is an Eligible Automatic Contribution Arrangement ("EACA"). The EACA is effective _____ *(if this is a new feature, may not be earlier than the date the Employer adopts the Plan.)*

A. ☐ The EACA is being added after the first day of the Plan Year

(If A is selected, for the Plan Year in which the EACA is first effective, Participants employed before the effective date of the EACA are not permitted to make permissible withdrawals.)

f. ☐ Automatic Escalation. Eligible Participants who do not affirmatively elect otherwise will have their 401(k) Contributions increased automatically in accordance with the applicable Addendum.

i. ☐ The Plan is **not** intended to operate as an Automatic Contribution Arrangement *(i.e., no auto enrollment)*

ii. ☐ The Plan **is** intended to operate as an Automatic Contribution Arrangement

13.3 ONGOING AFTER-TAX CONTRIBUTIONS

a. After-Tax Contributions may be made using the following method: *(select all that apply)*

i. ☐ Payroll withholding

ii. ☐ Lump sum contribution

b. Contribution Limits

i. Maximum After-Tax Contribution is _____% of Compensation

(Maximum is applied on a payroll period basis for contribution made by payroll withholding and on an annual basis for contributions made in a lump sum.)

ii. ☐ Minimum After-Tax Contribution by payroll withholding is _____% of Compensation each payroll period

c. ☐ Combined After-Tax and 401(k) Contributions may not exceed _____% of Compensation

d. After-Tax Contributions will commence as soon as administratively practicable after a Participant's election.

13.4 MODIFICATIONS OF 401(K) AND AFTER-TAX CONTRIBUTION ELECTIONS

a. A Participant may change the amount of his 401(k) Contributions and/or After-Tax Contributions or change the designation of his 401(k) Contributions as Pre-Tax or Roth 401(k) Contributions as of the date or dates prescribed by Administrator, but no less frequently than annually.

13.5 ROLLOVER CONTRIBUTIONS

a. Eligibility. In addition to Covered Employees who have satisfied the requirements for Plan participation, the following may make Rollover Contributions to the Plan: *(select any that apply)*

i. ☐ Covered Employees who have not yet met the age and/or service requirements applicable to Employee contributions.

ii. ☐ The former Employees designated below: *(select all that apply)*

A. ☐ Former Participants who retain an Account under the Plan

B. ☐ Former Employees designated by the Plan Sponsor *(e.g., former Employees with benefits under a terminating DB plan maintained by the Plan Sponsor)*: _____

b. Permitted Rollover Contributions. The following types of rollovers are permitted under the Plan:

i. ☐ Direct rollovers *(rollover is made directly to Plan from another eligible retirement plan, annuity contract or an individual retirement account)* are accepted under the Plan from the following sources *(select all that apply)*:

A. ☐ A qualified plan described in Code Section 401(a) or 403(a)

(Unless specifically included below, designated Roth contributions and after-tax employee contributions will be excluded)

1. ☐ Rollover may include designated Roth contributions
2. ☐ Rollover may include after-tax employee contributions

B. ☐ An annuity contract described in Code Section 403(b)

(Unless specifically included below, designated Roth contributions and after-tax employee contributions will be excluded)

1. ☐ Rollover may include designated Roth contributions
2. ☐ Rollover may include after-tax employee contributions

C. ☐ An eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state

(Unless specifically included below, designated Roth contributions will be excluded)

1. ☐ Rollover may include designated Roth contributions

D. ☐ An individual retirement account or annuity under Code Section 408(a) or (b), excluding amounts not otherwise taxable to the Participant upon distribution.

1. ☐ Rollovers are limited to assets of the IRA attributable to prior rollover from a qualified plan *(conduit IRA)*

ii. ☐ Participant rollovers *(rollover is made by Employee after receiving distribution from another eligible retirement plan)* are accepted under the Plan from the following sources *(select all that apply)*:

A. ☐ A qualified plan described in Code Section 401(a) or 403(a)

(After-tax employee contributions will be excluded from such anounts and, unless specifically included below, designated Roth contributions will also be excluded)

1. ☐ Participant rollover may include designated Roth contributions, except amounts not otherwise taxable to the individual upon distribution

B. ☐ An annuity contract described in Code Section 403(b), excluding after-tax contributions

1. ☐ Participant rollover may include designated Roth contributions, except amounts not otherwise taxable to the Participant upon distribution

C. ☐ An eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state

1. ☐ Participant rollover may include designated Roth contributions, except amounts not otherwise taxable to the individual upon distribution

D. ☐ An individual retirement account or annuity under Code Section 408(a) or (b), excluding amounts not otherwise taxable to the Participant upon distribution.

1. ☐ Rollovers are limited to assets of the IRA attributable to prior rollover from a qualified plan *(conduit IRA)*

iii. ☐ In-Plan Roth Rollover Contributions. *(This provision may only be elected if the Plan provides for Roth 401(k) Contributions.)*

A. A Participant may elect to make an In-Plan Roth Rollover Contribution of any amount held in his Account *(other than amounts attributable to designated Roth contributions)* that is *(select all that apply)*:

1. ☐ Eligible for non-hardship withdrawal in accordance with the provisions of Section 23.
   a. ☐ The limitations on withdrawals specified in Section 23 *(e.g., limit on number of withdrawals)* do not apply to a withdrawal made for purposes of In-Plan Roth Rollover Contributions.
2. ☐ Eligible for non-hardship withdrawal as provided below. The following withdrawal provisions apply solely for purposes of making In-Plan Roth Rollover Contributions.
   a. ☐ Withdrawal is permitted at any time from the following:
      i. ☐ After-Tax Contributions

ii. ☐ Rollover Contributions

iii. ☐ After-Tax Rollover Contributions

iv. ☐ QVECs

b. ☐ Withdrawal is permitted upon reaching the specified age from the following:

i. ☐ After-Tax Contributions at age _____

ii. ☐ Rollover Contributions at age _____

iii. ☐ After-Tax Rollover Contributions at age _____

iv. ☐ Pre-Tax 401(k) Contributions at age _____ *(≥ 59½)*

v. ☐ Nonelective Contributions at age _____

vi. ☐ Matching Contributions at age _____

vii. ☐ Prior Nonelective Contributions at age _____

viii. ☐ Prior Matching Contributions at age _____

ix. ☐ Prior Money Purchase Plan Contributions at age _____ *(≥ 62)*

3. ☐ Distributable to the Participant following severance from employment.

a. ☐ A Participant who receives actual distribution from the Plan following severance may make a Participant rollover of the distributed amounts within 60 days of the distribution and it will be treated as an In-Plan Roth Rollover Contribution.

