



**LANSING BOARD OF WATER & LIGHT BOARD OF COMMISSIONERS
COMMITTEE OF THE WHOLE MEETING**

March 11, 2025 – 5:30 P.M.

**REO Town Depot - Board of Water & Light Headquarters
1201 S. Washington Ave., Lansing, MI 48910**

BWL full meeting packets and public notices/agendas are located on the official web site at <https://www.lbwl.com/about-bwl/governance>.

AGENDA

Call to Order

Roll Call

Public Comments on Agenda Items

1. Approval of the Committee of the Whole Meeting Minutes of January 14, 2025..... **TAB 1**
2. Enterprise Risk Management and Risk Register Update **TAB 2**
3. 2021 Strategic Plan Accomplishments..... **TAB 3**
4. Amending Appointment to (MPPA) Commissioner and First Alternate Commissioner
Resolution **TAB 4**
5. RPC Update **TAB 5**
 - a. RPC Charter Redline Draft..... **TAB 5a**
 - b. RPC Membership Change Resolution **TAB 5b**
6. DC Plan 2 Plan Document Update..... **TAB 6**
 - a. DC Plan 2 Plan Document Resolution **TAB 6a**
7. DEI Landscape Update **TAB 7**
8. Resolution Honoring Tracy Thomas..... **TAB 8**

Other

Adjourn

COMMITTEE OF THE WHOLE
Meeting Minutes
January 14, 2025

The Committee of the Whole of the Lansing Board of Water and Light (BWL) met at the BWL Headquarters-REO Town Depot located at 1201 S. Washington Ave., Lansing, MI, on Tuesday, January 14, 2025.

Committee Chairperson Semone James called the Committee of the Whole Meeting to order at 5:30 p.m. and asked the Corporate Secretary to call the roll.

Present: Commissioners Beth Graham, Semone James, DeShon Leek, Tony Mullen, David Price, Dale Schrader, Tracy Thomas, and Sandra Zerkle; and Non-Voting Commissioners J. R. Beauboeuf (East Lansing) and Commissioner Robert Worthy (Delta Township)
Absent: Non-Voting Commissioner Stuart Goodrich (Delhi Township)

The Corporate Secretary declared a quorum.

Public Comments

There were no public comments.

Approval of Minutes

Motion by Commissioner David Price, **Seconded** by Commissioner Tracy Thomas to approve the Committee of the Whole Meeting minutes of November 7, 2024.

Action: Motion carried. The minutes were approved.

BWL's Renewable Energy Plan (REP)

General Manager Dick Peffley introduced General Counsel Mark Matus and Energy Planning & Decarbonization Manager Anna Munie, who presented BWL's draft Renewable Energy Plan. Mr. Matus gave a background of renewable and clean energy. BWL has already committed to the current legislative requirements of 50% renewable energy for utilities by 2030 and 60% renewable energy by 2035 which for BWL includes solar and wind energy. The legislation also includes the requirement of a renewable energy plan to be filed every year to the Michigan Public Service Commission. Mr. Matus added that there is also clean energy legislation to achieve -100 percent clean energy by 2040 which can include gas with at least 90 % carbon capture. Ms. Munie explained BWL's plan for meeting the renewable energy goals. Ms. Munie noted that battery storage is not considered a renewable energy source but is a clean energy source under the legislation

Chairperson James asked Ms. Munie to define absence of numbers listed for megawatt hours sold from Michigan Nuclear Energy in the plan summary. Ms. Munie responded that BWL doesn't have any nuclear energy in its portfolio. Chairperson James asked if there were any plans for nuclear to go online. Ms. Munie responded that the Palisades nuclear plant in West Michigan is planned to be restarted but the energy to be supplied is already contracted.

Commissioner Schrader asked if the voluntary green pricing sales (VGP) are the LED lightbulbs and if those sales are part of the energy credits. Ms. Munie responded that the LED lightbulbs are under Energy Waste Reduction and Efficiency Programs (EWR) which is a separate legislation and are not part of the renewable energy credits. Ms. Munie added that the VGP program is BWL's GreenWise program and the matching of a customer's energy use with renewables.

Commissioner Price asked how the credits are tracked and managed. Ms. Munie responded that renewable energy credits are created and retired through the MiREC tracking system. The wind and solar power purchase agreements are similar, production fluctuates year to year and the resources' annual production values are a projection. (Commissioner didn't have microphone on.) Ms. Munie responded that extra energy credits can be sold on the market. GM Peffley added that BWL is not in the market to sell now but there are companies in production to sell. (Commissioner didn't have microphone on.)

Commissioner Mullen asked the percentage of total renewable production currently and whether 2023 legislation required utilities, including those not regulated by MPSC, to file renewable energy plans. Mr. Peffley responded that we are currently at 21%. Ms. Munie responded that all electric utilities are required to file.

Commissioner Price asked about the penalty for noncompliance and Ms. Munie responded that noncompliance is not an option.

Commissioner Schrader asked whether the 21% production and the accumulation of energy credits that can be used after 2030-2035 is another method that can be used to achieve the 50% requirement. Ms. Munie affirmed that any energy credits in excess of the 15% requirement, that are within the 5-year shelf life, are being banked. After 2035 all renewable energy credits must also include the energy and capacity associated with the renewable energy source.

Commissioner Worthy asked whether the 3-year average for retail sales in the portfolio that are put into the grid could be put into the purchase of more batteries. Ms. Munie responded that batteries are not included in renewables but are part of clean energy. Commissioner Worthy asked whether all extra energy has to be put in the grid. GM Peffley responded that production can be backed down but there is revenue on wholesale and providing for the need of other utilities.

Motion by Commissioner Dale Schrader, **Seconded** by Commissioner Beth Graham to forward the Resolution for BWL's 2024-2045 Renewable Energy Plan to the full Board for approval.

Action: Motion Carried.

Retirement Plan Committee Update

Assistant General Manager Heather Shawa presented the Retirement Plan Committee (RPC) updates. Notification of approved fund changes in the 401(a) and 457(b) Plans were sent to participants. DB participants were sent a letter in their paystub distributions regarding Northern

Trust as a participant servicer and the transition of payment processing. A FY25 Q1 ASA reimbursement was approved and completed for the VEBA plan. A Nationwide contract amendment and extension was approved through December 31, 2026, with an option to extend for an additional two years. Legislative changes are being incorporated into the 401 and 457 plan documents as well as the change to the normal retirement age for the 457 plan, permitting withdrawals of up to \$1,000 for certain emergency expenses under Section 115 under Secure 2.0 was adopted by the RPC.

Other

Commissioner Price congratulated GM Peffley on ten years as General Manager.

Motion by Commissioner Tracy Thomas, **Seconded** by Commissioner Beth Graham for an excused absence for Commissioner Stuart Goodrich.

Action: Motion Carried.

Adjourn

Chairperson James adjourned the meeting at 6:15 p.m.

Respectfully Submitted,
Semone James, Chairperson
Committee of the Whole

Risk Update

March 2025



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Purpose

To share how BWL identifies and manages corporate risk

Agenda

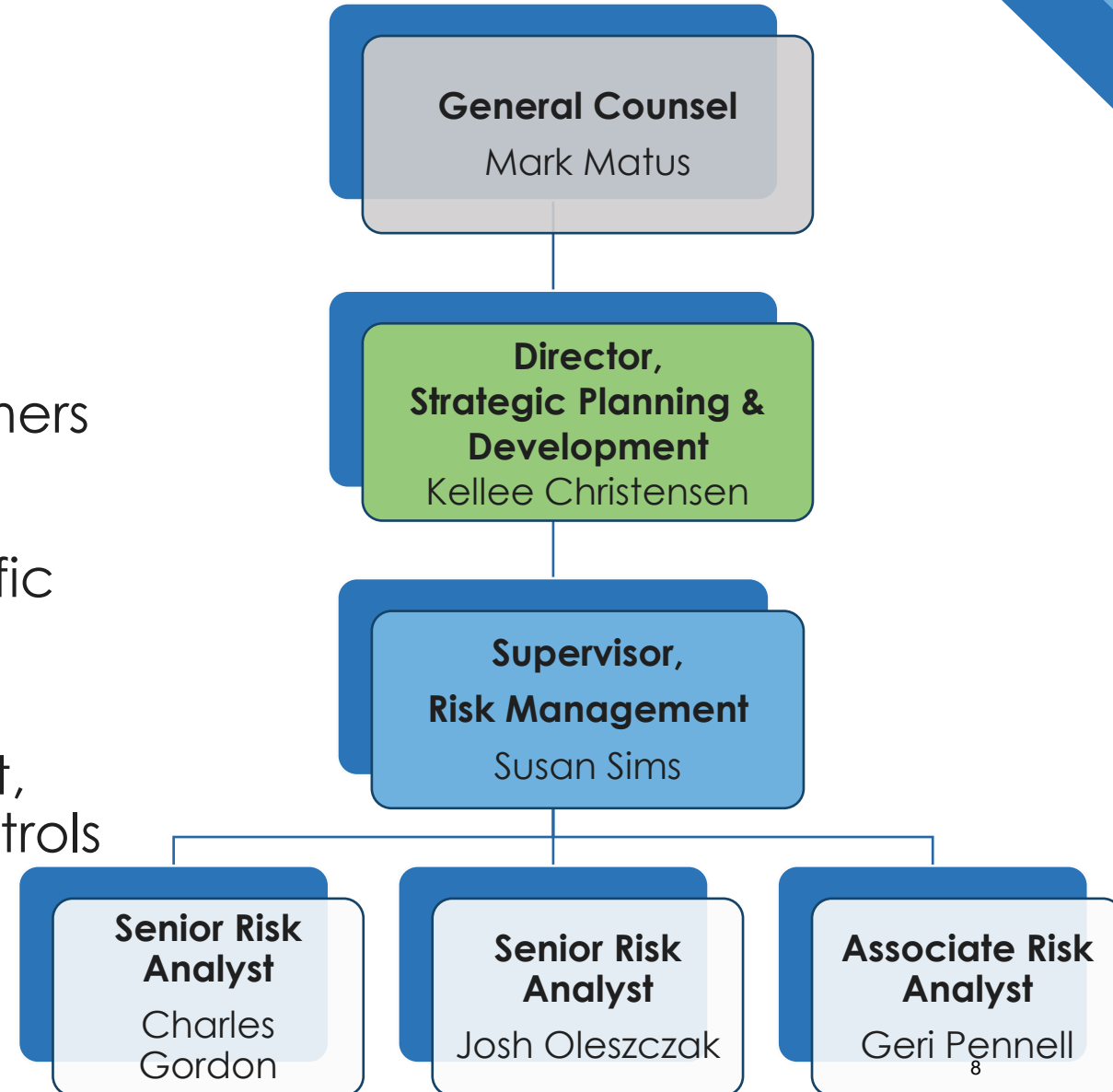
1. The Enterprise Risk Management Department(ERM)
2. Update on Corporate Risk Register

Enterprise Risk Management (ERM) Department Purpose Statement

To facilitate the Lansing Board of Water & Light's ability to identify, assess, monitor, and manage risks impacting the organization in a manner that supports its Corporate Mission, Values, and Strategic Plan.

Enterprise Risk Management Structure

- Part of the Legal Affairs Division
- Three main areas of focus
 - Insurance, Consultation, Claims
- Work with internal and external customers
- Team Experience:
 - 35+ combined years of BWL-specific risk & insurance experience
 - Accounting, auditing, insurance underwriting, claims management, public administration, internal controls



Enterprise Risk Management -Insurance

- **Insurance**

- Annual review of 30 policies
- Placing of BWL organizational insurance
- Certificate of Insurance requests and claim notifications
- Engineering property surveys
- Risk assessments & audits



BWL FY2024-25 Insurance Program

Property
Property-Terrorism
General liability
Excess liability
Automobile liability
Cybersecurity insurance
Inland Marine
Directors & Officers/EPL
Excess Workers' Compensation
Employers liability

Pollution legal liability
Underground Storage Tank liability
Crime
Fiduciary

Specialty insurances

- Builders Risk
- Railroad Protective liability
- Special Event Liability

Enterprise Risk Management

- Consultation

- Contract Terms and Conditions
- Energy Risk Management Program
- Risk Recommendations
- In-depth Field & Process Reviews
- Preventative Approaches
- Research/Discovery Requests
- Safety Investigations
- Insurance Implications



Enterprise Risk Management

- Claims

- Claims & incident investigation
 - Incident: Reported loss investigation
 - Claims: formal demand following an incident loss event
 - Some claims take years to resolve
 - Not all incidents become claims, but everything reported to Risk gets investigated.



Claim Investigations

- Three types of claim investigations:
 - Asserted – Claim demand issued externally for damages to BWL assets
 - Against – External claim received for damages/injuries allegedly caused by the BWL
 - Internal – Internal claim submitted to BWL insurer
- Limited claim volume mitigation through:
 - Rules & Regulations
 - Miss Dig Act/good dig practices
 - Michigan no-fault insurance
 - External Partnerships

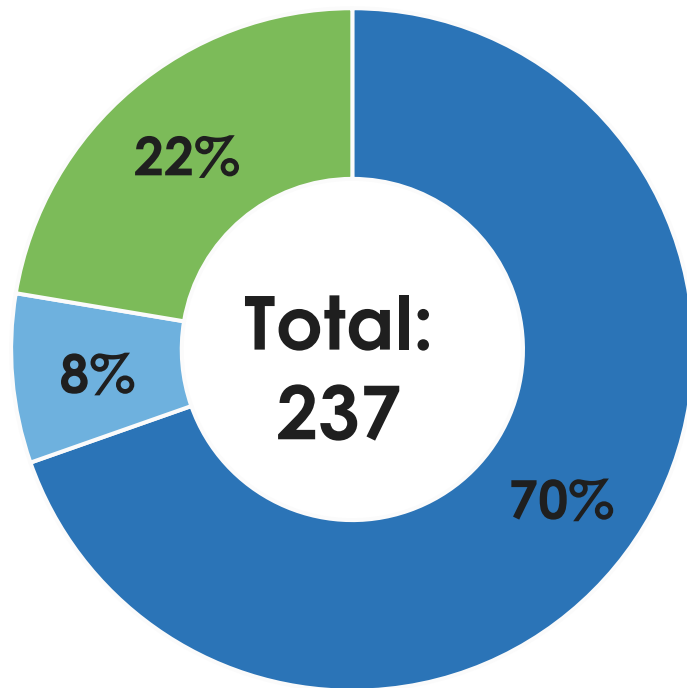
Asserted Claim
Water Main Hit by Excavator
\$19,083.09 in Damages



Claim Investigations

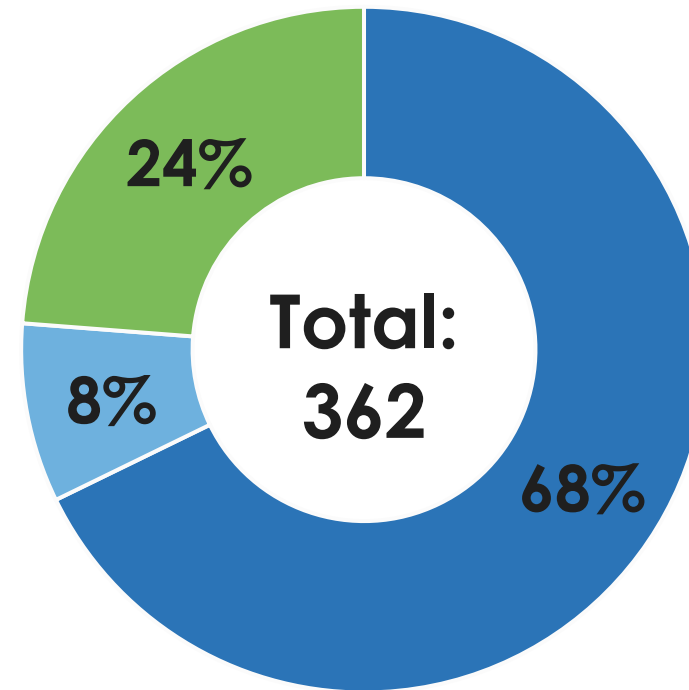
Claim Investigations FY2025 To Date

■ Asserted ■ Internal ■ Against



Claim Investigations FY2024

■ Asserted ■ Internal ■ Against

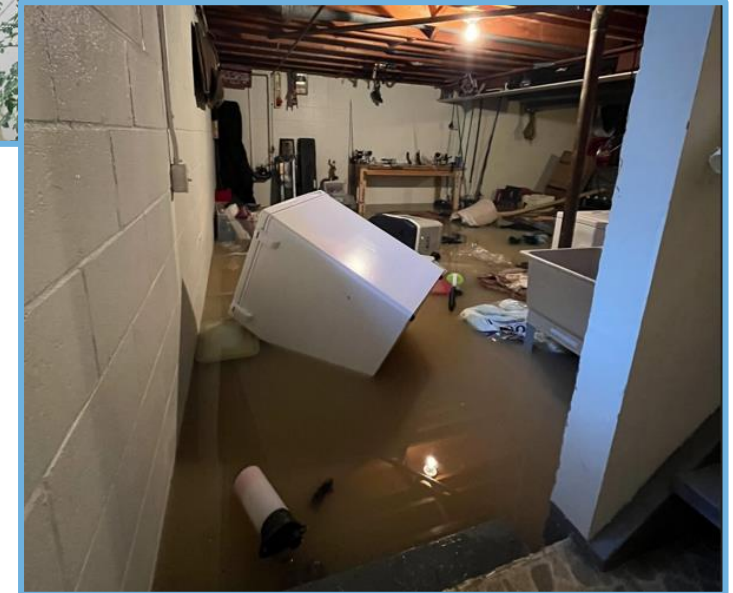
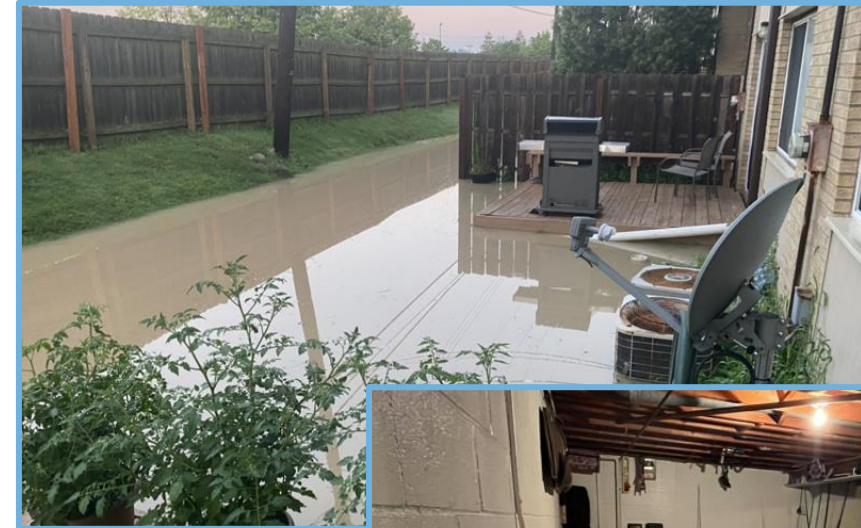