B. ☐ Surviving Spouses and current or former Spouses who are alternate payees under a QDRO may make In-Plan Roth Rollover Contributions upon the same terms as Participants.

c. ☐ Loans may be included as part of a Rollover Contribution.

i. ☐ Loan rollovers are only permitted if a participating Employer is party to a transaction such as a merger or acquisition

SECTION 14. EMPLOYER MATCHING CONTRIBUTIONS

14.1 CONTRIBUTIONS MATCHED

a. ☐ Employee contributions under another plan

i. Type of employee contributions: _____

ii. Name of plan: _____

b. ☐ Pick-Up Contributions

c. ☐ 401(k) Contributions

d. ☐ After-Tax Contributions

14.2 MATCH FORMULA

a. ☐ Required. Matching Contribution is required in specified amount.

i. ☐ Single match rate: _____% of contributions

ii. ☐ Dual match rates based on percentage of Compensation contributed:

A. _____% match for first _____% of Compensation contributed and

B. _____% match for contributions above that amount

iii. ☐ Dual match rates based on dollar amount contributed:

A. _____% match for first $_____ contributed and

B. _____% match for contributions above that amount

iv. ☐ Triple match rates:

A. _____% match for first _____% of Compensation contributed and

B. _____% match for next _____% of Compensation contributed and

C. _____% match for next _____% of Compensation contributed

v. ☐ Variable match rate based on years of Vesting Service/participation

A. Match is based on years of:

1. ☐ Vesting Service

2. ☐ Participation *(periods during which the Covered Employee was an Eligible Employee with respect to Matching Contributions)*

B. Applicable years are determined as of:

1. ☐ First day of Contribution Period

2. ☐ Last day of Contribution Period

Years of Vesting Service/Participation	**Applicable Match Rate** *(as percentage of contributions)*

b. ☐ Discretionary Matching Contribution. Amount of discretionary match:

i. ☐ Is a uniform percentage of the eligible contributions made by each Eligible Employee *(different uniform match percentages may apply to eligible contributions above and below designated dollar amounts or levels of Compensation)*

ii. ☐ May be different uniform percentages for different Employee groups of the eligible contributions made by Eligible Employees within the group *(different uniform match percentages may apply within each Employee group to eligible contributions above and below designated dollar amounts or levels of Compensation)*

(The Employee groups to whom different match percentages apply must be definitely determinable.)

14.3 ADDITIONAL MATCHING CONTRIBUTIONS

a. ☐ An Additional Discretionary Match is Permitted. Additional discretionary match amount:

i. ☐ Is uniform formula designated by Employer that is applicable to all Eligible Employees

ii. ☐ May be different percentages for different Employee groups of the eligible contributions made by Eligible Employees within the group *(different uniform match percentages may apply within each Employee group to eligible contributions above and below designated dollar amounts or levels of Compensation)*

(The Employee groups to whom different match percentages apply must be definitely determinable.)

b. ☐ True-Up Matching Contributions are provided. The True-Up Matching Contribution is:

i. ☐ Discretionary

ii. ☐ Required

14.4 CONTRIBUTION PERIOD

a. The Contribution Period for Regular Matching Contributions is:

i. ☐ Each month

ii. ☐ Each calendar quarter

iii. ☐ Each calendar year

iv. ☐ Each Plan Year

v. ☐ Each payroll period

vi. ☐ Each Plan Year quarter

vii. ☐ Each *(other –specified period cannot be longer than 12 months and must end with or within the Plan Year)*: _____

(The Contribution Period for Additional Discretionary Matching Contributions and True-Up Matching Contributions is the Plan Year.)

14.5 CONTRIBUTIONS EXCLUDED FROM MATCH

a. Contributions excluded from the regular match (and any True-Up Matching Contribution) are: *(select all that apply)*

i. ☐ Contributions made before eligibility to participate in the match

ii. ☐ Catch-Up 401(k) Contributions

iii. ☐ Contributions that exceed the following:

A. ☐ _____% of Compensation

B. ☐ $_____

C. ☐ _____% of Compensation, provided that contributions matched cannot exceed $_____

D. ☐ A discretionary limitation determined by the Employer that may be a percentage of Compensation and/or a dollar amount

iv. ☐ Contributions attributable to following types of Compensation: _____

v. ☐ Contributions withdrawn before the end of the Plan Year

b. ☐ The above exclusions also apply for purposes of Additional Discretionary Matching Contributions.

14.6 OPTIONAL LIMITATIONS ON MATCHING CONTRIBUTIONS

a. ☐ The total match made to a Participant's Account for the Plan Year cannot exceed $_____

SECTION 15. EMPLOYER NONELECTIVE CONTRIBUTIONS.

15.1 NONELECTIVE CONTRIBUTION FEATURES

Nonelective Contributions are either:

a. ☐ Required in the amount specified in the allocation formula

b. ☒ Discretionary

c. Contribution Period. The Contribution Period for Nonelective Contributions is:

i. ☐ Each month

ii. ☐ Each calendar quarter

iii. ☐ Each calendar year

iv. ☐ Each Plan Year

v. ☐ Each payroll period

vi. ☒ Each *(other –specified period cannot be longer than 12 months and must end with or within the Plan Year)*: as determined by the Employer

vii. ☐ Each Plan Year, for purposes of determining who is eligible to receive an allocation, but for purposes of determining Compensation used in allocating Nonelective Contributions, the Contribution Period is:

A. ☐ The Employer's fiscal year ending within the Plan Year.

B. ☐ The calendar year ending within the Plan Year.

15.2 ALLOCATION FORMULA

a. ☐ Ratio of Compensation allocation formula. The percentage of Compensation allocated to each Eligible Employee is _____% *(fill in if contribution amount is required)*

b. ☐ Uniform dollar amount allocation formula. The dollar amount is:

i. ☐ Discretionary and allocated among Eligible Employees on the basis of:

A. ☐ Ratio of hours worked by the Eligible Employee to the hours worked by all Eligible Employees

B. ☐ Ratio of hours for which the Eligible Employee is paid to the paid hours of all Eligible Employees

C. ☐ Uniform dollar amount to each Eligible Employee during the Contribution Period

ii. ☐ $_____ for the following:

A. ☐ Each hour worked by the Eligible Employee

B. ☐ Each hour for which the Eligible Employee is paid

C. ☐ Each Contribution Period

D. ☐ Other: _____ *(cannot exceed 12-consecutive months)*

iii. ☐ The dollar amount specified for such Eligible Employee in the applicable collective bargaining agreement for the following:

A. ☐ Each hour worked by the Eligible Employee

B. ☐ Each hour for which the Eligible Employee is paid

C. ☐ Each Contribution Period

c. ☐ Points allocation formula. Credit points based upon:

i. ☐ Compensation: _____ points for each $_____ *(≤ $200.00)*.

A. The following number of points are allocated for any remaining fractional amounts:

1. ☐ No points credited

2. ☐ Credit partial points: _____ points if remaining Compensation is $_____ or more

ii. ☐ Years of service: _____ points for each full year of service as of the end of the Contribution Period.

A. Service for which points are credited is:

1. ☐ Vesting Service

2. ☐ Eligibility Service

3. ☐ The number of years of service for which points will be credited are limited to maximum of: _____ years

iii. ☐ Years of age: _____ points for each year of age as of the end of the Contribution Period

d. ☐ Years of service allocation formula. Dollar amount or percentage of Compensation allocated to an Eligible Employee varies based on his years of Vesting Service/participation.

i. Allocation is:

A. ☐ Dollar amount

B. ☐ Percentage of Compensation

ii. Allocation is based on years of:

A. ☐ Vesting Service

B. ☐ Participation *(periods during which the Covered Employee was an Eligible Employee with respect to Nonelective Contributions)*

iii. Applicable years are determined as of:

A. ☐ First day of Contribution Period

B. ☐ Last day of Contribution Period

Years of Vesting Service/Participation	Nonelective Contribution Allocation

e. ☒ Employee group allocation method – The Nonelective Contribution is first allocated among designated Employee groups and is then further allocated among Eligible Employees within each group in the ratio of Compensation so that each Eligible Employee within the group has the same allocation rate as each other Eligible Employee within the Employee group. *(If elected, additional provisions, including a description of the designated Employee groups, are found in the applicable Addendum.)*

15.3 ADDITIONAL NONELECTIVE CONTRIBUTION

a. ☐ The Employer may make an additional, discretionary contribution to be allocated:

i. ☐ in the ratio of Compensation

ii. ☐ in same manner as standard Nonelective Contribution

SECTION 16. ADDITIONAL REQUIREMENTS FOR RECEIVING EMPLOYER CONTRIBUTIONS

16.1 ALLOCATION REQUIREMENTS:

		Nonelective	Regular Matching	Additional Disc. Match	True-Up Match
a.	No last day or service requirement	i. ☒	ii. ☐	iii. ☐	iv. ☐
b.	Last day requirement only. Must be in covered employment	i. ☐	ii. ☐	iii. ☐	iv. ☐
c.	Last day requirement only. Employment with Employer in uncovered employment satisfies requirement	i. ☐	ii. ☐	iii. ☐	iv. ☐
d.	Service requirement only	i. ☐	ii. ☐	iii. ☐	iv. ☐
	Hours of Service requirement:	____	__	____	__
e.	Last day and service requirement. Must be in covered employment for last day	i. ☐	ii. ☐	iii. ☐	iv. ☐
	Hours of Service requirement:	____	__	____	__
f.	Last day and service requirement. Employment with Employer in uncovered employment satisfies requirement	i. ☐	ii. ☐	iii. ☐	iv. ☐
	Hours of Service requirement:	____	__	____	__
g.	Last day or hours requirement. Employment with Employer in uncovered employment satisfies the last day requirement. The Hours of Service requirement is:	i. ☐	ii. ☐	iii. ☐	iv. ☐
	i. 1,000 Hours	A. ☐	B. ☐	C. ☐	D. ☐

ii. 501 Hours[1] A. ☐ B. ☐ C. ☐ D. ☐

[1] *Excludes from participation only those Employees who may be excluded from coverage testing under Code Section 410(b).*

16.2 EXCEPTIONS TO ALLOCATION REQUIREMENTS. Select available options below:

	Nonelective	Regular Matching	Additional Disc. Match	True-Up Match
a. Last day requirement does not apply in cases of:				
i. Death	A. ☐	B. ☐	C. ☐	D. ☐
ii. Disability	A. ☐	B. ☐	C. ☐	D. ☐
iii. Retirement	A. ☐	B. ☐	C. ☐	D. ☐
A. Exception applies only to normal retirement	I. ☐	II. ☐	III. ☐	IV. ☐
b. Service requirement does not apply in cases of:				
i. Death	A. ☐	B. ☐	C. ☐	D. ☐
ii. Disability	A. ☐	B. ☐	C. ☐	D. ☐
iii. Retirement	A. ☐	B. ☐	C. ☐	D. ☐
A. Exception applies only to normal retirement	I. ☐	II. ☐	III. ☐	IV. ☐

SECTION 17. ALLOCATIONS FOR EMPLOYEES WHO DIE OR BECOME DISABLED WHILE ENGAGED IN QUALIFIED MILITARY SERVICE

17.1 DEATH WHILE IN QUALIFIED MILITARY SERVICE

a. ☒ A Participant who dies while absent from employment to perform qualified military service is treated as returning to employment immediately prior to his death for purposes of determining his eligibility for and the amount of contributions to be made to his Account for his period of military leave.

i. Amount of Match.

A. ☐ No Matching Contributions will be made for the Participant's period of military absence

B. ☐ Matching Contributions will be made for the Participant's period of military absence as if the Participant had made employee contributions subject to the match equal to the average of the Participant's contributions for (a) the 12-consecutive-month period preceding his military service or (b), if the Participant has fewer than 12 months of service prior to such military service, his actual length of continuous service with his Employer prior to such military service

17.2 DISABILITY WHILE IN QUALIFIED MILITARY SERVICE

a. ☒ A Participant absent from employment due to military service who becomes Disabled while performing qualified military service is treated as returning to employment immediately prior to his Disability Date for purposes of determining his eligibility for and the amount of contributions to be made to his Account for his period of military leave.

i. ☐ The Disabled Participant may continue to make contributions to the Plan for his period of military leave up to the maximum amount of Pick-Up, 401(k) and/or After-Tax Contributions he would have been permitted to make to the Plan if he had actually returned to employment

ii. Amount of Match. The amount of any Matching Contributions for the Disabled Participant's military absence will be:

A. ☐ Determined based on the amount the Disabled Participant contributes in accordance with b.i. above

B. ☐ Determined as if the Participant had made employee contributions subject to the match equal to the average of the Participant's contributions for (a) the 12-consecutive-month period preceding his military service or (b), if the Participant has fewer than 12 months of service prior to such military service, his actual length of continuous service with his Employer prior to such military service

C. ☐ Determined based on the greater of (a) the amount the Disabled Participant contributes in accordance with b.i. above or (b) the average of the Participant's contributions subject to the match for (1) the 12-consecutive-month period preceding his military service or (2), if the Participant has fewer than 12 months of service prior to such military service, his actual length of continuous service with his Employer prior to such military service

SECTION 18. VESTING OF EMPLOYER CONTRIBUTIONS

18.1 VESTING SCHEDULE

Fill in the number of the vesting schedule that applies to the respective contribution from the available schedules listed below:

a. Regular, Additional Discretionary, and True-Up Matching Contributions schedule: _____

b. Nonelective Contributions schedule: 1

c. Prior Matching Contributions schedule: _____

d. Prior Nonelective Contributions schedule: _____

e. Prior Money Purchase Pension Plan Contributions schedule: _____

1 **immediate**	**2** **1 year cliff**	**3** **2 year cliff**	**4** **3 year cliff**
100%	0% before 1 year	0% before 2 years	0% before 3 years
	100% after 1 year	100% after 2 years	100% after 3 years

5A **Other cliff schedule**	**5B** **Other cliff schedule**	**5C** **Other cliff schedule**	**5D** **Other cliff schedule**	**5E** **Other cliff schedule**
0% before ___ years*	0% before ___ years*	0% before ___ years*	0% before ___ years*	0% before ___ years*
100% after ___ years	100% after ___ years	100% after ___ years	100% after ___ years	100% after ___ years

***Note:** Any cliff schedule completed in 5A through 5D must provide for 100% vesting after no more than 15 years of Vesting Service or,if the vesting schedule applies to a group of Employees substantially all of whom are qualified public safety employees (within the meaning of Code Section 72(7)(10(B)), 20 years.*

6 2-6 year graded		7 1-5 year graded		8 3-7 year graded	
<2	0%	<1	0%	<3	0%
2<3	20%	1<2	20%	3<4	20%
3<4	40%	2<3	40%	4<5	40%
4<5	60%	3<4	60%	5<6	60%
5<6	80%	4<5	80%	6<7	80%
6+	100%	5+	100%	7+	100%

9A Other graded schedule for Match		9B Other graded schedule for Nonelective		9C Other graded schedule for Prior Match		9D Other graded schedule for Prior Nonelective		9E Other graded schedule for Prior MPP	
<1	0%	<1	0%	<1	0%	<1	0%	<1	0%
1	___%	1	___%	1	___%	1	___%	1	___%
2	___%	2	___%	2	___%	2	___%	2	___%
3	___%	3	___%	3	___%	3	___%	3	___%
4	___%	4	___%	4	___%	4	___%	4	___%
5	___%	5	___%	5	___%	5	___%	5	___%
6	___%	6	___%	6	___%	6	___%	6	___%
7	___%	7	___%	7	___%	7	___%	7	___%
8	___%	8	___%	8	___%	8	___%	8	___%
9	___%	9	___%	9	___%	9	___%	9	___%
10	___%	10	___%	10	___%	10	___%	10	___%
11	___%	11	___%	11	___%	11	___%	11	___%
12	___%	12	___%	12	___%	12	___%	12	___%
13	___%	13	___%	13	___%	13	___%	13	___%
14	___%	14	___%	14	___%	14	___%	14	___%
15	___%	15	___%	15	___%	15	___%	15	___%