Claim Investigations Examples

Electric Duct Hit during Boring
\$76,243.68 in Damages (Asserted)



Water Main Break Aftermath
\$74,254.16 in Damages (Against)



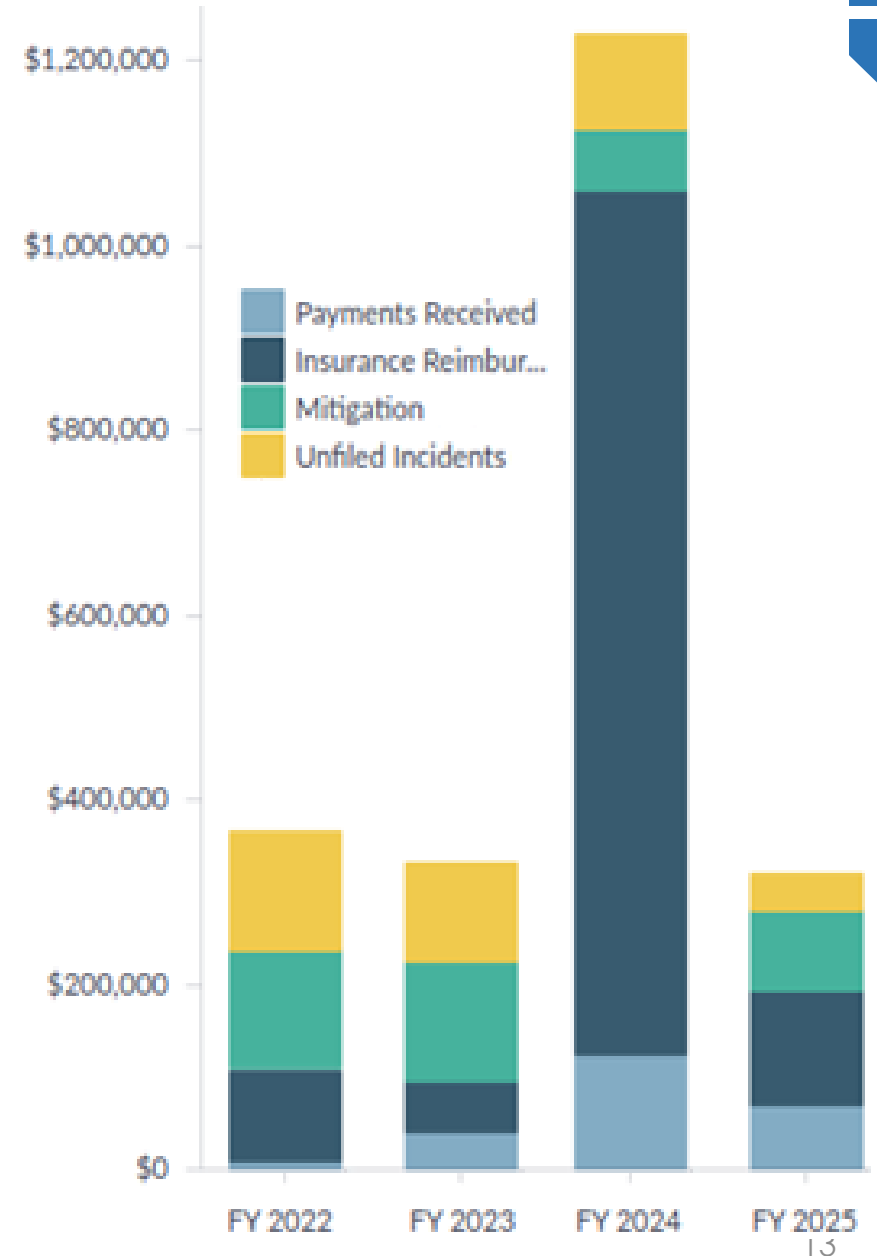
Claim Investigations Examples

House Fire Aftermath
\$300,000 in Damages/Reserves (Against)



Claim Recovery Activity FY2022 to Present

- Insurance reimbursements, third-party payments, damage mitigation
 - Historical annual savings varies
 - Claims take days to years to resolve.
 - Barriers to information collection since FY21
 - Large insurance reimbursements are outliers but have a positive impact and represent solid risk practices.



Claim Settlements FY2022 to Present

- External claims were filed against the BWL.
 - Evaluated with respect to BWL Rules & Regulations, State Laws, and Industry Standards.
 - Multi-faceted review process that includes business unit, management, and legal.
- Representative of claims against where the BWL was determined to be at fault for a loss.
 - Most during Construction Season.
 - Usually, property damage related to utility operations.



Corporate Risk Register

What is it?

- Living document to record and analyze **organizational** risks
- Roll-up from **departmental** risk analyses and mitigation plans
- Considers each risk's likelihood, and planned mitigation
- BWL's Strategic Plan considers and aims to mitigate organizational risks

Corporate Risk Register Categories

Name

Definition

Compliance

Risks associated with failing to comply with laws, regulations, and industry standards

Financial

Risks to financial performance, including credit and market risk

Operational

Risks related to day-to-day operations

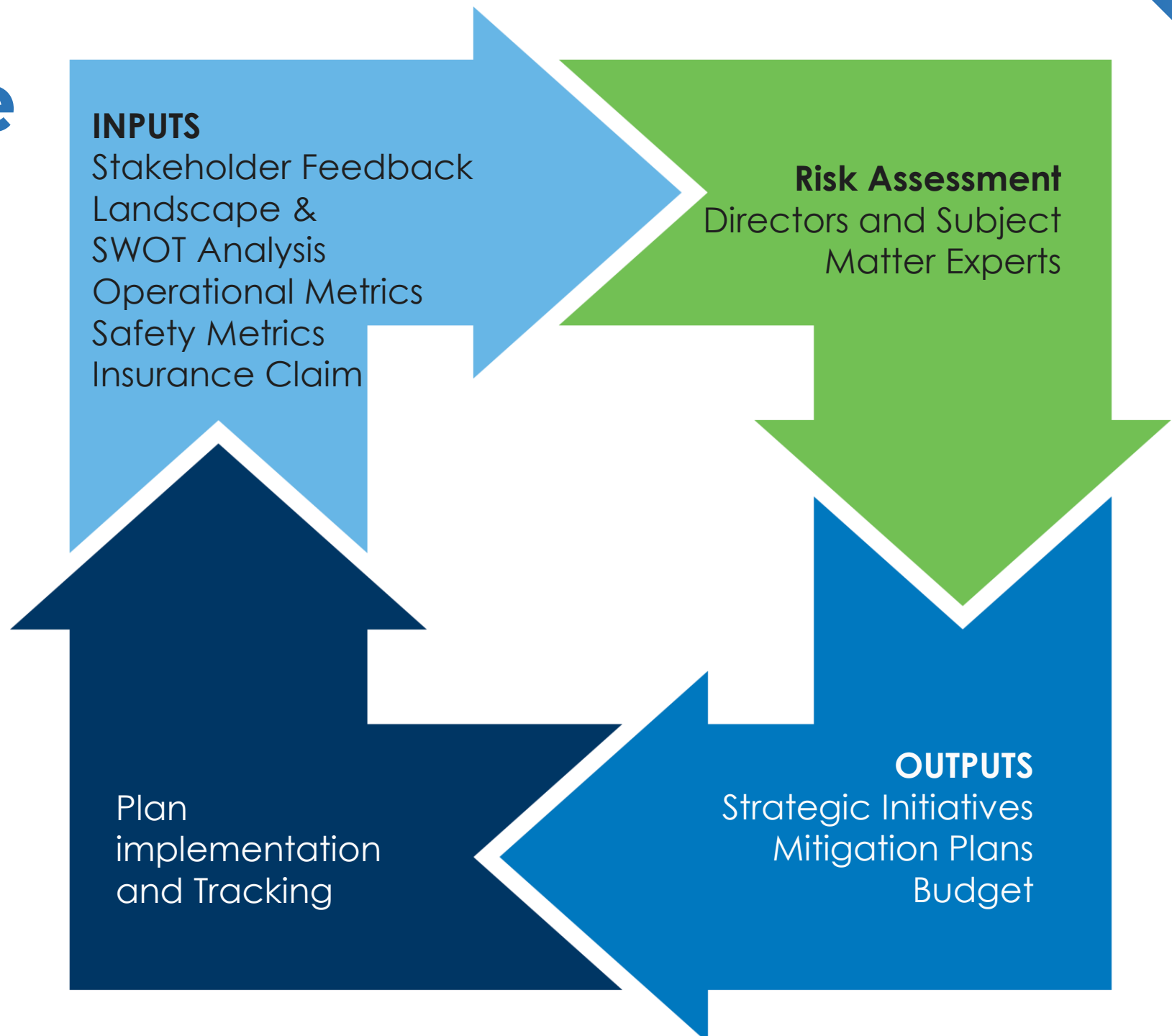
Reputational

Risks that affect a company's brand or reputation

Strategic

Risks that could impact strategic or master plans

Corporate Risk Register BWL's Process



Corporate Risk Register

Next Steps

- Strategic Plan Initiative and Target planning
 - FY26 Plan is effective July 1, 2025.
- Departmental risk assessments and mitigation plans
- Review in six months

Thank You!



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Strategic Plan 2021-2025

Accomplishments March 2024-February 2025
Presentation Date: March 2025



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Purpose

Share progress on BWL's 2021 Strategic Plan

1. 2021 Plan Refresher
2. Accomplishments
3. Next Steps

2021 Strategic Plan Refresher

<div>1</div> <div>2021-2025 Strategic Priorities</div> <div>Customer & Community</div> <div>Goal: Enhance the customer utility experience and enrich the community we serve</div> <div>Strategy 1 Measure, monitor and respond to customer feedback and expectations</div> <div>Strategy 2 Provide innovative and cost-effective utility products, services and programs that leverages technology</div> <div>Strategy 3 Support community engagement that includes education, volunteerism and sponsorships</div> <div>Strategy 4 Promote economic development and regional partnerships that create growth and synergy</div>	<div>2</div> <div>Workforce Engagement & Diversity</div> <div>Goal: Maintain a workforce that embraces safety, is agile, diverse, engaged and prepared to support the BWL's success</div> <div>Strategy 1 Cultivate a generative safety culture</div> <div>Strategy 2 Attract, develop and retain a highly skilled, diverse and culturally intelligent workforce</div> <div>Strategy 3 Cultivate employee engagement that promotes a positive work environment, professional development and career growth with emphasis on succession planning</div>	<div>3</div> <div>Climate & Environment</div> <div>Goal: Maintain a leadership role in providing energy solutions that support a sustainable planet</div> <div>Strategy 1 Enhance and promote policies, practices and standards that support carbon reduction and a healthy ecosystem</div> <div>Strategy 2 Increase renewable energy portfolio and energy waste reduction</div> <div>Strategy 3 Support emerging beneficial electrification opportunities</div> <div>Strategy 4 Enhance sustainable water operations</div> <div>Strategy 5 Educate customers on BWL's sustainable practices</div>	<div>4</div> <div>Operational Resiliency & Continuous Improvement</div> <div>Goal: Apply principles of operational resilience and continuous improvement to all organizational assets, such as equipment, people and knowledge</div> <div>Strategy 1 Identify and respond to opportunities for continuous improvement that balance performance, cost and risk</div> <div>Strategy 2 Apply industry benchmarks and standards reflecting best practices</div> <div>Strategy 3 Identify, mitigate and monitor barriers to providing utility services</div>	<div>5</div> <div>Financial Stability</div> <div>Goal: Maintain a financially viable organization</div> <div>Strategy 1 Continue to refine our rate structure for existing and new customers</div> <div>Strategy 2 Sustain fiscal and fiduciary responsibility through planning, analysis, policies, practices and internal controls</div> <div>Strategy 3 Pursue opportunities and adopt practices that enhance BWL's competitiveness</div> <div>Strategy 4 Identify, evaluate and implement revenue diversification opportunities</div>
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Customer & Community

Goal: Enhance the customer utility experience and enrich the community we serve

Strategy 1

Measure, monitor and respond to customer feedback and expectations

Strategy 2

Provide innovative and cost-effective utility products, services and programs that leverages technology

Strategy 3

Support community engagement that includes education, volunteerism and sponsorships

Strategy 4

Promote economic development and regional partnerships that create growth and synergy

- Decreased call abandonment from 27.5% to 9%
- Decreased the average speed of answers from 281 seconds to 54 seconds, exceeding the 90-second goal
- 119% increase in revenue from Quality Dairy kiosks
- 349% increase at the Haco Customer Service center
- Call Center Service Survey yielded a rating of 4.82/5.
- Implemented Customer Self-Service 2.0

Customer & Community

Golf 4 Charity raised a record \$45,000!



Lansing's first energy demonstration project at the Allen Neighborhood Center



Workforce Engagement & Diversity

Goal: Maintain a workforce that embraces safety, is agile, diverse, engaged and prepared to support the BWL's success

Strategy 1

Cultivate a generative safety culture

Strategy 2

Attract, develop and retain a highly skilled, diverse and culturally intelligent workforce

Strategy 3

Cultivate employee engagement that promotes a positive work environment, professional development and career growth with emphasis on succession planning

- DEI sessions on inclusive management practices
- FY25 DEI workplan
- DEI related SMART goals

Workforce Engagement & Diversity



Only 1 lost-time incident in FY24.

REO Cogeneration Plant
celebrated seven years with no
lost-time incidents!



Climate & Environment

Goal: Maintain a leadership role in providing energy solutions that support a sustainable planet

Strategy 1

Enhance and promote policies, practices and standards that support carbon reduction and a healthy ecosystem

Strategy 2

Increase renewable energy portfolio and energy waste reduction

Strategy 3

Support emerging beneficial electrification opportunities

Strategy 4

Enhance sustainable water operations

Strategy 5

Educate customers on BWL's sustainable practices

1. Added 72 solar customers, resulting in 494.43 kW of behind-the-meter distributed energy resources
2. 20% increase from 2023 in kWh saved through Energy Waste Reduction education
3. Bright Idea Series helps customers understand their bills and schedule free home energy visits
4. Electrification rebates, 2nd in MI with e-bike rebates
5. Peak Power Demand Response program
6. Raised BWL Water Tower

Operational Resiliency & Continuous Improvement

Goal: Apply principles of operational resilience and continuous improvement to all organizational assets, such as equipment, people and knowledge

Strategy 1

Identify and respond to opportunities for continuous improvement that balance performance, cost and risk

Strategy 2

Apply industry benchmarks and standards reflecting best practices

Strategy 3

Identify, mitigate and monitor barriers to providing utility services

- Workday HRIS Implementation
- E-Verify
- Association for the Advancement of Cost Engineering classification system for capital project estimates
- Lean principles, Gemba and Six Sigma

Operational Resiliency & Continuous Improvement

Goal: Apply principles of operational resilience and continuous improvement to all organizational assets, such as equipment, people and knowledge

Strategy 1

Identify and respond to opportunities for continuous improvement that balance performance, cost and risk

Strategy 2

Apply industry benchmarks and standards reflecting best practices

Strategy 3

Identify, mitigate and monitor barriers to providing utility services

1. Digital maps on crew mobile devices
2. Improved water utility processes with digital processes
3. Improved system visualization

Financial Stability

Goal: Maintain a financially viable organization

Strategy 1

Continue to refine our rate structure for existing and new customers

Strategy 2

Sustain fiscal and fiduciary responsibility through planning, analysis, policies, practices and internal controls

Strategy 3

Pursue opportunities and adopt practices that enhance BWL's competitiveness

Strategy 4

Identify, evaluate and implement revenue diversification opportunities

Financial Stability Grants

Awards

American Public Power Association's Mutual Aid Commendation, Smart Energy Provider and Diamond Safety Award

National Energy Star for Excellence in Marketing

Silver Telly Award in the Local TV General-Utilities category and Central MI Public Relations Society of America Excellence in Crisis Communications

MI Section American Water Works Association-Chuck Van Der Kolk volunteer of the year: Kelly Gleason, BWL Environmental Compliance Specialist III

Lori Gray, Asset Management, U.S. Head of Delegation for TC 251 "Asset Management"

Next Steps

- 2021 Plan Expires June 30, 2025
- Final 2021 Plan Update: Fall 2025
- FY26 Plan begins July 1, 2025

Thank You!



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RESOLUTION 2025-03-XX

Amending Appointment to Michigan Public Power Agency – Commissioner and Alternate

WHEREAS, David Bolan is the Michigan Public Power Agency (MPPA) Commissioner on behalf of the Lansing Board of Water & Light (BWL), along with Lynn McKinstry and Constance Carantza, who serve as First and Second Alternate Commissioners, respectively; and

WHEREAS, David Bolan will retire from his position with the BWL effective March 31, 2025; and

WHEREAS, Lynn McKinstry will retire from her position with the BWL effective _____ 2025; and

WHEREAS, Roberto Hodge has been appointed to serve as the successor Chief Operations Officer after David Bolan's retirement; and

WHEREAS, Julie Spoering serves as the BWL's Analyst of Bulk Power; and

WHEREAS, it is necessary and in the best interest of the BWL to name a replacement MPPA Commissioner on behalf of the BWL.

WHEREAS, it is necessary and in the best interest of the BWL to name a replacement for the BWL's First Alternate on behalf of the BWL.

NOW, BE IT RESOLVED, that Roberto Hodge is named the MPPA Commissioner on behalf of the BWL.

NOW, BE IT RESOLVED, that Julie Spoering is named as the BWL's First Alternate MPPA Commissioner.

FURTHER RESOLVED, that Constance Carantza will remain as BWL's First Alternate MPPA Commissioner.

FURTHER RESOLVED, that Constance Carantza will remain as the Second Alternate Commissioner.

Motion by Commissioner _____, Seconded by Commissioner _____, to approve the Amending Appointment to Michigan Public Power Agency Resolution at a Board meeting held on March 25, 2025.

Yeas:

Nays:

Action:



RETIREMENT PLAN COMMITTEE (RPC)

Investment Activity Updates for Committee of the Whole: 3/11/2025

Investment Activity Update

- Defined Benefit Plan (DB) & Voluntary Employee Benefit Administration Plan (VEBA)
 - The RPC completed its annual review of asset allocation and return expectations
 - Both plans remain well positioned to achieve their target returns and no change in asset allocation is needed at this time

Investment Activity Update

- Defined Contribution 401(a) & Deferred Compensation 457(b) Plans
 - RPC voted to approve adding the State Street GTC Retirement Income Builder (RIB) Series of funds
 - Target Date Fund + Embedded Group Fixed Index Annuity w/ Guaranteed Lifetime Withdrawal Benefit
 - Starting around age 65 participants will experience "income activation" and receive 6% of their High-Water Mark balance until their total portfolio balance is exhausted. At that time, the Guaranteed Lifetime Withdrawal Benefit will activate and support a 4.5% withdrawal benefit.
 - The RPC is working with Nationwide and Captrust on next steps for implementation.



RETIREMENT PLAN COMMITTEE (RPC)

Administrative Activity Updates for Committee of the Whole: 3/11/2025

Administrative Activity Update

- Defined Benefit Plan (DB) & Voluntary Employee Benefit Administration Plan (VEBA)
 - DB Plan
 - The monthly pension payment processing successfully transitioned to Northern Trust in January.
 - VEBA Plan
 - RPC approved the FY25 Q2 ASA reimbursement of \$2,227,776.

Administrative Activity Update

- Defined Contribution & Deferred Compensation Plans
 - 401(a) Plan 1, Plan 2, and 457 plan documents are being updated to incorporate legislative changes as well as the recent change to the normal retirement age for the 457 plan.
 - RPC voted to recommend the updated 401(a) Plan 2 documents to the Board for approval
 - RPC plans to vote on the approval of the 401(a) Plan 1 and 457 Plan documents at its March 17th meeting

Administrative Activity Update

- RPC Membership and Charter
 - The Board has established the RPC membership to be as follows:
 - BWL Chief Financial Officer
 - BWL Executive Director of Human Resources
 - BWL Director of Accounting, Finance and Planning
 - Two voting members of the Board of Commissioners
 - A BWL retiree
 - An IBEW Local Union 352 employee
 - Due to recent BWL organizational changes, the RPC voted to recommend the Board replace the Director of Accounting, Finance & Planning with the Manager of Accounting, Finance & Planning
 - The RPC also voted to recommend the Board approve an updated RPC charter which incorporates the changes necessary to maintain alignment with the change in membership (if approved)

Glossary

- **DB** Defined Benefit Plan - The plan is a noncontributory single-employer defined benefit pension plan for employees of the BWL. The Defined Benefit Plan, by resolution of the Board of Commissioners, was closed to employees hired subsequent to December 31, 1996, and a defined contribution plan was established for employees hired after December 31, 1996. Effective December 1, 1997, all active participants in this plan were required to make an irrevocable choice to either remain in this plan (defined benefit) or move to the newly established defined contribution plan. Those participants who elected to move to the defined contribution plan received lump-sum distributions from this plan that were rolled into their accounts in the newly established defined contribution plan. Of the 760 employees who were required to make this election, 602 elected to convert their retirement benefits to the newly established defined contribution plan.
- **VEBA** Voluntary Employee Benefit Administration - The Post-Retirement Benefit Plan is a single-employer defined benefit healthcare plan. The Plan provides medical, dental, and life insurance benefits. Substantially all of the BWL's employees may become eligible for healthcare benefits and life insurance benefits if they reach normal retirement age while working for the BWL.
- **DC 401(a)** Defined Contribution Plan - The Defined Contribution Plan covers substantially all full-time employees hired after December 31, 1996. In addition, 602 employees hired before January 1, 1997 elected to convert their retirement benefits from the Defined Benefit Plan effective December 1, 1997. The Defined Contribution Plan operates as a money purchase pension plan and meets the requirements of Sections 401(a) and 501(a) of the IRC of 1986, as amended from time to time. For employees hired before January 1, 1997, the BWL is required to contribute 15.0% of the employees' compensation. For employees hired after January 1, 1997, the BWL is required to contribute 9.5% of the employees' compensation. In addition, the BWL is required to contribute 3.0% of the employees' compensation for all employees who are not eligible to receive overtime pay and 0.5% of the employees' compensation for all nonbargaining employees. No participant contributions are required.
- **DC 457(b)** Deferred Compensation Plan - The Deferred Compensation Plan covers substantially all full-time employees. The BWL contributes \$1,000 on behalf of each participant as of the first pay period of each year. Additionally, the BWL will provide a 100% match for each participant's contributions annually, up to \$1,500.
- **ASA** Administrative Services Agreement – The administrative services agreement is an agreement between the BWL and the VEBA trust regarding the payment of VEBA plan benefits. The agreement calls for the BWL to handle the processing of benefit payments and allows for the reimbursement for payment from the VEBA trust if certain conditions are satisfied. These conditions include both funding status and investment performance measures.

LANSING BOARD OF WATER AND LIGHT RETIREMENT PLAN COMMITTEE CHARTER

A. PURPOSE

The Lansing Board of Water and Light Board of Commissioners (the “Board”) established the Retirement Plan Committee (the “RPC”)¹ and delegated authority to it to perform certain functions with regard to certain retirement plans maintained by the Lansing Board of Water and Light (“BWL”). This Retirement Plan Committee Charter (“Charter”) outlines the scope of such authority, establishes guidelines for operation of the RPC and summarizes the responsibilities of the RPC. The Board intends for this Charter to provide clarity, help mitigate fiduciary liability for RPC members and strengthen accountability and governance.

B. COVERED PLANS

The BWL retirement plans covered by this Charter (collectively, the “Covered Plans”) shall include the following:

1. Lansing Board of Water and Light Defined Contribution Plan and Trust 1 (“DC Plan 1”);
2. Lansing Board of Water and Light Defined Contribution Plan and Trust 2 (“DC Plan 2”);
3. Lansing Board of Water and Light 457 Deferred Compensation Plan and Trust (“457 Plan”);
4. Lansing Board of Water and Light Defined Benefit Plan and Trust for Employees’ Pensions (“DB Plan”); and
5. Post-Retirement Benefit Plan and Trust for Eligible Employees of Lansing Board of Water and Light (“VEBA”).

C. RPC AUTHORITY

The RPC holds all the powers and authority with regard to the Covered Plans that are delegated to it by the Board, the BWL General Manager, and Trustees of the Covered Plans, as applicable, including the powers and authority delegated in this Charter. The RPC may exercise such power and authority except as otherwise limited by this Charter, the BWL’s governing documents, the Michigan Public Employee Retirement System Act (Public Act 314 of 1965), as amended, and other applicable laws of the State of Michigan. It is expressly noted that the Covered Plans are governmental plans that are not subject to the Employee Retirement Income Security Act of 1974, as amended from time to time (“ERISA”). However, the BWL intends for the RPC to follow ERISA as a best practice, when appropriate.

¹ Resolution 2016-09-03.

The Board delegates and/or has delegated to the RPC, directly or indirectly, certain responsibilities with regard to the Covered Plans. Such responsibilities include (1) performing all functions that are described in the section below that is titled “Responsibilities relating to Specific Plans,” and (2) making all decisions and taking all actions that it deems necessary in the course of performing said functions. The Board does not delegate and has not delegated to the RPC the authority or responsibilities described in the section below that is titled “Responsibilities reserved by the Board.”

D. RPC STRUCTURE

1. Membership. The RPC shall be comprised of the following seven (7) individuals²:

- i. The BWL Chief Financial Officer;
- ii. The BWL Executive Director of Human Resources;
- iii. The BWL ~~Director~~ Manager of Accounting, Finance and Planning;
- iv. A voting member of the Board of Commissioners;
- v. A second voting member of the Board of Commissioners;
- vi. A BWL retiree chosen by the retirees according to a selection process determined by the retirees; and
- vii. An IBEW Local Union 352 bargaining employee chosen by the IBEW Local Union 352 according to a selection process determined by the IBEW Local Union 352.

2. Voting. All RPC members noted above except for the second voting member of the Board shall be voting members of the RPC. Notwithstanding the foregoing, such second voting member of the Board may vote where the first voting Board member is absent or if a tie-breaker vote is necessary.

3. Appointment, Resignation and Removal. Each RPC member must be officially appointed by the Board and sign an acceptance of appointment and a Code of Conduct and Ethics statement prior to serving on the RPC. Each RPC member shall serve until his or her resignation or removal from the RPC. An RPC member may resign by providing 30 days’ advance written notice of such resignation to the RPC Chair. An RPC member may be removed by the Board upon 30 days’ advance written notice. Any vacancy in RPC membership must be filled as soon as practicable.

4. No Additional Compensation. RPC members shall not receive compensation for services performed on behalf of the RPC, other than the compensation that is earned in their official capacity, if employed by the BWL.

² Resolution 2023-05-08; [Resolution 2025-03-XX](#).

5. Meetings.

- i. The RPC members shall schedule and attend all regular meetings, which shall occur at least four times during each calendar year. The Chair of the RPC may call additional special meetings of the RPC, as necessary, to examine and consider such other matters related to RPC responsibilities.
- ii. Meetings may be held in person, by video, and/or telephone conference call.
- iii. The Chair of the RPC shall conduct all meetings, and the RPC members may establish other rules for the conduct of meetings.
- iv. The presence of a majority of RPC members shall constitute a quorum at each RPC meeting and will be sufficient to conduct the business of the RPC. Actions of the RPC shall be authorized by a vote of a majority of the RPC members present at a meeting at which a quorum is present.
- v. Any action which may be taken at an RPC meeting may be taken without such meeting if consent in writing, setting forth the action so taken, is signed by all of the then serving voting members of the RPC. Such consent and signatures may be provided by electronic means, including email and electronic signature.
- vi. Individuals who are not RPC members may be called upon to attend and/or present information at RPC meetings, including Human Resources staff, independent external consultants, vendors and legal counsel.
- vii. The agenda for each RPC meeting shall be determined by the Chair of the RPC in consultation with other members of the RPC, as appropriate. The agenda shall be circulated, along with any supplemental materials, in advance of each meeting to all RPC members.
- viii. Minutes of each RPC meeting will be taken by the individual assigned by the BWL Finance department. Meeting minutes shall be circulated to all RPC members for review prior to the next meeting. At the beginning of each meeting, the proposed Minutes of the most recent meeting will be considered for approval.

6. Meeting Topics. Items to be discussed at RPC meetings should include the topics listed below, as appropriate, at least once per year. Some topics may be included as standing items on the RPC meeting agenda.

- i. Presentation and discussion of service provider reports
- ii. Review of expenses paid by the Covered Plans
- iii. Consideration of updates/amendment to the Covered Plans
- iv. Review of compliance concerns
- v. Monitoring and discussion of investment performance
- vi. Monitoring and discussion of service providers
- vii. Review of participant communication process
- viii. Attention to reporting requirements (to Board and others)

7. Expectations of Individual RPC Members. Prior to beginning service on the RPC, each potential RPC member must review and agree to the Code of Conduct and Ethics statement, included as Appendix A. Thereafter, each RPC member must participate in RPC business in a manner consistent with his or her fiduciary duties. Expectations for RPC members include the items listed below, among others.

- i. Familiarize oneself with the provisions of the Covered Plans and the identities of their service providers.
- ii. Attend RPC meetings.
- iii. Engage with RPC business during each meeting by reviewing meeting materials in advance, asking questions and voting in an informed manner.
- iv. Abide by relevant fiduciary duties as a best practice, including the following:
 1. acting solely in the interests of participants and beneficiaries of the Covered Plans with the exclusive purpose of providing benefits and defraying reasonable expenses;
 2. acting with the same care, skill, prudence, and diligence under the circumstances that a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims;
 3. following the terms of the Covered Plan documents (unless inconsistent with applicable law);
 4. considering facts and circumstances when making investment decisions, such as the diversification of investments held by the Covered Plans, liquidity and current returns of investments relative to cash flow requirements and projected returns of investments relative to funding objectives;
 5. complying with all applicable reporting and disclosure requirements;
 6. refraining from any activity that would violate the Code of Conduct and Ethics; and
 7. paying only reasonable plan expenses.
- v. Attend ongoing training and educational events required or recommended by the RPC Continuing Education Policy, included as Appendix B.

8. Expectations for Specific RPC Members.

- i. **Chair.** The BWL CFO shall act as Chair of the RPC and be the authorized signatory of all agreements and documents signed on behalf of the RPC, except as otherwise approved by the RPC.
- ii. **Point of Contact with Board.** The CFO shall be the RPC's point of contact with the Board.

- iii. **Day-to-Day Activities.** The BWL CFO or Director–Manager of Accounting, Finance and Planning shall have authority to conduct all day-to-day investment activities within the scope of the RPC’s authority.

9. Indemnification. The BWL indemnifies and holds harmless each member of the RPC from and against all liability of any kind, including, without limitation, court costs, attorneys’ fees and other expenses that arise from any legal or administrative proceeding of any kind that is brought by any person, entity or government agency in connection with the RPC’s discharge of its duties relating to the Covered Plans; provided, however, that indemnification shall not apply with regard to any proceeding in which an RPC member is found to have been grossly negligent or to have violated a law or committed a crime.

E. RPC RESPONSIBILITIES

1. General Responsibilities.

- i. **Administrative.** The RPC is generally tasked with completing the following administrative activities on behalf of a Covered Plan if so indicated in the section below entitled “Responsibilities relating to Specific Plans”: appointing and removing the plan administrators; facilitating administration of the plans and communications to participants and plan administrators; developing and applying written procedures pursuant to which it administers the plans; and taking all actions necessary to carry out the terms of the plans (collectively, “Administrative Responsibilities”). Current materials relating to the RPC’s Administrative Responsibility are listed and included in Appendix C.
- ii. **Investment.** The RPC may be tasked with completing the following investment-related activities on behalf of a Covered Plan if so indicated in the section below entitled “Responsibilities relating to Specific Plans”: overseeing investment of plan assets; selecting, monitoring and evaluating investment options; reviewing, on at least an annual basis, the acceptability of the universe of investment options offered to participants; working with the plan investment advisor to ensure investment options remain compliant with the criteria used to initially select them for inclusion in the plan, the Investment Policy Statement and other criteria as appropriate; and other responsibilities assigned to the RPC in an Investment Policy Statement (collectively, “Investment Responsibilities”). Current materials relating to the RPC’s Investment Responsibility are listed and included in Appendix D.
- iii. **Amendment.** The RPC may be tasked with completing the following amendment-related activities on behalf of a Covered Plan if so indicated in the section below entitled “Responsibilities relating to Specific Plans”: altering plan design to address changes in business needs and industry practice and modifying the plans for compliance purposes due to changes

- in the law (collectively, “Amendment Responsibilities”). Current documents for the Covered Plans are listed and included in [Appendix E](#).
- iv. **Service Providers.** The RPC may be tasked with the engagement, monitoring and evaluating of consultants and other service providers that it determines to be necessary or helpful in its performance of responsibilities (the “Service Provider Responsibilities”). Current service providers for the Covered Plans are listed in [Appendix F](#).
 - v. **Reporting.** The RPC may be tasked with the following reporting-related activities with regard to the Covered Plans: submit quarterly custodian fund account statements for the Covered Plans to the Board on a quarterly basis; provide bi-monthly reports to the BWL finance committee regarding the significant administrative and investment activities of the Covered Plan; provide quarterly pension reports to the Board that include asset balance and investment performance information; and provide a comprehensive annual report to the Board that includes audit reports, actuarial reports, investment performance reports, a dashboard summary and a narrative summary of the Covered Plan’s significant activities for the year (collectively, the “Reporting Responsibilities”).