16	___%	16	___%	16	___%	16	___%	16	___%
17	___%	17	___%	17	___%	17	___%	17	___%
18	___%	18	___%	18	___%	18	___%	18	___%
19	___%	19	___%	19	___%	19	___%	19	___%
20+	___%	20+	___%	20+	___%	20+	___%	20+	___%

***Note:** Any cliff schedule completed in 8A through 8D must provide for partial vesting beginning after no more than 5 years of Vesting Service and 100% vesting after no more than 20 years of Vesting Service.*

18.2 SPECIAL VESTING EVENTS.

a. ☐ Participants are 100% vested if employed by an Employer upon[1]: *(select all that apply)*

i. ☐ Death

ii. ☐ Disability.

A. ☐ For purposes of 100% vesting, a Participant who becomes Disabled while absent because of qualified military service is treated as having become Disabled while employed.

iii. ☐ Early retirement

[1]*Participants employed on or after NRD are always 100% vested.*

18.3 SPECIAL VESTING SERVICE CREDITING PROVISIONS

a. ☐ Elapsed time method

i. Crediting years of Vesting Service:

A. ☐ Credit 1/12th year for each calendar month *(full or partial)* in which Employee has service

B. ☐ Credit 1/12th year for each full calendar month of service and aggregate partial months of service treating each 30 days as 1/12th year of service

C. ☐ One year of service for each full year of service and aggregate partial years treating 365 days of service as one year

b. ☐ Hours of Service method

i. Hours required in a vesting computation period to be credited with one year of Vesting Service:

A. ☐ 1,000 hours

B. ☐ Other Hours of Service requirement: _____

ii. Vesting computation period:

A. ☐ Plan Year

B. ☐ Calendar year

C. ☐ Anniversaries of Employment Commencement Date

D. ☐ Other 12 month period beginning on: *(month/day)* _____

c. ☐ A Participant who becomes Disabled while absent from employment because of qualified military service is credited with Vesting Service as if he returned to employment immediately prior to his Disability date.

18.4 VESTING SERVICE EXCLUSIONS

a. ☐ No exclusions

b. ☐ Period before Employee attains age 18

c. ☐ Period before the effective date of the Plan

d. ☐ Periods of employment with the Employer in a capacity other than as a Covered Employee described in Section 8

e. ☐ If a former Employee is reemployed, his Vesting Service earned ***before*** reemployment is excluded in determining his vested interest in his Account earned ***following*** reemployment:

i. ☐ regardless of whether the former Employee incurred a Break in Vesting Service[1]

ii. ☐ only if the former Employee incurred a Break in Vesting Service

iii. ☐ only if the former Employee incurred 5 consecutive Breaks in Vesting Service

iv. ☐ Prior Vesting Service is excluded under 18.4e.i, 18.4e.ii, or 18.4e.iii above only if the former Employee was not vested when his employment originally terminated

f. ☐ If a former Employee is reemployed, his Vesting Service completed ***following*** reemployment is excluded in determining his vested interest in his Account earned ***before*** reemployment:

i. ☐ regardless of whether the former Employee incurred a Break in Vesting Service

ii. ☐ only if the former Employee incurred a Break in Vesting Service

iii. ☐ only if the former Employee incurred 5 consecutive Breaks in Vesting Service

g. ☐ If an Employee incurs a Break in Vesting Service, Vesting Service completed before the break is excluded until the Employee again completes a year of Vesting Service following the break

[1]***Note:*** *A Break in Vesting Service under the elapsed time rules means a 12-consecutive-month period beginning on an Employee's Severance Date (and anniversaries of that date) in which he does not work any hours.*

18.5 FORFEITURES

a. Non-vested amounts are forfeited:

i. ☐ Immediately upon distribution

ii. ☐ Immediately upon termination

iii. ☐ Upon 1 Break in Vesting Service after termination

iv. ☐ At end of Plan Year in which termination occurs

v. ☐ At end of Plan Year in which distribution occurs

vi. ☐ Only upon 5 consecutive Breaks in Vesting Service following termination

b. Restoration of forfeitures

i. ☐ No restoration of forfeitures

ii. ☐ Upon reemployment before 5 consecutive Breaks in Vesting Service, restore forfeited amounts:

A. ☐ Only if Participant repays any Employer Contributions distributed at prior termination *(required buyback)*

B. ☐ And Participant may also repay Employer Contributions distributed at prior termination *(optional buyback)*

C. ☐ But Participant cannot repay Employer Contributions distributed at prior termination *(no buyback)*

c. Forfeited amounts will:

	Nonelective	**Matching**	**Testing***
i. Offset the Employer's contribution obligation.[1]	1. ☒	2. ☐	3. ☐
ii. Be re-allocated among Participants	1. ☐	2. ☐	3. ☐
d. Forfeitures may also be used to pay Plan expenses:	1. ☐	2. ☐	3. ☐
i. If there are Plan expenses, such expenses must be paid first before forfeitures are either re-allocated or used to offset contributions	1. ☒	2. ☐	3. ☐

ii. Administrator has discretion to direct when and to what extent Plan expenses are paid from forfeitures	1. ☐	2. ☐	3. ☐

** Matching Contributions forfeited because they are attributable to 401(k) Contributions distributed or recharacterized because of 402(g) limits.*

[1] If forfeitures occurring during the prior Plan Year remain after all contribution obligations for the current Plan Year are satisfied or upon termination of the Plan, and such forfeitures cannot be used to pay Plan expenses, the remainder shall be re-allocated among Participants as provided in Section 14.4 of the Base Plan Document.

e. Re-allocation of forfeitures.

	Nonelective	**Matching**	**Testing**
i. Participants eligible for re-allocation			
A. Only Participants who have met applicable re-allocation requirements in ii below	1. ☐	2. ☐	3. ☐
B. Participants who are actively employed at any time during the Plan Year	1. ☐	2. ☐	3. ☐
ii. Requirements for re-allocation:			
A. Last day requirement only. Must be in covered employment	1. ☐	2. ☐	3. ☐
B. Last day requirement only. Employment with Employer in uncovered employment satisfies requirement	1. ☐	2. ☐	3. ☐
C. Service requirement only	1. ☐	2. ☐	3. ☐
1. Hours of Service requirement	1. ☐ ____	2. ☐ ____	3. ☐ ____
D. Last day and service requirement. Must be in covered employment for last day	1. ☐	2. ☐	3. ☐
1. Hours of Service requirement	1. ☐ ____	2. ☐ ____	3. ☐ ____
E. Last day and service requirement. Employment with Employer in uncovered employment satisfies requirement	1. ☐	2. ☐	3. ☐
1. Hours of Service requirement	1. ☐ ____	2. ☐ ____	3. ☐ ____
F. Last day or hours requirement. Employment with Employer in an uncovered employment classification satisfies the last day requirement. The Hours of Service requirement is:	1. ☐	2. ☐	3. ☐
1. 1,000 Hours	1. ☐	2. ☐	3. ☐
2. 501 Hours	1. ☐	2. ☐	3. ☐
iii. Exceptions to Last Day Allocation Requirements. Last day requirement does not apply in cases of:			
A. Death	1. ☐	2. ☐	3. ☐