2. Responsibilities relating to Specific Plans.

- i. **DC Plan 1.** The RPC has been delegated the following responsibilities with regard to DC Plan 1: Administrative Responsibilities, Investment Responsibilities, Amendment Responsibilities, Service Provider Responsibilities and Reporting Responsibilities.³
- ii. **DC Plan 2.** The RPC has been delegated the following responsibilities with regard to DC Plan 2: Administrative Responsibilities, Investment Responsibilities, Service Provider Responsibilities and Reporting Responsibilities. The RPC does not have Amendment Responsibilities or authority concerning DC Plan 2.⁴
- iii. **457 Plan.** The RPC has been delegated the following responsibilities with regard to the 457 Plan: Administrative Responsibilities, Investment Responsibilities, Amendment Responsibilities, Service Provider Responsibilities and Reporting Responsibilities.⁵
- iv. **DB Plan.** The RPC has been delegated the following responsibilities with regard to the DB Plan: Administrative Responsibilities, Investment

³ See Resolution 2018-11-03; Resolution 2018-11-08; Resolution 2019-11-01; Memorandum to RPC from Richard R. Peffley dated 11/26/2019; Resolution 2020-05-04; Memorandum to RPC from Richard R. Peffley dated 09/21/2020; ~~and~~ Resolution 2023-05-08; [and Resolution 2025-03-XX](#).

⁴ See Resolution 2018-11-04; Resolution 2018-11-09; Resolution 2019-11-01; Memorandum to RPC from Richard R. Peffley dated 11/26/2019; Resolution 2020-05-03; ~~and~~ Resolution 2023-05-08; [and Resolution 2025-03-XX](#).

⁵ See Resolution 2018-11-05; Resolution 2018-11-11; Resolution 2019-11-01; Memorandum to RPC from Richard R. Peffley dated 11/26/2019; Resolution 2020-05-04; Memorandum to RPC from Richard R. Peffley dated 09/21/2020; ~~and~~ Resolution 2023-05-08; [and Resolution 2025-03-XX](#).

Responsibilities, Amendment Responsibilities, Service Provider Responsibilities and Reporting Responsibilities.⁶

- v. **VEBA.** The RPC has been delegated the following responsibilities with regard to VEBA: Administrative Responsibilities, Investment Responsibilities, Amendment Responsibilities, Service Provider Responsibilities and Reporting Responsibilities.⁷

3. Responsibilities reserved by the Board. The Board has reserved all rights and responsibilities related to freezing, funding and terminating any of the Covered Plans. Additionally, the Board has reserved all Amendment Responsibilities related to DC Plan 2.

F. Further Delegation and Assignment by RPC.

1. Delegation of Fiduciary Responsibilities. The RPC is a fiduciary of the Covered Plans because it engages in the following types of fiduciary responsibilities (that have been delegated to it): (i) exercising discretionary authority and control with regard to the management of such plans, (ii) exercising authority and control with regard to the management or disposition of plan assets; and (iii) possessing discretionary authority and responsibility with regard to the administration of such plans. Except as provided below, the RPC is authorized and permitted to further delegate fiduciary responsibilities to other individuals or entities, provided that it maintains oversight of such responsibilities and tasks.

2. Assignment of Non-Fiduciary Responsibilities. The RPC is authorized and permitted to assign non-fiduciary responsibilities and tasks to other individuals, entities, teams and/or departments at the BWL, provided that it maintains oversight of such responsibilities and tasks. The distinction between fiduciary and non-fiduciary tasks generally relates to the ability to use discretion when completing the activity. Fiduciary tasks involve the exercise of discretion, and non-fiduciary tasks follow specific instructions, rules, guidelines or procedures. Examples of non-fiduciary activities include the following:

- i. Applying rules to determine eligibility for participation or benefits
- ii. Calculating service and compensation credits for benefits
- iii. Preparing employee communications material
- iv. Maintaining participants' service and employment records
- v. Preparing reports required by government agencies
- vi. Calculating benefits
- vii. Providing orientation to new participants and advising participants of their rights and options under the plan
- viii. Collecting contributions and applying contributions as provided in the plan

⁶ See Resolution 2016-09-03; Resolution 2019-11-01; Memorandum to RPC from Richard R. Peffley dated 11/26/2019; Resolution 2020-05-04; Memorandum to RPC from Richard R. Peffley dated 09/21/2020; Resolution 2020-05-05; Resolution 2020-05-11; ~~and~~ Resolution 2023-05-08; [and Resolution 2025-03-XX](#).

⁷ See Resolution 2016-09-03; Resolution 2019-11-01; Memorandum to RPC from Richard R. Peffley dated 11/26/2019; Resolution 2020-05-04; Memorandum to RPC from Richard R. Peffley dated 09/21/2020; Resolution 2020-05-06; Resolution 2020-05-10; ~~and~~ Resolution 2023-05-08; [and Resolution 2025-03-XX](#).

- ix. Preparing reports concerning participants' benefits
- x. Processing claims
- xi. Making recommendations to others for decisions with respect to plan administration

This Charter has been approved by the Board effective as of ~~July 23~~March 25, 202~~54~~54 by Resolution #202~~54-037-XX07~~.

Lansing Board of Water and Light

By: _____

Its: Chairperson of the Board

APPENDIX A

Code of Conduct and Ethics Statement

I have reviewed a copy of the Code of Conduct and Ethics approved by the Board of Commissioners (Resolution #2024-07-05) and agree to its terms when serving as a member of the RPC.

Dated: _____

RPC Member

APPENDIX B

Retirement Plan Committee

Continuing Education Policy

This Continuing Education Policy is intended to satisfy the requirements of the Michigan Public Employee Retirement System Act (Public Act 314 of 1965), as amended. When appointed to the RPC, RPC members agree to perform significant activities on behalf of the Covered Plans. As a result, they must be knowledgeable of and understand their obligations with respect to applicable state and federal laws, rules, regulations, expectations and other matters relating to their duties. Below is a list of topics for which the RPC should seek out educational opportunities for its members. An RPC member is expected to participate in educational opportunities each year, which may include educational updates provided during regular RPC meetings.

1. Design and features of Covered Plans
2. Applicable laws and regulations
3. Delegations of authority and responsibility
4. Governance and proper process
5. Investment selection and retention
6. Administrative responsibilities
7. Fiduciary duties and liability
8. Litigation trends

RPC members may receive reasonable reimbursement for all actual and necessary travel and registration expenses incurred to attend RPC educational opportunities in accordance with BWL's Travel & Expense policy.

APPENDIX C

RPC Administrative Documents

- VEBA: Administrative Procedures Related to Premium Sharing for Health Benefits, Prescription Drug Benefits, and Life Insurance (December 2020, updated January 2023 [and July 2024](#)), as amended.
- VEBA: Administrative Procedures Related to Cash-in-Lieu and Medicare Part B Reimbursement Benefits (January 2023, updated January 2024 [and July 2024](#)), as amended.

APPENDIX D

RPC Investment Documents

- DC Plan 1: Investment Policy Statement – Lansing Board of Water and Light Defined Contribution Plan and Trust 1 (May 2021), as amended.
- DC Plan 2: Investment Policy Statement – Lansing Board of Water and Light Defined Contribution Plan and Trust 2 (May 2021), as amended.
- 457 Plan: Investment Policy Statement – Lansing Board of Water and Light 457 Deferred Compensation Plan and Trust (May 2021), as amended.
- DB Plan: Lansing Board of Water and Light Defined Benefit Plan and Trust for Employees’ Pensions- Statement of Investment Policies, Procedures and Objectives (January 2024), as amended.
- VEBA: Post-Retirement Benefit Plan and Trust for Eligible Employees of Lansing Board of Water and Light - Statement of Investment Policies, Procedures and Objectives (September 2023), as amended.

APPENDIX E

Plan Documents for Covered Plans

- DC Plan 1: Lansing Board of Water and Light Defined Contribution Plan and Trust 1
 - Adoption Agreement
 - Plan Document
 - [Trust Agreement](#)
 - [Summary Plan Description](#)
- DC Plan 2: Lansing Board of Water and Light Defined Contribution Plan and Trust 2
 - Adoption Agreement
 - Plan Document
 - [Trust Agreement](#)
 - [Summary Plan Description](#)
- 457 Plan: Lansing Board of Water and Light 457 Deferred Compensation Plan and Trust
 - Adoption Agreement
 - Plan Document
 - Trust Agreement
- DB Plan: Lansing Board of Water and Light Defined Benefit Plan and Trust for Employees' Pensions
 - Plan Document
 - [Trust Agreement](#)
 - [Summary Plan Description](#)
- VEBA: Post-Retirement Benefit Plan and Trust for Eligible Employees of Lansing Board of Water and Light
 - Plan Document
 - [First Amendment](#)
 - [Second Amendment](#)
 - [Trust Agreement](#)
 - [Summary Plan Description](#)

APPENDIX F

Service Providers for Covered Plans

- DC Plan 1: Lansing Board of Water and Light Defined Contribution Plan and Trust 1
 - Third Party Administrator - Nationwide Financial Services
 - Custodian – Nationwide Trust Company
 - Advisor – CapTrust
 - Auditor – Baker Tilly US, LLP
- DC Plan 2: Lansing Board of Water and Light Defined Contribution Plan and Trust 2
 - Third Party Administrator - Nationwide Financial Services
 - Custodian – Nationwide Trust Company
 - Advisor - CapTrust
- 457 Plan: Lansing Board of Water and Light 457 Deferred Compensation Plan and Trust
 - Third Party Administrator - Nationwide Financial Services
 - Custodian – Nationwide Trust Company
 - Advisor - CapTrust
- DB Plan: Lansing Board of Water and Light Defined Benefit Plan and Trust for Employees' Pensions
 - Custodian – Northern Trust Company
 - Advisor – Asset Consulting Group, LLC
 - Actuary - Benassist Retirement Consulting, LLC
 - Auditor – Baker Tilly US, LLP
 - Investment Managers:
 - Northern Trust Investments, Inc.
 - JP Morgan Investment Management, Inc.
 - Fidelity Institutional Asset Management Trust Company
 - AEW Core Property Trust, Inc.
 - Marathon Asset Management Limited
 - Atlanta Capital
 - Harding Loevner
 - BlackRock
- VEBA: Post-Retirement Benefit Plan and Trust for Eligible Employees of Lansing Board of Water and Light
 - Custodian – Northern Trust Company
 - Advisor – Asset Consulting Group, LLC
 - Actuary - Benassist Retirement Consulting, LLC
 - Auditor – Baker Tilly US, LLP
 - Investment Managers:
 - Northern Trust Investments, Inc.
 - JP Morgan Investment Management, Inc.
 - FIAM Institutional Funds Manager, Inc.
 - AEW Core Property Trust, Inc.

- Blackstone Property Partners L.P.
- Marathon Asset Management Limited
- Atlanta Capital
- Harding Loevner
- BlackRock

RESOLUTION 2025-03-XX

Retirement Plan Committee Appointment Change and Revised Charter Approval

WHEREAS, the Lansing Board of Water & Light (the “Sponsor”) sponsors the (a) Lansing Board of Water and Light Defined Benefit Plan and Trust for Employees’ Pensions; (b) Post-Retirement Benefit Plan and Trust for Eligible Employees of Lansing Board of Water and Light; (c) Lansing Board of Water and Light Defined Contribution Plan and Trust 1; (d) Lansing Board of Water and Light Defined Contribution Plan and Trust 2; and (e) Lansing Board of Water and Light 457 Deferred Compensation Plan and Trust (collectively the “Plans”); and

WHEREAS, the Sponsor created a formal committee effective September 27, 2016, the name of which is the “Retirement Plan Committee” (the “Committee”), to which the Sponsor delegated discretionary authority and responsibility for the discharge of certain duties, and the Sponsor appointed the following individuals to serve on the Retirement Plan Committee: Chief Financial Officer, Executive Director of Human Resources, and the Manager of Finance. Each Retirement Plan Committee member is appointed to serve on the Committee until his or her resignation or removal from the Committee; and

WHEREAS, the Sponsor appointed the Director of Accounting, Finance, and Planning to replace the Manager of Finance on the Committee effective May 24, 2022; and

WHEREAS, the Sponsor also appointed one voting member of the Board who shall also serve as a voting member of the Committee; one voting member of the Board who shall not serve as a voting member of the Committee except at Committee meetings at which the BWL Board of Commissioners’ voting member of the Committee is not present, or to break a tie vote; one BWL retiree to be chosen by the retirees according to a selection process determined by the retirees who shall serve as a voting member of the Committee; and one IBEW Local Union 352 bargaining employee to be chosen by the IBEW Local Union 352 according to a selection process determined by the IBEW Local 352 who shall serve as a voting member of the Committee effective May 23, 2023; and

WHEREAS, due to a recent organizational change, the Sponsor has decided to replace the appointment of the Director of Accounting, Finance, and Planning on the Committee with the appointment of the Manager of Accounting, Finance, and Planning; and

WHEREAS, the Sponsor approved the Retirement Plan Committee Charter on July 23, 2024; and

WHEREAS, the Committee has revised its Charter and recommends it for approval by the Sponsor.

THEREFORE, it is:

RESOLVED, that the Sponsor replaces the appointment of the Director of Accounting, Finance, and Planning on the Committee with the appointment of the Manager of Accounting, Finance, and Planning on the Committee.

FURTHER RESOLVED, that the Sponsor approves the revised Retirement Plan Committee Charter.

Motion by Commissioner _____, **Seconded** by Commissioner _____ to approve the Resolution for Retirement Plan Committee Appointment Change and Revised Charter Approval at a Board meeting held on March 25, 2025.

Yeas:

Nays:

Action:

PRE-APPROVED GOVERNMENTAL DEFINED CONTRIBUTION PLAN

BASIC PLAN DOCUMENT

[DC-BPD #03]

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PLAN DEFINITIONS

This Section contains definitions for common terms that are used throughout the Plan. All capitalized terms under the Plan are defined in this Section or in the relevant section of the Plan document where such term is used.

1.01 Account. The separate Account maintained for each Participant under the Plan by the Plan Administrator, Plan service provider, Custodian or insurance company. A Participant may have any (or all) of the following separate Accounts, to the extent authorized under the Plan:

- Employer Contribution Account
- Matching Contribution Account
- After-Tax Employee Contribution Account
- Employer Pick-Up Contribution Account
- Rollover Contribution Account
- Transfer Account

In addition, if this Plan qualifies as a Grandfathered 401(k) Arrangement (as defined in Section 1.55), a Participant also may have any (or all) of the following separate Accounts:

- Pre-Tax Salary Deferral Account
- Roth Deferral Account
- Roth Rollover Contribution Account

The Plan Administrator may establish other Accounts, as it deems necessary, for the proper administration of the Plan.

1.02 Account Balance. Account Balance shall mean a Participant's balances in all of the Accounts maintained by the Plan on his or her behalf.

1.03 Actuarial Factor. A Participant's Actuarial Factor is used for purposes of determining the Participant's allocation under the age-based formula under AA §6-3(f) of the Profit Sharing Plan Adoption Agreement or under the age-based contribution formula under AA §6-2(e) of the Money Purchase Plan Adoption Agreement. See Section 3.02(a)(1)(i)(E) or 3.02(b)(4).

1.04 Adoption Agreement ("Agreement" or "AA"). The Adoption Agreement contains the elective provisions that an Employer may complete to supplement or modify the provisions under the Plan. Each adopting Employer must complete and execute the Adoption Agreement. If the Plan covers Employees of an Employer other than the Employer that executes the Employer Signature Page of the Adoption Agreement, such additional Employer(s) must execute a Participating Employer Adoption Page under the Adoption Agreement. (See Section 16 for rules applicable to adoption by Participating Employers.) An Employer may adopt more than one Adoption Agreement associated with this Plan document. Each executed Agreement is treated as a separate Plan. The Employer may adopt a Profit Sharing Plan Adoption Agreement or a Money Purchase Plan Adoption Agreement. The Employer also may elect under the Profit Sharing Plan Adoption Agreement to provide for a Grandfathered 401(k) Arrangement under the Plan. Any reference to the Profit Sharing Plan Adoption Agreement includes the Grandfathered 401(k) Plan Adoption Agreement, unless specifically provided otherwise.

1.05 After-Tax Employee Contributions. Employee Contributions that may be made to the Plan by a Participant that are included in the Participant's gross income in the year such amounts are contributed to the Plan and are maintained under a separate After-Tax Employee Contribution Account to which earnings and losses are allocated. See Section 3.04. For this purpose, Roth Deferrals are not considered as After-Tax Employee Contributions.

1.06 Alternate Payee. A person designated to receive all or a portion of the Participant's benefit pursuant to a QDRO. See Section 1.80.

1.07 Anniversary Years. An alternative period for measuring Eligibility Computation Periods (under Section 2.03(a)(3)) and Vesting Computation Periods (under Section 6.05). An Anniversary Year is any 12-month period which commences with the Employee's Employment Commencement Date, or which commences with the anniversary of the Employee's Employment Commencement Date.

1.08 Annual Additions. The amounts taken into account under a Defined Contribution Plan for purposes of applying the limitation on allocations under Code §415. See Section 5.02(c)(1) for the definition of Annual Additions.

1.09 Annuity Contract. A nontransferable group annuity certificate or individual contract as defined in Code §401(g) that is issued by an insurance company qualified to issue annuities in a State and that includes payment in the form of an annuity and that meets the following requirements: (a) An Annuity Contract may only be offered by an Insurance Company; (b) The Annuity Contract may be owned by the Participant, and a group Annuity Contract may be held by the Trustee or Employer (if a

qualified trust substitute under Code §401(f)); and (c) An Annuity Contract may be fixed, variable, or a combination of fixed and variable.

A life insurance contract, an endowment contract, a health or accident insurance contract, or a property, casualty, or liability insurance contract do not constitute an Annuity Contract. However, this does not apply for contracts issued before September 24, 2007.

- 1.10 Annuity Starting Date.** The date an Employee commences distribution from the Plan. If a Participant commences distribution with respect to a portion of his/her Account Balance, a separate Annuity Starting Date applies to any subsequent distribution. If distribution is made in the form of an annuity, the Annuity Starting Date is the first day of the first period for which annuity payments are made.
- 1.11 Beneficiary.** A person designated by the Participant (or by the terms of the Plan) to receive a benefit under the Plan upon the death of the Participant. See Section 7.07(c) for the applicable rules for determining a Participant's Beneficiaries under the Plan.
- 1.12 Break in Service.** The Computation Period (as defined in Section 2.03(a)(3) for purposes of eligibility and Section 6.05 for purposes of vesting) during which an Employee does not complete more than five hundred (500) Hours of Service with the Employer. However, if the Employer elects under AA §4-3(a) or AA §8-5(a) to require less than 1,000 Hours of Service to earn a Year of Service for eligibility or vesting purposes, a Break in Service will occur for any Computation Period during which the Employee does not complete more than one-half (1/2) of the Hours of Service required to earn a Year of Service for eligibility or vesting purposes, as applicable. However, if the Elapsed Time method applies under AA §4-3(c) (for purposes of eligibility) or AA §8-5(c) (for purposes of vesting), an Employee will incur a Break in Service if the Employee incurs at least a one-year Period of Severance (as defined under Section 1.72). (See Section 2.07 for a discussion of the eligibility Break in Service rules and Section 6.08 for a discussion of the vesting Break in Service rules.)
- 1.13 Cash-Out Distribution.** A total distribution made to a terminated Participant in accordance with Section 6.10(a).
- 1.14 Catch-Up Contributions.** Salary Deferrals that may be made under a Grandfathered 401(k) Arrangement that are in excess of an otherwise applicable Plan limit and that are made by a Participant who is age 50 or over by the end of his/her taxable year. See Section 3.02(c)(2)(iv).
- 1.15 Catch-Up Contribution Limit.** The annual limit applicable to Catch-Up Contributions as set forth in Section 3.02(c)(2)(iv)(A).
- 1.16 Code.** The Internal Revenue Code of 1986, as amended.
- 1.17 Code §415 Limitation.** The limit on the amount of Annual Additions a Participant may receive under the Plan during a Limitation Year. See Section 5.02.
- 1.18 Collectively Bargained Employee.** An Employee who is included in a unit of Employees covered by a collective bargaining agreement between the Employer and Employee representatives and whose retirement benefits are subject to good faith bargaining. Such Employees may be excluded from the Plan if designated under AA §3-1(b). See Section 2.02(b)(1) for additional requirements related to the exclusion of Collectively Bargained Employees.
- 1.19 Compensation Limit.** The maximum amount of compensation that can be taken into account for any Plan Year for purposes of determining a Participant's Plan Compensation. The Compensation Limit is \$200,000, as adjusted for cost-of-living, increased in accordance with Code §401(a)(17)(B). For 2019, the Compensation Limit is \$280,000. In determining the Compensation Limit for any applicable period (the "determination period"), the cost-of-living adjustment in effect for a calendar year applies to any determination period that begins with or within such calendar year.

If a determination period consists of fewer than 12 months, the Compensation Limit for such period is an amount equal to the otherwise applicable Compensation Limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12. A determination period will not be considered to be less than 12 months merely because compensation is taken into account only for the period the Employee is a Participant. If Salary Deferrals, Matching Contributions, or After-Tax Employee Contributions are separately determined on the basis of specified periods within the determination period (e.g., on the basis of payroll periods), no proration of the Compensation Limit is required with respect to such contributions.

If compensation for any prior determination period is taken into account in determining a Participant's allocations for the current Plan Year, the compensation for such prior determination period is subject to the applicable Compensation Limit in effect for that prior period.

In determining the amount of a Participant's Salary Deferrals under a Grandfathered 401(k) Arrangement, a Participant may defer with respect to Plan Compensation that exceeds the Compensation Limit, provided the total deferrals made by the Participant satisfy the Elective Deferral Dollar Limit and any other limitations under the Plan.

- 1.20 Computation Period.** The 12-consecutive month period used for measuring whether an Employee completes a Year of Service for eligibility or vesting purposes.
- (a) **Eligibility Computation Period.** The 12-consecutive month period used for measuring Years of Service for eligibility purposes. See Section 2.03(a)(3).
- (b) **Vesting Computation Period.** The 12-consecutive month period used for measuring Years of Service for vesting purposes. See Section 6.05.
- 1.21 Custodian.** An organization that has custody of all or any portion of the Plan assets in a custodial account as described in Code §401(f). See Section 12.05.
- 1.22 Defined Benefit Plan.** A plan under which a Participant's benefit is based solely on the Plan's benefit formula without the establishment of separate Accounts for Participants.
- 1.23 Defined Contribution Plan.** A plan that provides for individual Accounts for each Participant to which all contributions, forfeitures, income, expenses, gains and losses under the Plan are credited or deducted. A Participant's benefit under a Defined Contribution Plan is based solely on the fair market value of his/her vested Account Balance.
- 1.24 Designated Beneficiary.** A Beneficiary who is designated by the Participant (or by the terms of the Plan) and whose life expectancy is taken into account in determining minimum distributions under Code §401(a)(9) and Treas. Reg. §1.401(a)(9)-4. See Section 8.05(a).
- 1.25 Differential Pay.** Certain payments made by the Employer to an individual while the individual is performing service in the Uniformed Services. See Section 1.94(e).
- 1.26 Directed Account.** The Plan assets under a Trust which are held for the benefit of a specific Participant. See Section 10.03(d)(2).
- 1.27 Directed Trustee.** A Trustee is a Directed Trustee to the extent that the Trustee's investment powers are subject to the direction of another person.
- 1.28 Direct Rollover.** A rollover, at the Participant's direction, of all or a portion of the Participant's vested Account Balance directly to an Eligible Retirement Plan. See Section 7.04.
- 1.29 Disabled.** An individual is considered Disabled for purposes of applying the provisions of this Plan if the individual meets the definition of Disabled elected by the Employer under AA §2.8.
- 1.30 Discretionary Trustee.** A Trustee is a Discretionary Trustee to the extent the Trustee has exclusive authority and discretion to invest, manage or control the Plan assets without direction from any other person.
- 1.31 Distribution Calendar Year.** A calendar year for which a minimum distribution is required. See Section 8.05(b).
- 1.32 Early Retirement Age.** The age and/or Years of Service set forth in AA §7-2. Early Retirement Age may be used to determine distribution rights and/or vesting rights. 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. The Plan is not required to have an Early Retirement Age.
- 1.33 Effective Date.** The date this Plan, including any restatement or amendment of this Plan, is effective. The Effective Date of the Plan is designated on the Employer Signature Page under the Adoption Agreement.
- 1.34 Elapsed Time.** A special method for crediting service for eligibility or vesting. See Section 2.03(a)(6) for more information on the Elapsed Time method of crediting service for eligibility purposes and Section 6.04(b) for more information on the Elapsed Time method of crediting service for vesting purposes. Also see Section 3.07 for the ability to use the Elapsed Time method for applying allocation conditions under the Plan.
- 1.35 Elective Deferral Dollar Limit.** The maximum amount of Elective Deferrals a Participant may make for any calendar year. See Section 5.03.

- 1.36 **Elective Deferrals.** A Participant's Elective Deferrals is the sum of all Salary Deferrals (as defined in Section 1.88) and other contributions made pursuant to a Salary Deferral Election under a SARSEP described in Code §408(k)(6), a SIMPLE IRA plan described in Code §408(p), a plan described under Code §501(c)(18), and a custodial account or other arrangement described in Code §403(b). Elective Deferrals shall not include any amounts properly distributed as an Excess Amount under Code §415.
- 1.37 **Eligible Employee.** An Employee who is not excluded from participation under Section 2.02 of the Plan or AA §3-1.
- 1.38 **Eligible Retirement Plan.** A qualified retirement plan or IRA that may receive a rollover contribution. See Section 7.04(a)(2).
- 1.39 **Eligible Rollover Distribution.** An amount distributed from the Plan that is eligible for rollover to an Eligible Retirement Plan. See Section 7.04(a)(1).
- 1.40 **Employee.** An Employee is any individual employed by the Employer (including any Related Employers). An independent contractor is not an Employee. An Employee is not eligible to participate under the Plan if the individual is not an Eligible Employee under Section 2.02. A Leased Employee is also treated as an Employee of the recipient organization, as provided in Section 2.02(b)(3).
- 1.41 **Employer.** Except as otherwise provided, Employer means the Employer that adopts this Plan and any Related Employer. The Employer must be qualified to maintain a Governmental Plan under Code §414(d). (See Section 2.02(c) for rules regarding coverage of Employees of Related Employers. Also see Section 16 for rules that apply to Employers that execute a Participating Employer Adoption Page.)
- 1.42 **Employer Contributions.** Contributions the Employer makes pursuant to AA §6. See Section 3.02.
- 1.43 **Employer Pick-up Contributions.** Contributions made by the Employee and picked up by the Employer in accordance with Code §414(h)(2). See Section 3.03.
- 1.44 **Employment Commencement Date.** The date the Employee first performs an Hour of Service for the Employer.
- 1.45 **Entry Date.** The date on which an Employee becomes a Participant upon satisfying the Plan's minimum age and service conditions. See Section 2.03(b).
- 1.46 **Equivalency Method.** An alternative method for crediting Hours of Service for purposes of eligibility and vesting. See Section 2.03(a)(5) for eligibility provisions and Section 6.04(a)(2) for vesting provisions.
- 1.47 **ERISA.** The Employee Retirement Income Security Act of 1974, as amended.
- 1.48 **Excess Amount.** Amounts which exceed the Code §415 Limitation. See Section 5.02(c)(4).
- 1.49 **Excess Compensation.** The amount of Plan Compensation that exceeds the Integration Level for purposes of applying the permitted disparity allocation formula. See Section 3.02(a)(1)(i)(B) (Profit Sharing Plan) and Section 3.02(b)(2) (Money Purchase Plan).
- 1.50 **Excess Deferrals.** Elective Deferrals that exceed the Elective Deferral Dollar Limit (as defined in Section 5.03). (See Section 5.03(b) for rules regarding the correction of Excess Deferrals.)
- 1.51 **Favorable IRS Letter.** An opinion letter issued by the IRS pursuant to Rev. Proc. 2017-41 (or its successor) to a Provider as to the qualified status of a Pre-Approved Plan.
- 1.52 **FICA Replacement Plan.** This Plan may qualify as a FICA Replacement Plan under Code §3121(b)(7)(F) if the requirements under Section 4.03 are satisfied.
- 1.53 **General Trust Account.** The Plan assets under a Trust which are held for the benefit of all Plan Participants as a pooled investment. See Section 10.03(d)(1).
- 1.54 **Governmental Plan.** A plan established and maintained for its Employees by any State or political subdivision of a State, any State agency or instrumentality, or an Indian Tribal Government (provided the requirements under Section 4.02 of the Plan are satisfied), as provided under Code §414(d).
- 1.55 **Grandfathered 401(k) Arrangement.** An arrangement under Code §401(k) maintained by a governmental employer that was in existence on May 6, 1986. If a governmental entity adopted a 401(k) plan before May 6, 1986, then all 401(k) plans adopted by the governmental entity are treated as adopted before such date, including a 401(k) plan that is actually adopted after such date. A Grandfathered 401(k) Arrangement also may be adopted by an Indian Tribal Government, as defined in Section 1.58.

The Employer may elect to provide a Grandfathered 401(k) Arrangement under AA §2-3 of the Profit Sharing Plan Adoption Agreement. Any such election under AA §2-3 will be null and void if the Employer does not satisfy the requirements for maintaining a Grandfathered 401(k) Arrangement. If the Employer elects a Grandfathered 401(k) Arrangement under AA §2-3, the Employer may authorize Employees to make Salary Deferrals under the Plan in addition to Matching Contributions, Employer Contributions and After-Tax Employee Contributions, to the extent provided under AA §6 - §6B of the Adoption Agreement.

1.56 **Hardship.** A heavy and immediate financial need which meets the requirements of Section 7.10(e).

1.57 **Hour of Service.** Each Employee of the Employer will receive credit for each Hour of Service he/she works for purposes of applying the eligibility and vesting rules under the Plan. An Employee will not receive credit for the same Hour of Service under more than one category listed below.

- (a) **Performance of duties.** Hours of Service include each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer. These hours will be credited to the Employee for the computation period in which the duties are performed. In the case of Hours of Service to be credited to an Employee in connection with a period of no more than 31 days which extends beyond one computation period, all such Hours of Service may be credited to the first computation period or the second computation period. Hours of Service under this subsection (a) must be credited consistently for all Employees within the same job classifications.
- (b) **Nonperformance of duties.** Hours of Service include each hour for which an Employee 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), layoff, jury duty, military duty or leave of absence. No more than 501 hours of service will be credited under this paragraph for any single continuous period (whether or not such period occurs in a single Computation Period). Hours under this paragraph will be calculated and credited pursuant to §2530.200b-2 of the Department of Labor Regulations which is incorporated herein by this reference.
- (c) **Back pay award.** Hours of Service include each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same Hours of Service will not be credited both under subsection (a) or subsection (b) above, as the case may be, and under this subsection (c). These hours will be credited to the Employee for the Computation Period(s) to which the award or agreement pertains rather than the Computation Period(s) in which the award, agreement or payment is made.
- (d) **Related Employers/Leased Employees.** Hours of Service will be credited for employment with any Related Employer. Hours of Service also include hours credited as a Leased Employee or as an employee under Code §414(o).
- (e) **Maternity/paternity/FMLA/military leave.** Solely for purposes of determining whether a Break in Service has occurred in a Computation Period, an individual who is absent from work for maternity or paternity reasons will receive credit for the Hours of Service which would otherwise have been credited to such individual but for such absence, or in any case in which such hours cannot be determined, 8 Hours of Service per day of such absence. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence:
 - (1) by reason of the pregnancy of the individual,
 - (2) by reason of a birth of a child of the individual,
 - (3) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or
 - (4) for purposes of caring for such child for a period beginning immediately following such birth or placement.

The Hours of Service credited under this paragraph will be credited in the Computation Period in which the absence begins if the crediting is necessary to prevent a Break in Service in that period, or in all other cases, in the following Computation Period.

In addition, solely for purposes of determining whether a Break in Service has occurred in a Computation Period, an individual who is absent from work due to events described under the Family and Medical Leave Act (FMLA) and as required under DOL Reg. §825.215 will receive credit for the Hours of Service which would have been credited to such individual but for the absence. In addition, solely for purposes of determining whether a Break in Service has occurred in a Computation Period, an individual who is absent from work due to military leave described under the Uniformed Services Employment and Reemployment Rights Act and as required under Code §414(u)(8)(A) and DOL Reg. 20 CFR

§1002.259 will receive credit for the Hours of Service which would have been credited to such individual but for the absence.