B. Disability	1. ☐	2. ☐	3. ☐
C. Retirement	1. ☐	2. ☐	3. ☐
1. Exception applies only to normal retirement	1. ☐	2. ☐	3. ☐
iv. Exceptions to Service Allocation Requirements. Service requirement does not apply in cases of:			
A. Death	1. ☐	2. ☐	3. ☐
B. Disability	1. ☐	2. ☐	3. ☐
C. Retirement	1. ☐	2. ☐	3. ☐
1. Exception applies only to normal retirement	1. ☐	2. ☐	3. ☐
vi. Re-allocation based upon			
A. Method of allocating Nonelective Contribution	1. ☐	2. ☐	3. ☐
B. Ratio of Compensation	1. ☐	2. ☐	3. ☐
C. Ratio that Participant's contribution percentage *(ratio of Participant's Pick-Up, 401(k), and matched After-Tax Contributions to the Participant's Compensation)* bears to the aggregate contribution percentages of all Participants	1. N/A	2. ☐	3. ☐

SECTION 19. CONTRIBUTION LIMITATIONS

19.1 CODE SECTION 415 LIMITATIONS

a. Limitations Under Other Plans. If limitations would be exceeded under multiple defined contribution plans maintained by Employer:

i. ☒ Reduce contributions to be made under other plans first, then reduce under this Plan

ii. ☐ Reduce contributions to be made under this Plan first then under other plans

iii. ☐ Reduce contributions to be made pro rata among all plans simultaneously

iv. ☐ Reduce last amounts to be allocated first

v. ☐ Other reduction method

19.2 APPLICATION OF CODE SECTION 402(G) LIMITS.

a. ☐ Participants may direct the Administrator to return 401(k) Contributions that exceed the 402(g) limits when combined with contributions to plans maintained by ***un-related*** employers

*(If the Participant made both Roth and Pre-Tax 401(k) Contributions to the Plan, the Participant **must** direct whether and to what extent the distribution will be made from his Pre-Tax and/or Roth 401(k) Contributions.)*

b. ☐ If excess deferrals are made under the Plan, the excess will be allocated and distributed as follows:

i. ☐ First from Pre-Tax 401(k) Contributions, then from Roth 401(k) Contributions

ii. ☐ First from Roth 401(k) Contributions, then from Pre-Tax 401(k) Contributions

iii. ☐ Reduce in ratio that Participant's Pre-Tax and Roth 401(k) Contributions bear to Participant's total 401(k) Contributions for the calendar year

iv. ☐ Participant directs reduction from Roth and/or Pre-Tax 401(k) Contributions. If no Participant direction is received, Plan's direction will be:

A. ☐ First from Pre-Tax 401(k) Contributions, then from Roth 401(k) Contributions

B. ☐ First from Roth 401(k) Contributions, then from Pre-Tax 401(k) Contributions

C. ☐ Reduce in ratio that Participant's Pre-Tax and Roth 401(k) Contributions bear to Participant's total 401(k) Contributions for the calendar year

19.3 DETERMINATION OF INCOME OR LOSS

a. Income on contributions in excess of an applicable limit above will be determined using:

i. ☐ The method otherwise used to allocate income or loss to Participant's Accounts under the Plan

ii. ☐ The IRS fractional method

SECTION 20. COMPENSATION INVESTMENT OF PARTICIPANT ACCOUNTS

20.1 PARTICIPANT DIRECTED INVESTMENTS

a. ☒ Participants may direct investment of a portion or all of their Accounts

i. Available Investments. Except as may be elected in Section 20.2, regarding self-directed brokerage funds, Investment Funds available for Participant-directed investment are selected by the Investment Fiduciary

ii. Restrictions on Participant Investment Directions: *(select all that apply)*

A. ☐ Participant direction restricted to vested portions of Accounts only

B. ☐ Investment Fiduciary directs investment of the following:

_____

iii. Change Investment Elections. Unless elected below, investment changes that are timely received in accordance with established procedures will be implemented as of the business day they are received by the Administrator (or its delegate) or the next following business day.

A. ☐ Investment elections may only be changed as of:

1. ☐ First of month following Valuation Date

2. ☐ Entry Dates

3. ☐ Other dates: _____

iv. Failure to Direct Investments. If Participant fails to direct investments, his Account will be invested:

A. ☒ As directed by the Investment Fiduciary

B. ☐ In General Fund

C. ☐ In the following investment funds:

_____

20.2 SELF-DIRECTED BROKERAGE FUND:

a. ☐ Plan assets may be invested through a self-directed brokerage fund

i. Establishment of self-directed brokerage Investment Fund:

A. ☐ is required by the Employer, as settlor of the Plan

B. ☐ may be directed by the Investment Fiduciary

20.3 TRANSFER OF INVESTMENTS

a. Transfer Effective Dates. Unless elected below, investment transfer elections that are timely received in accordance with established procedures will be implemented as of the business day they are received by the Administrator *(or its delegate)* or the next following business day.

i. ☐ Investment transfers may only be made as of:

A. ☐ First of month following Valuation Date

B. ☐ Entry Dates

C. ☐ Other dates: _____

SECTION 21. LOANS

21.1 AVAILABILITY

a. ☒ The Plan permits Participant loans. Loans are permitted with the following restrictions, as applicable: *(select all that apply)*

i. ☒ No restrictions on loans

ii. ☐ Loans are not available from following portions of Participant's Account:

A. If the Plan includes Qualified Voluntary Employee Contributions Sub-Accounts, loans may not be made from such Sub-Accounts and such Sub-Accounts are not included in determining the maximum amount of a loan.

B. ☐ Roth 401(k) Contributions Sub-Account.

1. ☐ The balance of the Roth 401(k) Contributions Sub-Account is also excluded in determining maximum permissible loan amount

C. ☐ Other specified Sub-Accounts: _____

1. ☐ The balance of the other Sub-Accounts is also excluded in determining maximum permissible loan amount

iii. ☐ Loans are ***not*** permitted to individuals with Rollover Contributions under the Plan, but who have not met the requirements to become an Eligible Employee.

21.2 REPAYMENT OPTIONS.

a. ☒ Loans are repaid through payroll withholding

i. ☐ Participants may also make payments by other means

21.3 DEFAULT. If a loan payment is missed, default occurs as provided in the loan note, but not later than the end of the calendar quarter following the quarter in which the payment was due

SECTION 22. HARDSHIP WITHDRAWALS

22.1 AVAILABILITY

a. ☐ The Plan permits hardship withdrawals. Hardship withdrawals may be made from the following Accounts:

i. ☐ Pick-Up Contributions

ii. ☐ Pre-Tax 401(k) Contributions *(excluding interest credited after the later of (a) the last day of the Plan Year ending before July 1, 1989 or (b) December 31, 1988)*

iii. ☐ Roth 401(k) Contributions *(excluding interest)*

iv. ☐ After-Tax Contributions

v. ☐ Rollover Contributions

vi. ☐ Designated Roth Rollover Contributions

vii. ☐ In-Plan Roth Rollover Contributions

viii. ☐ After-Tax Rollover Contributions

ix. ☐ Nonelective Contributions

x. ☐ Prior Nonelective Contributions

xi. ☐ Matching Contributions *(includes Regular, Additional Discretionary, and True-Up Matching Contributions)*

xii. ☐ Prior Matching Contributions

xiii. ☐ Other: *(specify Sub-Account(s))*

_____

22.2 DETERMINATION OF IMMEDIATE AND HEAVY FINANCIAL NEED.

a. ☐ Hardship withdrawals shall be made based on the safe harbors specified in 401(k) regulations.