- 1.58 Indian Tribal Government.** The governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska Natives, which is determined by the Secretary of Treasury, after consultation with the Secretary of Interior, to exercise governmental functions, as defined under Code §7701(a)(40) and regulations thereunder. See Section 4.02 of the Plan for special rules applicable to Indian Tribal Governments.
- 1.59 Insurer.** Any insurance company or affiliate or subsidiary thereof, or any legal reserve insurance company, which issues one or more contracts under the Plan in accordance with the requirements under Sections 10.07 and 10.08.
- 1.60 Investment Arrangement.** The investments under the Plan as described in Section 10.06 of this Plan document. The terms governing each Investment Arrangement under the Plan, excluding those terms that are inconsistent with Code Section 401(a), are hereby incorporated by reference into the Plan. In the event of any conflict between the terms of the Plan (including, but not limited to, any elections under the Adoption Agreement) and the terms of the Investment Arrangement, the terms of the Plan shall control, except that the terms of the Plan may not alter or construe the terms of the Investment Arrangement or enlarge the obligations of the issuer or provider of the Investment Arrangement without the consent of the issuer or provider.
- 1.61 Integration Level.** The amount used for purposes of applying the permitted disparity allocation formula. The Integration Level is the Taxable Wage Base, unless the Employer designates a different amount under the Adoption Agreement. See Section 3.02(a)(1)(i)(B) (Profit Sharing Plan) and Section 3.02(b)(2) (Money Purchase Plan).
- 1.62 Leased Employee.** An individual who performs services for the Employer pursuant to an agreement between the Employer and a leasing organization, and who satisfies the definition of a Leased Employee under Code §414(n). See Section 2.02(b)(3) for rules regarding the treatment of a Leased Employee as an Employee of the Employer.
- 1.63 Limitation Year.** The measuring period for determining whether the Plan satisfies the Code §415 Limitation under Section 5.02. See Section 5.02(c)(5).
- 1.64 Mass Submitter.** The Mass Submitter, as described under Rev. Proc. 2017-41 or its successor, of this Pre-Approved Plan is ASC Institute, LLC.
- 1.65 Matching Contributions.** Matching Contributions are contributions made by the Employer on behalf of a Participant on account of other contributions made by the Participant under this Plan or another plan maintained by the Employer. See Section 3.02(c)(3).
- 1.66 Maximum Disparity Rate.** The maximum amount that may be allocated with respect to Excess Compensation under the permitted disparity allocation formula. See Section 3.02(a)(1)(i)(B) (Profit Sharing Plan) and Section 3.02(b)(2) (Money Purchase Plan).
- 1.67 Normal Retirement Age.** The age selected under AA §7-1. For purposes of applying the Normal Retirement Age provisions under AA §7-1, an Employee's participation commencement date is the first day of the first Plan Year in which the Employee commenced participation in the Plan. The Normal Retirement Age must be reasonably representative of the typical retirement age for the industry in which the Plan Participants work. A Normal Retirement Age of at least age 62 is deemed to be reasonable while a Normal Retirement Age under age 55 is presumed not to satisfy this requirement, unless facts and circumstances show otherwise. Whether a Normal Retirement Age between 55 and 62 satisfies this requirement depends on the facts and circumstances. A Governmental Plan must comply with the final Normal Retirement Age regulations under Treas. Reg. §1.401(a)-1, as amended, effective for Annuity Starting Dates occurring in Plan Years beginning on or after the later of the two dates described in IRS Notice 2012-29. The Employer may use AA §7-1(c), for example, to describe a reasonable Normal Retirement Age that is between age 55 and 62 that takes into account service as well as age.
- 1.68 Participant.** Except as provided under AA §3-1, a Participant is an Employee (or former Employee) who has satisfied the conditions for participating under the Plan, as described in Section 2.03 and AA §4-1. A Participant also includes any Employee (or former Employee) who has an Account Balance under the Plan, including an Account Balance derived from a rollover or transfer from another qualified plan or IRA. A Participant is entitled to share in an allocation of contributions or forfeitures under the Plan for a given year only if the Participant is an Eligible Employee as defined in Section 2.02, and satisfies the allocation conditions set forth in Section 3.07.

An Employee is treated as a Participant with respect to Salary Deferrals and After-Tax Employee Contributions once the Employee has satisfied the eligibility conditions under AA §4-1 for making such contributions, even if the Employee chooses not to actually make such contributions to the Plan. An Employee is treated as a Participant with respect to Matching Contributions once the Employee has satisfied the eligibility conditions under AA §4-1 for receiving such contributions, even if

the Employee does not receive a Matching Contribution because of the Employee's failure to make contributions eligible for the Matching Contribution.

- 1.69 Participating Employer.** An Employer that adopts this Plan by executing the Participating Employer Adoption Page under the Adoption Agreement. See Section 16 for the rules applicable to contributions and deductions for contributions made by a Participating Employer.
- 1.70 Participating Employer Adoption Page.** The signature page in the Adoption Agreement for a Related Employer to adopt the Plan as a Participating Employer.
- 1.71 Part-Time Employee.** Unless designated otherwise under AA 3-1(l), a Part-Time Employee is an Employee who is normally scheduled to work 20 or fewer hours per week. Notwithstanding the foregoing, if the Employer is a post-secondary educational institution, an Employee who is a teacher shall not be considered a Part-Time Employee if he/ she normally has classroom hours of one-half or more of the number of classroom hours designated by the Employer as constituting full-time employment, provided that such designation is reasonable under all of the facts and circumstances.
- 1.72 Period of Severance.** A continuous period of time during which the Employee is not employed by the Employer and which is used to determine an Employee's Participation under the Elapsed Time method. See Section 2.03(a)(6) for rules regarding eligibility and Section 6.04(b) for rules regarding vesting.
- 1.73 Plan.** The Plan is the retirement plan established or continued by the Employer for the benefit of its Employees under this Plan document. The Plan consists of the basic plan document and the elections made under the Adoption Agreement. The basic plan document is the portion of the Plan that contains the non-elective provisions. The Employer may supplement or modify the basic plan document through its elections in the Adoption Agreement or by separate governing documents that are expressly authorized by the Plan. If the Employer adopts more than one Adoption Agreement under this Plan, then each executed Adoption Agreement represents a separate Plan. The Employer may adopt the Plan, under the appropriate Adoption Agreement, as a Profit Sharing Plan (with or without provisions for a Grandfathered 401(k) Arrangement) or as a Money Purchase Plan.
- 1.74 Plan Administrator.** The Plan Administrator is the person designated to be responsible for the administration and operation of the Plan. Unless otherwise designated by the Employer, and until such designation is accepted by the designee, the Plan Administrator is the Employer. If another Employer has executed a Participating Employer Adoption Page, the Employer referred to in this Section is the Employer that executes the Employer Signature Page of the Adoption Agreement. A Plan Administrator also includes a Qualified Termination Administrator (QTA) that assumes the responsibilities of Plan Administrator.
- 1.75 Plan Compensation.** Plan Compensation is Total Compensation, as modified under AA §5-3, which is actually paid to an Employee during the determination period (as defined in subsection (a) below). In determining Plan Compensation, the Employer may elect under AA §5-3(b) to exclude all Elective Deferrals (as defined in Section 1.36), pre-tax contributions to a cafeteria plan or a Code §457 plan, and qualified transportation fringes under Code §132(f)(4). In addition, the Employer may elect under AA §5-3 to exclude other designated elements of compensation.

Plan Compensation generally includes amounts an Employee earns with a Participating Employer and amounts earned with a Related Employer (even if the Related Employer has not executed a Participating Employer Adoption Page under the Adoption Agreement). However, the Employer may elect under AA §5-3(h) to exclude all amounts earned with a Related Employer that has not executed a Participating Employer Adoption Page.

In no case may Plan Compensation for any Participant exceed the Compensation Limit (as defined in Section 1.19).

- (a) **Determination period.** Unless designated otherwise under AA §5-4(a), Plan Compensation is determined based on the Plan Year. Alternatively, the Employer may elect under AA §5-4(a) to determine Plan Compensation on the basis of the calendar year ending in the Plan Year or any other 12-month period ending in the Plan Year. If the determination period is the calendar year or other 12-month period ending in the Plan Year, for any Employee whose date of hire is less than 12 months before the end of the designated 12-month period, Plan Compensation will be determined over the Plan Year.
- (b) **Partial period of participation.** If an Employee is a Participant for only part of a Plan Year, Plan Compensation may be determined over the entire Plan Year or over the period during which such Employee is a Participant. In determining whether an Employee is a Participant for purposes of applying this subsection (b), the Employee's status will be determined solely with respect to the contribution type for which the definition of Plan Compensation is being determined. Plan Compensation does not include any amounts earned for any period while an individual is not an Eligible Employee (as defined in Section 2.02).

- 1.76 **Plan Year.** The 12-consecutive month period designated under AA §2-4 on which the records of the Plan are maintained. The Plan Year can be a 52-53 week period by designating the appropriate ending date in AA §2-4(b). If the Plan Year is amended to create a Short Plan Year, or if a new Plan has an initial Short Plan Year, the Employer may document such Short Plan Year under AA §2-4(c).
- 1.77 **Predecessor Employer.** An employer that previously employed the Employees of the Employer. See Sections 2.06 (eligibility), 3.07(b) (allocation conditions) and 6.07 (vesting) for the rules regarding the crediting of service with a Predecessor Employer.
- 1.78 **Pre-Tax Deferrals.** Pre-tax Deferrals are a Participant's Salary Deferrals that are not includible in the Participant's gross income at the time deferred.
- 1.79 **Provider.** An entity defined under §4.08 of Rev. Proc. 2017-41, or its successor, that provides this Plan to adopting Employers.
- 1.80 **Qualified Domestic Relations Order (ODRO).** A domestic relations order that provides for the payment of all or a portion of the Participant's benefits to an Alternate Payee and satisfies the requirements under Code §414(p). See Section 11.05.
- 1.81 **Qualifying Longevity Annuity Contract (QLAC).** An annuity contract that is purchased from an insurance company for a Participant and that satisfies the requirements under Treas. Reg. §1.401(a)(9)-6, Q&A-17.
- 1.82 **Reemployment Commencement Date.** The first date upon which an Employee is credited with an Hour of Service following a Break in Service (or Period of Severance, if the Plan is using the Elapsed Time method of crediting service).
- 1.83 **Related Employer.** A Related Employer includes all members of a controlled group of corporations (as defined in Code §414(b)), all commonly controlled trades or businesses (as defined in Code §414(c)) or affiliated service groups (as defined in Code §414(m)) of which the Employer is a part, and any other entity required to be aggregated with the Employer pursuant to regulations under Code §414(o). For purposes of applying the provisions under this Plan, the Employer and any Related Employers are treated as a single Employer, unless specifically stated otherwise. See Section 16.06 for operating rules that apply when the Employer is a member of a Related Employer group. Also see Section 16 for rules regarding participation of Employees of Related Employers.
- 1.84 **Required Beginning Date.** The date by which minimum distributions must commence under the Plan. See Section 8.05(e).
- 1.85 **Rollover Contribution.** A contribution made by an Employee to the Plan attributable to an Eligible Rollover Distribution (as defined in Section 7.04(a)(1) from another qualified plan or IRA. See Section 3.05 for rules regarding the acceptance of Rollover Contributions under this Plan.
- 1.86 **Roth Deferrals.** Roth Deferrals are Salary Deferrals that are includible in the Participant's gross income at the time deferred and have been irrevocably designated as Roth Deferrals in the Participant's Salary Deferral Election. A Participant's Roth Deferrals will be maintained in a separate Account containing only the Participant's Roth Deferrals and gains and losses attributable to those Roth Deferrals. See Section 3.02(c)(2)(v).
- 1.87 **Salary Deferral Election.** An agreement between a Participant and the Employer, whereby the Participant elects to have a specific percentage or dollar amount withheld from his/her Plan Compensation, and the Employer agrees to contribute such amount into the Plan. A Salary Deferral Election may only be made if the Plan qualifies as a Grandfathered 401(k) Arrangement as designated under AA §2-3 of the Profit Sharing Plan Adoption Agreement. See Section 3.02(c)(2)(i).
- 1.88 **Salary Deferrals.** Amounts contributed under a Grandfathered 401(k) Arrangement at the election of the Participant, in lieu of cash compensation, which are made pursuant to a Salary Deferral Election or other deferral mechanism. Salary Deferrals include Roth Deferrals and Pre-Tax Deferrals. Salary Deferrals shall not include any amounts properly distributed as an Excess Amount under Code §415 pursuant to Section 5.02(c)(4). An Employee's Salary Deferrals are treated as employer contributions for all purposes under this Plan, except as otherwise provided under the Code or Treasury regulations. See Section 3.02(c)(2).
- 1.89 **Seasonal Employee.** An Employee who normally works on a full-time basis less than five months during any year.
- 1.90 **Short Plan Year.** Any Plan Year that is less than 12 months long, either because of the amendment of the Plan Year, or because the Effective Date of a new Plan is less than 12 months prior to the end of the first Plan Year.
- 1.91 **Spouse.** Subject to any additional guidance by the IRS, other Federal agency or court, or applicable State law, a Spouse is any individual who is lawfully married to the Participant under a state or foreign jurisdiction. However, a former Spouse of the Participant will be treated as the Spouse or surviving Spouse, and any current Spouse will not be treated as the Spouse or

surviving Spouse to the extent provided under a valid QDRO. The Plan Administrator may interpret the meaning of Spouse for purposes of this Plan as such term is applicable to Governmental Plans under the Code.

1.92 Taxable Wage Base. The maximum amount of wages taken into account for Social Security purposes. The Taxable Wage Base is used to determine the Integration Level for purposes of applying the permitted disparity allocation formula. See Section 3.02(a)(1)(i)(B) (Profit Sharing Plan) and Section 3.02(b)(2) (Money Purchase Plan).

1.93 Temporary Employee. Any Employee performing services under a contractual arrangement with the Employer of two years or less duration. Possible contract extensions may be considered in determining the duration of a contractual arrangement, but only if, under the facts and circumstances, there is a significant likelihood that the Employee's contract will be extended. Future contract extensions are considered significantly likely to occur for purposes of this rule if:

- (a) on average 80 percent of similarly situated Employees have had bona fide offers to renew their contracts in the immediately preceding two academic or calendar years; or
- (b) the Employee with respect to whom the determination is being made has a history of contract extensions with respect to his or her current position.

An Employee is not considered a Temporary Employee solely because he or she is included in a unit of Employees covered by a collective bargaining agreement of two years or less duration.

1.94 Total Compensation. A Participant's compensation for services with the Employer, as defined in this Section 1.94. Total Compensation may be defined in AA §5-1 to be either W-2 Wages, Wages under Code §3401(a), or Code §415 Compensation. Each definition of Total Compensation includes Elective Deferrals (as defined in Section 1.36), elective contributions to a cafeteria plan under Code §125 or to an eligible deferred compensation plan under Code §457, Employer Pick-Up Contributions under Code §414(h)(2), and elective contributions that are not includible in the Employee's gross income as a qualified transportation fringe under Code §132(f)(4).

(a) **Total Compensation definitions.** The Employer may elect under AA §5-1 to define Total Compensation as any of the following definitions:

- (1) **W-2 Wages.** Wages within the meaning of Code §3401(a) and all other payments of compensation to an Employee by the Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the Employee a written statement under Code §6041(d), 6051(a)(3), and 6052, determined without regard to any rules under Code §3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed.
- (2) **Wages under Code §3401(a).** Wages within the meaning of Code §3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed.
- (3) **Code §415 Compensation.** Wages, salaries, fees for professional services and other amounts received for personal services actually rendered in the course of employment with the Employer (without regard to whether or not such amounts are paid in cash) to the extent that the amounts are includible in gross income, including amounts that are includible in the gross income of an Employee under the rules of Code §409A or §457(f)(1)(A) or because the amounts are constructively received by the Employee. Such amounts include, but are not limited to, commissions, compensation for services on the basis of a percentage of profits, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan (as described in Treas. Reg. §1.62-2(c)), and excluding the following:
 - (i) Employer contributions (other than elective contributions described in Code §402(e)(3), §408(k)(6), §408(p)(2)(A)(i), or §457(b)) to a plan of deferred compensation (including a SEP described in Code §408(k) or a SIMPLE IRA described in Code §408(p), and whether or not qualified) to the extent such contributions are not includible in the Employee's gross income for the taxable year in which contributed, and any distributions (whether or not includible in gross income when distributed) from a plan of deferred compensation (whether or not qualified);
 - (ii) Amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture.
 - (iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option.

- (iv) Other amounts which received special tax benefits, or contributions made by the Employer (other than Elective Deferrals) towards the purchase of an annuity contract described in Code §403(b) (whether or not the contributions are actually excludable from the gross income of the Employee).
- (b) **Post-severance compensation.** Effective for the first Limitation Year beginning on or after July 1, 2007, Total Compensation includes compensation that is paid after an Employee severs employment with the Employer, provided the compensation is paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or the end of the Limitation Year that includes such date of severance from employment. For this purpose, compensation paid after severance of employment may only be included in Total Compensation to the extent such amounts would have been included as compensation if they were paid prior to the Employee's severance from employment.

For purposes of applying this subsection (b), unless designated otherwise under AA §5-2(a), the following amounts that are paid after a Participant's severance of employment are included in Total Compensation:

- (1) **Regular pay.** Compensation for services during the Employee's regular working hours, or compensation for services outside the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments;
- (2) **Unused leave payments.** Payment for unused accrued bona fide sick, vacation, or other leave, but only if the Employee would have been able to use the leave if employment had continued; and
- (3) **Deferred compensation.** Payments received by an Employee pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the Employee at the same time if the Employee had continued in employment, and only to the extent that the payment is includible in the Employee's gross income.

Other post-severance payments (such as severance pay, parachute payments within the meaning of Code §280G(b)(2), or post-severance payments under a nonqualified unfunded deferred compensation plan that would not have been paid if the Employee had continued in employment) are not included as Total Compensation, even if such amounts are paid within the time period described in this subsection (b).

In determining the amount of a Participant's Employer Contributions, Matching Contributions or Salary Deferrals, Plan Compensation may not include any amounts that do not satisfy the requirements of this subsection (b) or subsection (c) below. If Total Compensation is defined to include post-severance compensation, the Employer may elect to exclude all such compensation paid after termination of employment from the definition of Plan Compensation under AA §5-3(j) or may elect to exclude any of the specific types of post-severance compensation defined in subsections (1), (2) and/or (3) above, by designating such compensation types under AA §5-3(l). The exclusion of post-severance compensation from the definition of Plan Compensation that is otherwise includible in Total Compensation may cause the Plan to fail the nondiscriminatory compensation rules under Treas. Reg. §1.414(s)-1.