(These include Code Section 213(d) medical expenses, purchase of a principal residence, post-secondary education/tuition expenses (including room and board), prevention of eviction from or foreclosure on the mortgage of a principal residence, funeral and burial expenses, and repairs to a principal residence for which a casualty loss deduction would be available)

i. ☐ Hardship withdrawals may be made under the safe harbor to satisfy an immediate and heavy financial need of a Participant's primary Beneficiary who is NOT the Participant's Spouse or other dependent

(Hardship withdrawals may only be made for the following needs of the primary Beneficiary: Code Section 213(d) medical expenses, post-secondary education/tuition expenses (including room and board), and funeral and burial expenses.)

ii. ☐ In addition, hardship withdrawals may be made under other non-discriminatory facts and circumstances, as follows:

_____

_____.

(Withdrawal criteria must be definitely determinable, non-discriminatory, and objective)

A. ☐ 401(k) Contributions may ***not*** be withdrawn under the above facts and circumstances.

b. ☐ Hardship withdrawals may be made under non-discriminatory facts and circumstances, as follows:

_____

_____.

(Withdrawal criteria must be definitely determinable, non-discriminatory, and objective)

22.3 DETERMINATION THAT PLAN DISTRIBUTION IS NECESSARY TO MEET NEED.

a. ☐ Necessity for hardship withdrawal is determined using IRS suspension safe harbor

((i) distribution doesn't exceed amount of the need (plus amounts necessary to pay federal, state, or local income taxes or penalties), (ii) Participant has obtained all other distributions and loans available under all plans of the Employer, and (iii) the Participant's "elective contributions" and "employee contributions" under all plans of the Employer are suspended for 6 months.[1])

i. ☐ The requirement that 401(k) and After-Tax Contributions be suspended to demonstrate that a withdrawal is necessary to meet the Participant's need applies only to withdrawals of 401(k) Contributions

b. ☐ Necessity for hardship withdrawal is determined based on Employee's certification

(The Employee certifies that his financial need cannot be relieved (i) through reimbursement or compensation by insurance or otherwise, (ii) by reasonable liquidation of the Employee's assets, (iii) by suspending elective contributions and employee contributions to all plans maintained by the Employer, (iv) by other distributions or nontaxable loans from plans maintained by the Employer, or (v) by borrowing from commercial sources.)

c. ☐ Necessity for hardship withdrawal is determined either using IRS suspension safe harbor or based on Employee's certification, as determined by the Employee

[1]*Pick-Up Contributions are not suspended for a hardship withdrawal.*

22.4 OPTIONAL LIMITATIONS ON HARDSHIP WITHDRAWALS.

a. ☐ Additional limitations apply to hardship withdrawals. The following additional limitations apply: *(select all that apply)*

i. ☐ Hardship withdrawals are only permitted from the following contributions if Participants are 100% vested in such contributions:

A. ☐ Nonelective Contributions

B. ☐ Matching Contributions

C. ☐ Prior Nonelective Contributions

D. ☐ Prior Matching Contributions

ii. ☐ The minimum hardship withdrawal amount is the lesser of $_____ or 100% of Participant's withdrawable interest.

iii. ☐ Future hardship withdrawals are suspended following a hardship withdrawals for the following period:

A. ☐ _____ months

B. ☐ Remainder of Plan Year and next following Plan Year

C. ☐ Other suspension period: _____

SECTION 23. NON-HARDSHIP WITHDRAWALS

23.1 AVAILABILITY

a. ☒ Non-hardship withdrawals are permitted under the Plan.

23.2 SOURCES AND CONDITIONS FOR NON-HARDSHIP WITHDRAWALS.

a. ☐ Withdrawals at Any Time. The following amounts may be withdrawn at any time:

i. ☐ After-Tax Contributions

ii. ☐ Rollover Contributions

iii. ☐ After-Tax Rollover Contributions

iv. ☐ Designated Roth Rollover Contributions

v. ☐ In-Plan Roth Rollover Contributions *(contributions rolled over as In-Plan Roth Rollover Contributions must still be distributable under conditions no less favorable than before the rollover)*

b. ☐ Withdrawals at Specified Age. The following amounts may be withdrawn only after reaching the specified age:

i. ☐ Pick-Up Contributions at age _____

ii. ☐ After-Tax Contributions at age _____

iii. ☐ Rollover Contributions at age _____

iv. ☐ After-Tax Rollover Contributions at age _____

v. ☐ Designated Roth Rollover Contributions at age _____

vi. ☐ In-Plan Roth Rollover Contributions at age _____

vii. ☐ Pre-Tax 401(k) Contributions at age _____ *(≥ 59½)*

viii. ☐ Roth 401(k) Contributions at age _____ *(≥ 59½)*

ix. ☐ Prior Money Purchase Pension Plan Contributions at age _____ *(≥ 62)*

x. ☐ Other contributions at age _____ *(≥ 59½) (specify other contribution(s) and conditions in a manner that is definitely determinable and not subject to employer discretion)*:

_____

_____

c. ☒ Withdrawals of Nonelective/Matching Contributions. Nonelective/Matching Contributions may be withdrawn upon satisfying the requirements specified below.

i. ☒ Withdrawal is permitted after specified period of participation and/or attainment of specified age as elected in the table below:

		Nonelective	Matching[1]	Prior Nonelective	Prior Matching
A.	Participant has participated in the Plan for a specified number of months	1. ☐ ____	2. ☐ ____	3. ☐ ____	4. ☐ ____
B.	Participant has attained a specified age	1. ☒ 59 1/2	2. ☐ ____	3. ☐ ____	4. ☐ ____
C.	Participant has both participated in the Plan for a specified number of months and attained a specified age	1. ☐ ____ Age ____ Service	2. ☐ ____ Age ____ Service	3. ☐ ____ Age ____ Service	4. ☐ ____ Age ____ Service

[1] *Matching Contributions include Regular, Additional Discretionary, and True-Up Matching Contributions*

23.3 MILITARY SERVICE WITHDRAWALS

a. ☐ A Participant absent from employment because of military leave for at least _____ days may make a withdrawal from the following:

i. ☐ After-Tax Contributions
ii. ☐ Rollover Contributions
iii. ☐ After-Tax Rollover Contributions
iv. ☐ Designated Roth Rollover Contributions
v. ☐ In-Plan Roth Rollover Contributions
vi. ☐ Pick-Up Contributions
vii. ☐ Nonelective Contributions[1]
viii. ☐ Prior Nonelective Contributions
ix. ☐ Matching Contributions[1]
x. ☐ Prior Matching Contributions

[1] *Matching Contributions include Regular, Additional Discretionary, and True-Up Matching Contributions.*

b. ☐ Deemed Severance from Employment.[1] A Participant engaged in military service more than 30 days may make a deemed severance withdrawal from the following:

i. ☐ Pre-Tax 401(k) Contributions
ii. ☐ Roth 401(k) Contributions

[1]*Deemed severance withdrawals are subject to the 10% tax on early distributions and the Participant must be suspended from making 401(k) and After-Tax Contributions for at least 6 months.*

c. ☐ Qualified Reservist Withdrawal.[1] A Participant who is a member of a reserve component and is ordered or called to active duty for a period in excess of 179 days *(or for an indefinite period)* may make a qualified reservist withdrawal of the following contributions:

i. ☐ Pre-Tax 401(k) Contributions
ii. ☐ Roth 401(k) Contributions

[1]*Qualified reservist withdrawals are exempt from the 10% tax on early distributions and no contribution suspension applies.*