- (c) **Continuation payments for disabled Participants.** Unless designated otherwise under AA §5-2(b), Total Compensation does not include compensation paid to a Participant who is permanently and totally disabled (as defined in Code §22(e)(3)). If elected under AA §5-2(b), the Plan may take into account compensation the Participant would have received for the year if the Participant was paid at the rate of compensation paid immediately before becoming permanently and totally disabled (if such compensation is greater than the Participant's compensation determined without regard to this subsection (c)), provided contributions made with respect to amounts treated as compensation under this subsection (c) are nonforfeitable when made. If so elected under AA §5-2(b), payment to disabled Participants will be included as Total Compensation, notwithstanding the rules under subsection (b) above.
- (d) **Deemed §125 compensation.** A reference to elective contributions under a Code §125 cafeteria plan includes any amounts that are not available to a participant in cash in lieu of group health coverage because the Participant is unable to certify that he or she has other health coverage. Such deemed §125 compensation will be treated as an amount under Code §125 only if the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan. If the Employer elects under AA §5-3(i) to exclude deemed §125 compensation from the definition of Plan Compensation, such exclusion also will apply for purposes of determining Total Compensation under this Section 1.94.
- (e) **Differential Pay.** Effective for years beginning on or after January 1, 2009, in the case of an individual who receives Differential Pay from the Employer:
 - (1) such individual will be treated as an Employee of the Employer making the payment, and

- (2) the Differential Pay shall be treated as wages and will be included in calculating an Employee's Total Compensation under the Plan.

If all Employees performing service in the Uniformed Services are entitled to receive Differential Pay on reasonably equivalent terms and are eligible to make contributions based on the payments on reasonably equivalent terms, the Plan shall not be treated as failing to meet the requirements of any provision described in Code §414(u)(1)(C) by reason of any contribution or benefit based on Differential Pay. However, for purposes of applying this subparagraph, the provisions of Code §§410(b)(3), (4), and (5) shall apply. The Employer may elect to exclude Differential Pay from the definition of Plan Compensation under AA §5-3(k).

For purposes of this subsection (e), Differential Pay means any payment which is made by an Employer to an individual while the individual is performing service in the Uniformed Services while on active duty for a period of more than 30 days, and represents all or a portion of the wages the individual would have received from the Employer if the individual were performing services for the Employer. In applying the provisions of this subsection (e), Uniformed Services are services as described in Code §3401(h)(2)(A).

- 1.95** **Trust.** The Trust is the separate funding vehicle under the Plan.
- 1.96** **Trustee.** The Trustee is the person or persons (or any successor to such person or persons) identified in the Adoption Agreement or under a separate Trust document. The Trustee may be a Discretionary Trustee or a Directed Trustee. See Section 12 for the rights and duties of a Trustee under this Plan.
- 1.97** **Valuation Date.** The date or dates upon which Plan assets are valued. Plan assets will be valued as of the last day of each Plan Year. In addition, the Employer may elect under AA §11-1 to establish additional Valuation Dates. Notwithstanding any election under AA §11-1, Plan assets may be valued on a more frequent basis within the complete discretion of the Employer. See Section 10.02.
- 1.98** **Year of Service.** A Year of Service is a 12-consecutive month Computation Period during which an Employee completes 1,000 Hours of Service. For purposes of applying the eligibility rules under Section 2.03 of the Plan, an Employee will earn a Year of Service if he/she completes 1,000 Hours of Service with the Employer during an Eligibility Computation Period (as defined in Section 2.03(a)(3)). For purposes of applying the vesting rules under Section 6, an Employee will earn a Year of Service if he/she completes 1,000 Hours of Service with the Employer during a Vesting Computation Period (as defined in Section 6.05). The Employer may elect under AA §4-3(a) (for eligibility purposes) and AA §8-5(a) (for vesting purposes) to require the completion of any lesser number of Hours of Service to earn a Year of Service. Alternatively, the Employer may elect to apply the Elapsed Time method (for eligibility and/or vesting purposes) in calculating an Employee's Years of Service under the Plan.

SECTION 2
ELIGIBILITY AND PARTICIPATION

- 2.01 Eligibility.** In order to participate in the Plan, an Employee must be an Eligible Employee (as defined in Section 2.02) and must satisfy the Plan's minimum age and service conditions (as defined in Section 2.03). Once an Employee satisfies the Plan's minimum age and service conditions, such Employee shall become a Participant on the appropriate Entry Date (as selected in AA §4-2). An Employee who meets the minimum age and service requirements set forth herein, but who is not an Eligible Employee, will be eligible to participate in the Plan only upon becoming an Eligible Employee. For purposes of determining eligibility to make Salary Deferrals, an Employee will be deemed to commence participation on a timely basis if the Employee is permitted to commence making Salary Deferrals as soon as administratively feasible after satisfying the eligibility conditions under the Plan.
- 2.02 Eligible Employees.** Unless specifically excluded under AA §3-1 or under this Section 2.02, all Employees of the Employer are Eligible Employees. AA §3-1 lists various classes of Employees that may be excluded from Plan participation. If an Employee is not an Eligible Employee (e.g., such Employee is a member of a class of Employees excluded under AA §3-1), that individual may not participate under the Plan, unless he/she subsequently becomes an Eligible Employee.
- (a) **Only Employees may participate in the Plan.** To participate in the Plan, an individual must be an Employee. If an individual is not an Employee (e.g., the individual performs services with the Employer as an independent contractor) such individual may not participate under the Plan. If an individual who is classified as a non-Employee is later determined by the Employer, or by a court or other government agency, to be an Employee of the Employer, the reclassification of such individual as an Employee will not create retroactive rights to participate in the Plan. Thus, for example, if the IRS or DOL should find that an independent contractor is really an Employee, such individual will be eligible to participate in the Plan as of the date the IRS or DOL issues a final determination declaring such individual to be an Employee (provided the individual has satisfied all conditions for participating in the Plan (as described in this Section 2)). For periods prior to the date of such final determination, the reclassified Employee will not have any rights to accrued benefits under the Plan, except as agreed to by the Employer, or mandated by a court or government agency, or as set forth in an amendment adopted by the Employer.
- (b) **Excluded Employees.** The Employer may elect under AA §3-1 to exclude designated classes of Employees. Since a governmental plan is exempt from minimum coverage testing, the Employer may elect to exclude any class of Employees without subjecting the Plan to minimum coverage or nondiscrimination testing.
- (1) **Collectively Bargained Employees.** The Employer may elect under AA §3-1(b) to exclude Collectively Bargained Employees. For this purpose, a Collectively Bargained Employee is an Employee who is included in a unit of Employees covered by a collective bargaining agreement between the Employer and Employee representatives and whose retirement benefits are subject to good faith bargaining.
- (2) **Nonresident aliens.** The Employer may elect under AA §3-1(c) to exclude Employees who are nonresident aliens. For this purpose, a nonresident alien is neither a citizen of the United States nor a resident of the United States for U.S. tax purposes (as defined in Code §7701(b)), and who does not have any earned income (as defined in Code §911) for the Employer that constitutes U.S. source income (within the meaning of Code §861). If a nonresident alien Employee has U.S. source income, he/she is treated as satisfying this definition if all of his/her U.S. source income from the Employer is exempt from U.S. income tax under an applicable income tax treaty.
- (3) **Leased Employees.** The Employer may elect under AA §3-1(d) to exclude Leased Employees. For this purpose, a Leased Employee is any person (other than an Employee of the Employer) who, pursuant to an agreement between the recipient Employer and a leasing organization, performs services for the recipient Employer on a substantially full-time basis for a period of at least one year, and such services are performed under the primary direction or control of the recipient Employer. (See Code §414(n) for rules applicable to the determination of Leased Employees.)
- (c) **Employees of Related Employers.** If the Employer is a member of a Related Employer group, Employees of each member of the Related Employer group may participate under this Plan, provided the Related Employer executes a Participating Employer Adoption Page under the Adoption Agreement. If a Related Employer does not execute a Participating Employer Adoption Page, any Employees of such Related Employer are not eligible to participate in the Plan. See Section 16.06 for operating rules that apply when the Employer is a member of a Related Employer group. Also see Section 16 for rules regarding participation of Employees of Related Employers.
- (d) **Ineligible Employee becomes Eligible Employee.** If an Employee changes status from an ineligible Employee to an Eligible Employee, such Employee will become a Participant immediately on the date he/she changes status to an Eligible Employee, provided the Employee has satisfied the Plan's minimum age and service conditions and has passed

the Entry Date (as defined in AA §4-2) that would otherwise have applied had the Employee been an Eligible Employee. If the Employee's original Entry Date (determined as if the Employee was always an Eligible Employee) has not passed as of the date the Employee becomes an Eligible Employee, the Employee will not become a Participant until such Entry Date. If an ineligible Employee has not satisfied the Plan's minimum age and service conditions at the time such Employee becomes an Eligible Employee, such Employee will become a Participant on the appropriate Entry Date following satisfaction of the Plan's minimum age and service requirements. The requirements for the timing of participation under this subsection (d) is deemed satisfied with respect to Salary Deferrals if the Employee is permitted to commence making Salary Deferrals under the Plan as soon as administratively feasible after the Employee is eligible to participate in the Plan.

- (e) **Eligible Employee becomes ineligible Employee.** If an Employee ceases to qualify as an Eligible Employee (i.e., the Employee changes status from an eligible class to an ineligible class of Employees), such Employee will immediately cease to participate in the Plan. If such Employee should subsequently become an Eligible Employee, he/she will be able to participate in the Plan in accordance with subsection (d) above.
- (f) **Improper exclusion of eligible Participant.** If the Plan improperly excludes a Participant who has satisfied the requirements under this Section 2 for participating under the Plan, the Employer may take reasonable action to correct such violation, provided such corrective action is consistent with the requirements of the Employee Plans Compliance Resolution System (EPCRS) program.

2.03 Minimum Age and Service Conditions. AA §4-1 contains specific elections as to the minimum age and service conditions which an Employee must satisfy prior to becoming eligible to participate under the Plan. A Governmental Plan is exempt from both the ERISA and pre-ERISA eligibility requirements. Therefore, the Plan may provide any minimum age and service requirements under AA §4-1 without the need to comply with the requirements of Code §410(a).

The Employer may elect to apply different minimum age and service requirements for different groups of Employees or for different contribution formulas under AA §4-1(c). In addition, the Employer may select different age and service conditions under AA §4-1 for Salary Deferrals, Matching Contributions, and/or Employer Contributions if the Plan qualifies as a Grandfathered 401(k) Arrangement.

- (a) **Application of age and service conditions.** The Employer may elect under AA §4-1 to impose minimum age and service conditions that an Employee must satisfy in order to participate under the Plan.
 - (1) **Year of Service.** In applying the minimum service requirements under AA §4-1, unless designated otherwise under AA §4-3, an Employee will earn a Year of Service if the Employee completes at least 1,000 Hours of Service with the Employer during an Eligibility Computation Period (as defined in subsection (3) below). The Employer may modify the definition of Year of Service under AA §4-3(a) to require a different number of Hours of Service to earn a Year of Service. An Employee will receive credit for a Year of Service, as of the end of the Eligibility Computation Period during which the Employee completes the required Hours of Service needed to earn a Year of Service. Unless otherwise provided under AA §4-3, an Employee need not be employed for the entire Eligibility Computation Period to receive credit for a Year of Service, provided the Employee completes the required Hours of Service during such period.
 - (2) **Months of service.** The Employer may elect under AA §4-1(a) to require a specific number of Hours of Service during a designated number of months of employment. If an Employee is required under AA §4-1(a) to complete a certain number of Hours of Service during a designated period, an Employee generally will satisfy the eligibility conditions as of the end of the designated period, regardless of whether the Employee is employed during the entire period. Alternatively, the Employer may elect under AA §4-1(a)(3)(ii) to require an Employee to be employed continuously throughout the designated period provided the Employee is eligible to participate in the Plan upon completing a Year of Service as defined in subsection (1) above.

If an Employee does not complete the required Hours of Service during the designated period, or does not work continuously during the designated period, if required under AA §4-1(a)(3)(ii), the Employee will satisfy eligibility upon completion of a Year of Service as defined in subsection (1) above. For purposes of applying the Year of Service requirement, an Employee need not be employed during the entire measuring period as long as the Employee completes the required Hours of Service, as specified under subsection (1) above. For example, an Employee who is not employed throughout the designated period, if required under AA §4-1(a)(3)(ii), would still satisfy the eligibility conditions as of the end of the Eligibility Computation Period if the Employee completes a Year of Service, regardless of whether the Employee is employed during the entire period.

- (3) **Eligibility Computation Periods.** Unless provided otherwise under AA §4-3, in determining whether an Employee has earned a Year of Service for eligibility purposes, an Employee's initial Eligibility Computation Period is the 12-month period beginning on the Employee's Employment Commencement Date. Subsequent

Eligibility Computation Periods will either be based on Plan Years or Anniversary Years (as set forth in AA §4-3).

- (i) **Plan Years.** If the Employer elects under AA §4-3 to base subsequent Eligibility Computation Periods on Plan Years, the Plan will begin measuring Years of Service on the basis of Plan Years beginning with the first Plan Year commencing after the Employee's Employment Commencement Date. Thus, for the first Plan Year following the Employee's Employment Commencement Date, the initial Eligibility Computation Period and the first Plan Year Eligibility Computation Period may overlap.
 - (ii) **Anniversary Years.** If the Employer elects under AA §4-3(b) to base subsequent Eligibility Computation Periods on Anniversary Years, the Plan will measure Years of Service after the initial Eligibility Computation Period on the basis of 12-month periods commencing with the anniversaries of the Employee's Employment Commencement Date.
 - (iii) **Rehired Employee.** If an Employee is rehired following a Break in Service, the Employee's initial Eligibility Computation Period following the Employee's return to employment will be measured from the Employee's Reemployment Commencement Date. Subsequent Eligibility Computation Periods will be measured based on the Plan Year or anniversaries of the Reemployment Commencement Date, as designated under subsection (i) or (ii) above. For this purpose, an Employee's Reemployment Commencement Date is the first day the Employee is entitled to be credited with an Hour of Service after the first Eligibility Computation Period in which the Employee incurs a Break in Service.
- (4) **Hours of Service.** In calculating an Employee's Hours of Service for purposes of applying the eligibility rules under this Section 2.03, the Employer will count the actual Hours of Service an Employee works during the year. (See Section 1.57 for the definition of Hour of Service). The Employer may elect under AA §4-3 to use an alternative method for crediting service, such as the Equivalency Method or Elapsed Time method (instead of counting the actual Hours of Service an Employee works). (See subsections (5) and (6) below for a description of the Equivalency Method and Elapsed Time method of crediting service.)
- (5) **Equivalency Method.** Instead of counting actual Hours of Service in applying the minimum service conditions under this Section 2.03, the Employer may elect under AA §4-3(d) to determine Hours of Service based on the Equivalency Method. Under the Equivalency Method, an Employee receives credit for a specified number of Hours of Service based on the period worked with the Employer.
- (i) **Monthly.** Under the monthly Equivalency Method, an Employee is credited with 190 Hours of Service for each calendar month during which the Employee completes at least one Hour of Service with the Employer.
 - (ii) **Daily.** Under the daily Equivalency Method, an Employee is credited with 10 Hours of Service for each day during which the Employee completes at least one Hour of Service with the Employer.
 - (iii) **Weekly.** Under the weekly Equivalency Method, an Employee is credited with 45 Hours of Service for each week during which the Employee completes at least one Hour of Service with the Employer.
 - (iv) **Semi-monthly.** Under the semi-monthly Equivalency Method, an Employee is credited with 95 Hours of Service for each semi-monthly period during which the Employee completes at least one Hour of Service with the Employer.
 - (v) **Other Equivalency Method.** The Employer may describe an alternative Equivalency Method in the Adoption Agreement, provided any description of an Equivalency Method is definitely determinable.
- (6) **Elapsed Time method.** Instead of counting actual Hours of Service in applying the minimum service requirements under this Section 2.03, the Employer may elect under AA §4-3(c) to apply the Elapsed Time method for calculating an Employee's service with the Employer. Under the Elapsed Time method, an Employee receives credit for the aggregate period of time worked for the Employer commencing with the Employee's first day of employment (or reemployment, if applicable) and ending on the date the Employee terminates employment with the Employer. If an Employee's aggregate period of service includes fractional years, such fractional years are expressed in terms of days.

In calculating an Employee's aggregate period of service, the Employer may credit an Employee with service for any Period of Severance that lasts less than 12 consecutive months. For this purpose, a Period of Severance is any continuous period of time during which the Employee is not employed by the Employer. A Period of Severance begins on the date the Employee retires, quits or is discharged, or if earlier, the 12-month

anniversary of the date on which the Employee is first absent from service for a reason other than retirement, quit or discharge. In the case of an Employee who is absent from work for maternity or paternity reasons, the 12-consecutive month period beginning on the first anniversary of the first date of such absence shall not constitute a Period of Severance. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence

- (i) by reason of the pregnancy of the Employee,
- (ii) by reason of the birth of a child of the Employee,
- (iii) by reason of the placement of a child with the Employee in connection with the adoption of such child by the Employee, or
- (iv) for purposes of caring for a child of the Employee for a period beginning immediately following the birth or placement of such child.