23.4 LIMITATIONS ON NON-HARDSHIP WITHDRAWALS

a. ☐ Non-hardship withdrawals are only permitted from the following contributions if Participants are 100% vested in such contributions:

i. ☐ Nonelective Contributions
ii. ☐ Matching Contributions
iii. ☐ Prior Nonelective Contributions

iv. ☐ Prior Matching Contributions

b. ☐ The minimum non-hardship withdrawal amount is the lesser of $_____ or 100% of Participant's withdrawable interest.

c. ☐ Future non-hardship withdrawals are suspended following a non-hardship withdrawals for the following period:

i. ☐ _____ months

ii. ☐ Remainder of Plan Year and next following Plan Year

iii. ☐ Other suspension period: _____

d. ☐ The above limitations will ***not*** apply to withdrawals of In-Plan Roth Rollover Contributions

e. The above limitations will ***not*** apply to military service withdrawals unless elected below: *(select all that apply)*

i. ☐ Minimum withdrawal applies

ii. ☐ Suspension period applies

iii. ☐ 100% vesting requirement applies

SECTION 24. DISTRIBUTIONS

24.1 FORMS OF PAYMENT

a. Available Forms. A Participant may receive payment in the following form(s):

i. ☒ Single sum

ii. ☐ Annuities

A. Normal/Optional Form of Benefit. Annuities are the:

1. ☐ Normal form

2. ☐ Optional form

B. Forms of annuity. Available forms of annuity are:

1. ☐ Limited to period certain annuities *(annuities payable for a specified number of months or years, rather than over the life of the Participant)*

a. ☐ The specified payment period may be any period designated by the Participant *(not to exceed the joint life expectancies of the Participant and his Beneficiary)*

b. ☐ The Participant may only elect one of the following payment periods: _____
_____

2. ☐ May provide for payment over the life of the Participant *(select all that apply)*

a. ☐ The Participant may select any form of annuity that can be purchased by the Plan

b. ☐ The Participant may only elect among the following forms of annuity: _____
_____

c. ☐ QJSA is available form

i. Survivor percentage under QJSA is 50% unless a larger percentage is indicated: _____%

iii. ☐ Installment payments over period specified by Participant when payments start

A. ☐ Participants may elect a more rapid distribution

1. ☐ The election for more rapid distribution must be made when payments start

B. Failure to Make Election. If installments are the only form of payment available, the period over which installments will be paid if Participant fails to make an election will be:

1. ☐ The Participant's single life expectancy

2. ☐ 5 years

3. ☐ 10 years

4. ☐ Other payment period: _____

iv. ☒ Required minimum distributions *(RMDs) (select only if Plan does not otherwise provide for installment payments.)*

A. RMDs Payable. Required minimum distributions are payable as follows:

1. ☐ Only while an Employee is receiving payment for employment after age 70½ in accordance with Section 24.4a

2. ☒ If payments start at Participant's Required Beginning Date, whether or not Participant is still employed on that date

b. ☐ A Participant may elect distribution in more than one form of payment

c Form of Payment to Beneficiary.

i. If Participant dies before payments start, distribution to the Participant's Beneficiary will be made in the following form:

A. ☐ Any of the forms of payment available to the Participant, as elected by the Beneficiary[1]

B. ☒ Single sum only

[1] ***Note:*** *Legal rules limit the period over which payments may be made to a Participant's Beneficiary. For example, payment may not be made over the joint lives of the Beneficiary and another person.*

ii. ☒ Regardless of the election in i above, if the Participant dies before his Required Beginning Date, the Beneficiary may receive RMDs

d. In Kind Distributions. The following distributions may be made in kind:

i. ☒ No in kind distributions

ii. ☐ All distributions

iii. ☐ Only distributions from self-directed brokerage accounts may be made in kind

24.2 CASH-OUTS

a. ☒ Small account balances will be cashed out upon a distribution event.

i. The cash-out amount is:

A. ☐ $1,000

B. ☐ $3,500

C. ☒ $5,000

D. ☐ $_____ *(< $5,000)*

ii. ☐ Rollover Contributions will be disregarded in determining whether Account will be cashed out

24.3 COMMENCEMENT OF BENEFITS WHILE EMPLOYED. The following provisions apply: *(select all that apply)*

a. ☐ A Participant who continues employment beyond Normal Retirement Date may elect to commence retirement benefits while employed

b. ☐ A Participant who incurs a Disability and continues employment may elect to commence retirement benefits.

24.4 POST 70½ DISTRIBUTIONS. A Participant who continues employment beyond April 1 of the calendar year following the year he attains age 70½:

a. ☐ May elect to commence retirement benefits as of that date

b. ☒ May not commence retirement benefits as of that date

24.5 DISTRIBUTIONS ON TERMINATION OF EMPLOYMENT

a. Postpone Distribution. A Participant who terminates employment may defer distribution until:

i. If the Participant terminates prior to Normal Retirement Date:

A. ☐ Later of age 62 or Normal Retirement Date

B. ☒ Required Beginning Date

ii. If the Participant retires on or after Normal Retirement Date:

A. ☐ No deferral permitted

B. ☒ Required Beginning Date

b. Miscellaneous Provisions. The following provisions regarding distributions on termination of employment apply: *(select all that apply)*

i. ☐ Terminated Participant may elect partial distribution

ii. ☒ Participant may waive 30-day waiting period following receipt of notice concerning rollovers to receive distribution

24.6 REQUIRED COMMENCEMENT OF DISTRIBUTION TO BENEFICIARIES. Distribution to Beneficiary of Participant who dies before his Required Beginning Date will be made:

a. ☐ In full within 5 years of Participant's death *(or by year Participant would reach 70½ if Participant's Spouse is sole Beneficiary)*

(Select if Plan provides only for single sum payments to Beneficiaries – no installments, no annuities, and no required minimum distributions)

b. ☐ In installments over Beneficiary's life expectancy beginning within 1 year of Participant's death *(or by year Participant would have reached age 70½, if Participant's Spouse is sole Beneficiary)*

(Select if Plan provides only for installment or annuity payments to Beneficiaries.)

c. ☒ Either (1) in full within 5 years of Participant's death or (2) in installments over the Beneficiary's life expectancy, as elected by the Participant or Beneficiary.

(Select if Plan provides for both (a) single sum payments and (b) installment, annuity, or required minimum distribution payments to Beneficiaries.)

i. If no election is made, distribution will be made:

A. ☐ In full within 5 years of Participant's death *(or by year Participant would reach 70½, if Participant's Spouse is sole Beneficiary)*

B. ☒ In installments over the Beneficiary's lifetime beginning within 1 year of Participant's death *(or by year Participant would have reached age 70½, if Participant's Spouse is sole Beneficiary)*

24.7 EFFECT OF REEMPLOYMENT

a. Right to Distribution and Form of Payment. If a Participant is reemployed:

i. ☐ No further distribution will be made until subsequent termination and prior form of payment election is null and void

ii. ☒ Participant continues to be eligible to receive distribution of prior Account balance under elected form of payment *(new election must be made for Account earned following reemployment)*

(Payments made after reemployment may be subject to early distribution taxes, as distribution may no longer be viewed as due to termination of employment.)

24.8 BENEFICIARIES.

a. If no Beneficiary has been designated or no Beneficiary survives the Participant, the default Beneficiary will be Participant's Spouse or, if none:

i. ☒ Participant's estate

ii. ☐ Participant's surviving children in equal shares or, if none, Participant's estate

iii. ☐ Participant's issue, per stirpes, or, if none, Participant's surviving parents in equal shares, or, if none, Participant's estate

iv. ☐ Other: _____

24.9 SPOUSAL PROVISIONS

a. Required Spouse Consent. Even though not required by law, the following the following options require spousal consent: *(select all that apply)*

i. ☐ Spouse consent is required for loans

ii. ☐ Spouse consent is required for in-service withdrawals

iii. ☐ Spouse consent is required to elect a form of payment other than QJSA *(only if Plan provides QJSA form of payment)*

iv. ☐ Spouse consent is required to select a non-Spouse Beneficiary

24.10 DOMESTIC PARTNER PROVISIONS

a. ☐ If a Participant has a Domestic Partner, the Participant's Domestic Partner will be treated as the Participant's Spouse for Beneficiary and consent purposes, including consent to the actions identified in 24.9a above.

SECTION 25. MISCELLANEOUS

25.1 DEFINITION OF DISABILITY.

(Complete only if Plan includes a feature that is contingent upon a Participant's Disability.)

a. Participant is Disabled if he satisfies any of the criteria selected below: *(select all that apply)*

i. ☐ Eligible for social security disability

ii. ☐ Eligible for benefits under Employer's long term disability program

iii. ☒ Determined by the Plan Administrator on the basis of medical evidence satisfactory to it

iv. ☒ Other *(must be definitely determinable and not subject to Employer discretion):* the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. The permanence and degree of such impairment must be supported by medical evidence

25.2 DEFINITION OF HCE

a. Unless elected below, the look back year is the 12-month period immediately preceding Plan Year

i. ☐ Look back year is calendar year beginning within the 12-month period immediately preceding Plan Year *(may select only if Plan Year is not calendar year)*

b. Are HCEs limited to top-paid 20% of Employees?

i. ☐ Yes.

ii. ☒ No.

25.3 PLAN EXPENSES

a. General Administrative Expenses. Except to the extent they are reduced by forfeitures, general administrative expenses of the Plan will be paid:

i. ☒ From Participants' Accounts, except the Employer may elect to pay some or all expenses

ii. ☐ From Participants' Accounts. Except as selected below, the Employer shall ***not*** pay expenses. *(select all that apply)*

A. ☐ Employer pays no expenses

B. ☐ Employer pays expenses for all current Participants

C. ☐ Employer pays expenses for retired Participants with an Account balance following retirement

D. ☐ Employer pays expenses for terminated Participants with an Account balance following termination

25.4 SUPERSEDING PLAN PROVISIONS

a. ☒ The Plan includes special provisions that supersede any inconsistent provisions of the Adoption Agreement or Base Plan Document *(provisions are found in the applicable Addendum)*

SECTION 26. FUNDING AGENT INFORMATION

26.1 IDENTIFICATION OF FUNDING AGENT

a. The Funding Agent holding Plan assets is: Prudential Bank and Trust Company

SECTION 27. VOLUME SUBMITTER INFORMATION

27.1 USE AND APPLICATION OF VOLUME SUBMITTER DOCUMENT

The Document Agility, Inc. Governmental Volume Submitter 401(a) Plan Adoption Agreement No. 001 may be used only in conjunction with the Document Agility, Inc. Governmental Volume Submitter 401(a) Plan Base Plan Document No. 02. The volume submitter practitioner will provide information to the Employer of any amendments made to the Document Agility, Inc. Governmental Volume Submitter 401(a) Plan or of the discontinuation or abandonment of the Document Agility, Inc. Governmental Volume Submitter 401(a) Plan.

The Employer may rely on the advisory letter issued to the volume submitter practitioner by the Internal Revenue Service as evidence that the Plan is qualified under Section 401 of the Internal Revenue Code only to the extent provided in Revenue Procedure 2011-49. The Employer may not rely on the advisory letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the advisory letter issued with respect to the Document Agility, Inc. Governmental Volume Submitter 401(a) Plan and in Revenue Procedure 2011-49.

In order to have reliance in such circumstances, application for a determination letter must be made to Employee Plans Determinations of the Internal Revenue Service.

Failure to properly fill out the Adoption Agreement may result in the disqualification of the Plan.

Questions regarding adoption of the Document Agility, Inc. Governmental Volume Submitter 401(a) Plan, the intended meaning of any volume submitter plan provisions, or the effect of the advisory letter issued by the Internal Revenue Service with respect to the Document Agility, Inc. Governmental Volume Submitter 401(a) Plan may be addressed to the volume submitter practitioner's agent designated for such purpose in 27.2 below.

27.2 AGENT FOR VOLUME SUBMITTER PRACTITIONER

Prudential Retirement Insurance and Annuity Company
280 Trumbull Street
Hartford, CT 06103

27.3 IDENTIFICATION OF VOLUME SUBMITTER PRACTITIONER

Document Agility, Inc.
1540 International Pkwy
Lake Mary, FL 32746
877-346-5994

SECTION 28. EXECUTION

This Plan must be signed and dated below by all the indicated parties to be effective

EXECUTED AT_____,

_____, this _____ day of _____ 20_____.

City of El Paso

By:_____

Title:_____

ADDENDUM A
EMPLOYEE GROUP ALLOCATION FORMULA

A.1 EMPLOYEE GROUP ALLOCATION METHOD

a. The allocation groups among which the Nonelective Contribution is initially allocated consist of the following:
(Specify the Employees included in each allocation group, including both HCEs and NHCEs, using objective criteria that are not subject to Employer discretion. Each Eligible Employee must be included in an allocation group. No Eligible Employee may be assigned to more than one allocation group.)

Each Eligible Employee's contribution is determined by their Employment Contract with the City and each Eligible Employee will be part of their own Allocation Group.

i. The groups specified above must be definitely determinable.

ii. Each Eligible Employee may be in a separate allocation group.

iii. The Employer shall provide written direction to the Trustee or Administrator, whichever has responsibility for allocating contributions to Participants' Accounts, specifying the portion of the Nonelective Contribution to be allocated to each allocation group. The Employer shall provide such direction no later than the due date of the Employer's tax return for the taxable year to which the Employer Contribution relates.

iv. The requirements of Treasury Regulations Section 1.401(k)-1(a)(6) *(describing what constitutes a cash or deferred arrangement with respect to self-employed individuals)* applies to the allocation formula under this method. Therefore, the allocation formula must be structured so that it does not create a cash or deferred arrangement with respect to a self-employed individual *(e.g., by permitting partners to directly or indirectly vary the amount of contribution made on their behalf)*.

ADDENDUM B
SUPERSEDING PLAN PROVISIONS

B.1 SUPERSEDING PLAN PROVISIONS

a. The provisions described in this Addendum supersede other provisions of this Adoption Agreement and/or the Base Plan Document in the manner described. These provisions have ***not*** been pre-approved by the Internal Revenue Service and must be disclosed as modifications to the pre-approved language.

Normal Retirement Age is defined as attainment of age 65 unless the Employer enforces a mandatory retirement age in which case Normal Retirement Age is the lesser of that mandatory age or age 65. Normal Retirement Date is defined as the Plan's anniversary date coincident with or next following a Participant's Normal Retirement Age.