(7) **Amendment of age and service requirements.** If the Plan's minimum age and service conditions are amended, the amendment may consider an Employee who is a Participant immediately prior to the effective date of the amendment as satisfying the amended requirements or may require all Employees to satisfy the amended minimum age and service conditions. If an Employee has not satisfied the minimum age and service conditions as of the effective date of the amendment, the Employee must satisfy the eligibility requirements as amended. This provision may be modified under the special Effective Date provisions under Appendix A of the Adoption Agreement or under a separate amendment implementing the updated minimum age and service provisions.

(i) **Change to Elapsed Time method.** If the service crediting method is changed from an Hours of Service method to the Elapsed Time method, the amount of service credited to an Employee will equal the sum of the service under subsections (A) and (B) below. For this purpose, a change in service crediting method will occur if the Plan is amended to change the service crediting method or if the service crediting method is changed as a result of an Employee's change in employment status.

(A) The number of Years of Service equal to the number of Years of Service credited under the Hours of Service method before the Eligibility Computation Period during which the change to the Elapsed Time method occurs.

(B) For the Eligibility Computation Period in which the change occurs, the greater of:

(I) the period of service that would be credited under the Elapsed Time method from the first day of that Eligibility Computation Period through the date of the change, or

(II) the service that would be taken into account under the Hours of Service method for the Eligibility Computation Period which includes the date of the change.

If the period of service described in subsection (I) is the greater amount, then subsequent periods of service are credited under the Elapsed Time method beginning with the date of the change. If the period of service described in subsection (II) applies, the Elapsed Time method will be used beginning with the first day of the Eligibility Computation Period that would have followed the Eligibility Computation Period in which the change to the Elapsed Time method occurred.

If the change to the Elapsed Time method occurs as of the first day of an Eligibility Computation Period, the use of the Elapsed Time method begins as of the date of the change, and the calculation in subsection (B) above does not apply. In such case, the Employee's service is determined under subsection (A) above plus the subsequent periods of service determined under the Elapsed Time method, starting with the effective date of the change.

(ii) **Change to Hours of Service method.** If the service crediting method is changed from the Elapsed Time method to an Hours of Service method, the Employee's Elapsed Time service earned as of the date of the change is converted into Years of Service under the Hours of Service method, determined as the sum of subsections (A) and (B), below. For this purpose, a change in service crediting method will occur if the Plan is amended to change the service crediting method or if the service crediting method is changed as a result of an Employee's change in employment status.

(A) A number of Years of Service is credited that equals the number of 1-year periods of service credited under the Elapsed Time method as of the date of the change.

- (B) For the Eligibility Computation Period which includes the date of the change, the Employee is credited with an equivalent number of Hours of Service, using one of the Equivalency Methods defined in subsection (5) above for any fractional year that was credited under the Elapsed Time method as of the date of the change.

For the portion of the Eligibility Computation Period following the date of the change, actual Hours of Service are counted. The Hours of Service credited for the portion of the Eligibility Computation Period in which the Elapsed Time method was in effect are added to the actual Hours of Service credited for the remaining portion of the Eligibility Computation Period to determine if the Employee has a Year of Service for that Eligibility Computation Period.

- (b) **Entry Dates.** Once an Eligible Employee satisfies the minimum age and service conditions (as set forth in AA §4-1), the Employee will be eligible to participate under the Plan as of his/her Entry Date (as set forth in AA §4-2). If the Employer adopts a Grandfathered 401(k) Arrangement as designated under AA §2-3 of the Profit Sharing Plan Adoption Agreement, the Employer may elect different Entry Dates with respect to Salary Deferrals, Matching Contributions, and Employer Contributions.

- 2.04 Participation on Effective Date of Plan.** Unless designated otherwise under AA §4-4, an Eligible Employee who has satisfied the minimum age and service conditions and reached his/her Entry Date as of the Effective Date of the Plan will be eligible to participate in the Plan as of such Effective Date. If an Employee has satisfied the minimum age and service conditions as of the Effective Date of the Plan but has not yet reached his/her Entry Date, the Employee will be eligible to participate on the appropriate Entry Date. The Employer may modify this rule under AA §4-4 by electing to treat all Employees employed on the Effective Date of the Plan as Participants (regardless of whether they have satisfied the Plan's minimum age and service conditions) or by designating a specific date as of which all Eligible Employees will be deemed to be a Participant, (regardless of whether the Employee has otherwise satisfied the minimum age and service conditions).
- 2.05 Rehired Employees.** Subject to the Break in Service rules under Section 2.07, if a terminated Employee is subsequently rehired, such Employee will be eligible to participate in the Plan on his/her reemployment date, if the Employee is an Eligible Employee and the Employee had satisfied the Plan's minimum age and service conditions prior to his/her termination of employment. If a rehired Employee had not satisfied the Plan's minimum age and service conditions prior to termination of employment, such Employee is eligible to participate in the Plan on the appropriate Entry Date following satisfaction of the eligibility requirements under this Section 2.
- 2.06 Service with Predecessor Employers.** To the extent provided under AA §4-5, if the Employer maintains the plan of a Predecessor Employer, any service with such Predecessor Employer is treated as service with the Employer for purposes of applying the provisions of this Plan.
- 2.07 Break in Service Rules.** Generally, an Employee will be credited with all service earned for the Employer, including service earned prior to the effective date of the Plan and service earned while the Employee is an ineligible Employee. However, the Employer may elect under AA §4-6 to disregard an Employee's service with the Employer under the Break in Service rules. For this purpose, an Employee incurs a Break in Service for any Eligibility Computation Period (as defined in Section 2.03(a)(3)) during which the Employee does not complete more than five hundred (500) Hours of Service with the Employer. However, if the Employer elects to require less than 1,000 Hours of Service to earn a Year of Service for eligibility purposes, a Break in Service will occur for any Eligibility Computation Period during which the Employee does not complete more than one-half (1/2) of the Hours of Service required to earn an eligibility Year of Service.
- 2.08 Waiver of Participation.** An Employee may not waive participation under the Plan unless specifically permitted under AA §11-4. For this purpose, the mere failure to make Salary Deferrals or After-Tax Employee Contributions is not a waiver of participation. The Employer may elect under AA §11-4 to permit Employees to make a one-time irrevocable election to not participate under the Plan. The Employer may elect under AA §6-7(c)(2) to permit Employees to make a one-time irrevocable election to waive any Employer Pick-Up Contributions under the Plan.

SECTION 3 PLAN CONTRIBUTIONS

This Section 3 describes the type of contributions that may be made to the Plan. The type of contributions that may be made to the Plan and the method for allocating such contributions may vary depending on the type of Plan involved. (See Section 5 for a discussion of the limits that apply to any contributions made under the Plan.)

- 3.01 Types of Contributions.** An Employer may designate under the Adoption Agreement the amount and type of contributions that may be made under the Plan. The Plan may provide for Employer Contributions (as authorized under AA §6) and, if so elected under AA §6-7, After-Tax Employee Contributions. In addition, the Profit Sharing Plan may provide for Matching Contributions with respect to any After-Tax Employee Contributions under the Plan or Elective Deferrals made under another plan maintained by the Employer. If the Plan qualifies as a Grandfathered 401(k) Arrangement (as designated under AA §2-3 of the Profit Sharing Plan Adoption Agreement, the Plan may provide for Salary Deferrals, Employer Contributions, Matching Contributions and After-Tax Employee Contributions.

To share in a contribution under the Plan, an Employee must satisfy all of the conditions for being a Participant (as described in Section 2) and must satisfy any allocation conditions (as described in Section 3.07) applicable to the particular type of contribution. The Employer may designate under AA §2-5 that the Plan is a frozen Plan. As a frozen Plan, the Employer will not make any Employer Contributions or Matching Contributions with respect to Plan Compensation earned after the date identified in AA §2-5 and no Participant will be permitted to make Salary Deferrals or Employee After-Tax Employee Contributions to the Plan for any period following the effective date of the freeze as identified in AA §2-5.

- 3.02 Employer Contribution Formulas.** If permitted under AA §6, the Employer may make an Employer Contribution to the Plan, in accordance with the contribution formula selected under AA §6-2. Subsection (a) below describes the Employer Contributions that may be selected under the Profit Sharing Plan Adoption Agreement, subsection (b) below describes the Employer Contributions that may be made under the Money Purchase Plan Adoption Agreement and subsection (c) below describes the Employer Contributions that may be made under a Grandfathered 401(k) Arrangement. Since a governmental plan is exempt from the nondiscrimination requirements, the contribution formulas described in this Section 3.02 need not satisfy the nondiscrimination tests under Code §401(a)(4) or the regulations thereunder.

- (a) **Contribution formulas (Profit Sharing Plan).** The Employer may elect under AA §6-2 of the Profit Sharing Plan Adoption Agreement to make any of the following Employer Contributions. If the Employer elects more than one Employer Contribution formula, each formula is applied separately. The Employer's aggregate Employer Contribution for a Plan Year will be the sum of the Employer Contributions under all such formulas. Any reference to the Adoption Agreement under this subsection (a) is a reference to the Profit Sharing Plan Adoption Agreement.

- (1) **Employer Contributions.** An Employer may designate under AA §6 of the Profit Sharing Adoption Agreement the amount of Employer Contributions that may be made under the Plan. Any Employer Contributions selected under AA §6 will be made in accordance with the contribution formula selected under AA §6-2. Any Employer Contribution must be allocated in accordance with a definite allocation formula as set forth in AA §6-3. To receive an allocation of Employer Contributions, a Participant must satisfy any allocations conditions designated under the Plan, as described in Section 3.07 below.

In determining the amount of Employer Contributions to be allocated to Participants under the Plan, the Plan will take into account Plan Compensation (as defined in Section 1.75) for the Plan Year. The Employer may designate under AA §6-5(a) alternative periods for determining the allocation of Employer Contributions. If alternative periods are designated under AA §6-5(a), a Participant's allocation of Employer Contributions will be determined separately for each designated period based on Plan Compensation earned during such period. If an alternative period is designated under AA §6-5(a), the Employer need not actually make the Employer Contribution during the designated period, provided the total Employer Contribution for the Plan Year is allocated based on the proper Plan Compensation. (If the permitted disparity allocation method applies under AA §6-3(c), the allocation will be based on the Plan Year.)

If the Employer maintains any other qualified plan(s) which cover any Participants under this Plan, the Employer may elect under AA §6-5(c) to reduce such Participants' allocation under this Plan to take into account the benefits provided under the Employer's other qualified plan(s). The Employer describe how the offset will be applied under AA §6-5(c)(2).

- (i) **Discretionary Employer Contribution.** If a discretionary contribution is selected under AA §6-2(a), the Employer may decide on an annual basis how much (if any) it wishes to contribute to the Plan as an Employer Contribution. If the Employer elects to make a discretionary contribution, such amount may be allocated under the pro rata, permitted disparity, Employee group, age-based or uniform points allocation method (as selected in AA §6-3).

- (A) **Pro rata allocation formula.** Under the pro rata allocation formula, a pro rata share of the Employer Contribution is allocated to each Participant's Employer Contribution Account. A Participant's pro rata share may be determined based on the ratio such Participant's Plan Compensation bears to the total Plan Compensation of all Participants or as a uniform dollar amount, as designated in AA§6-3(a).
- (B) **Permitted disparity allocation formula.** Under the permitted disparity allocation formula, the Employer Contribution is allocated to Participants' Employer Contribution Accounts using a two-step method. The Employer may not elect the permitted disparity allocation formula under the Plan if the Employer maintains another qualified plan, covering any of the same Employees, which uses permitted disparity in determining the allocation of contributions or the accrual of benefits under such plan.
- (I) **Two-step method.** Under the two-step method, the discretionary Employer Contribution is allocated under the following method:
- (a) **Step one.** The Employer Contribution is allocated to each Participant's Employer Contribution Account in the ratio that the sum of each Participant's Plan Compensation plus Excess Compensation (as defined in subsection (II) below) bears to the sum of the total Plan Compensation plus Excess Compensation of all Participants, but not in excess of the Maximum Disparity Rate (as defined in subsection (IV) below).
- (b) **Step two.** Any Employer Contribution remaining after the allocation in subsection (a) above will be allocated in the ratio that each Participant's Plan Compensation bears to the total Plan Compensation of all Participants.
- (II) **Excess Compensation.** The amount of Plan Compensation that exceeds the Integration Level.
- (III) **Integration Level.** The Taxable Wage Base, unless specified otherwise under AA §6-3(c)(1).
- (IV) **Maximum Disparity Rate.** The Maximum Disparity Rate is the maximum amount that may be allocated with respect to Excess Compensation. Unless provided otherwise under AA §6-3(c)(2), the maximum amount that may be allocated as a percentage of Plan Compensation and Excess Compensation under step one of the two-step allocation method under subsection (I) above, may not exceed the following percentage:
- | <u>Integration Level</u>
<u>(as a percentage of the Taxable Wage Base)</u> | <u>Maximum</u>
<u>Disparity Rate</u> |
|---|---|
| 100% | 5.7% |
| More than 80% but less than 100% | 5.4% |
| More than 20% and not more than 80% | 4.3% |
| 20% or less | 5.7% |
- The Employer may elect to apply a greater Maximum Disparity Rate under AA §6-3(c)(2).
- (V) **Taxable Wage Base.** The maximum amount of wages that are considered for Social Security purposes as in effect at the beginning of the Plan Year.
- (C) **Uniform points allocation.** Under the uniform points allocation, the Employer will allocate the discretionary Employer Contribution on the basis of each Participant's total points for the Plan Year, as determined under AA §6-3(d). A Participant's allocation of the Employer Contribution is determined by multiplying the Employer Contribution by a fraction, the numerator of which is the Participant's total points for the Plan Year and the denominator of which is the sum of the points for all Participants for the Plan Year.

A Participant will receive points for each year(s) of age and/or each Year(s) of Service designated under AA §6-3(d). In addition, a Participant also may receive points based on his/her Plan Compensation. Each Participant will receive the same number of points for each designated year of age and/or service and the same number of points for each designated level of Plan Compensation.

- (D) **Employee group allocation.** Under the Employee group allocation method, the Employer may make a different discretionary contribution to each Participant's Employer Contribution Account based on the Employee allocation groups designated under AA §6-3(e). The Employer Contribution made for an allocation group will be allocated as a uniform percentage of Plan Compensation or as a uniform dollar amount. If the Employer Contribution is allocated as a percentage of Plan Compensation, the amount that will be allocated to each Participant within an allocation group is determined by multiplying the Employer Contribution made for that allocation group by the following fraction:

$$\frac{\text{Participant's Plan Compensation}}{\text{Plan Compensation of all Participants in the allocation group}}$$

Alternatively, the Employer may set forth in the description of the Employee groups under AA §6-3(e)(2) a fixed contribution amount for a designated Employee group. If a fixed contribution is provided for a specific Employee group, the amount designated as the fixed contribution will be allocated to each Participant within the designated Employee group.

The Employer must designate how much of the Employer Contribution is made for each of the Employee allocation groups and whether such amounts are allocated on the basis of Plan Compensation or as a uniform dollar amount. The portion of the Employer Contribution designated for a specific allocation group will be allocated only to Participants within that allocation group. If a Participant is in more than one allocation group during the Plan Year, the Participant will receive an Employer Contribution based on the Participant's status on the last day of the Plan Year. In the event a Participant is in two or more allocation groups on the last day of the Plan Year, the Participant will receive an Employer Contribution based on the first allocation group listed under AA §6-3(e)(2) in which the Participant is a part. The Employer can provide for a different treatment of Employees in multiple groups under AA §6-3(e)(3)(i).

- (E) **Age-based allocation formula.** Under the age-based allocation formula, the Employer will allocate the discretionary Employer Contribution on the basis of each Participant's adjusted Plan Compensation. For this purpose, a Participant's adjusted Plan Compensation is determined by multiplying the Participant's Plan Compensation by an Actuarial Factor. A Participant's Actuarial Factor is determined based on standard actuarial assumptions using a testing age that is the later of Normal Retirement Age or the Employee's current age. Unless designated otherwise under AA §6-3(f), a Participant's Actuarial Factor is determined based on an 8.5% interest rate and the UP-1984 mortality table. (See Appendix A of the Plan for the Actuarial Factors associated with an 8.5% interest rate and the UP-1984 mortality table and a testing age of 65. If an interest rate other than 8.5% or a mortality table other than the UP-1984 mortality table is selected under AA §6-3(f), or if a testing age other than age 65 is used, the Plan must determine the appropriate Actuarial Factors based on the designated interest rate, mortality table and testing age.)
- (ii) **Fixed Employer Contribution.** The Employer may elect under AA §6-2(b) to make a fixed contribution to the Plan. The Employer may elect under AA §6-2(b)(1) or (2) to make a fixed contribution as a designated percentage of Plan Compensation or as a uniform dollar amount. If a fixed contribution is selected under AA §6-2(b)(1) or (2), the Employer Contribution will be allocated under the fixed contribution formula under AA §6-3(b) in accordance with the selections made in AA §6-2(b).
- (iii) **Service-based Employer Contribution.** If elected in AA §6-2(d), the Employer may make a contribution based on an Employee's service with the Employer during the Plan Year (or other period designated under AA §6-5(a)). The Employer may elect to make the service-based contribution as a discretionary contribution or as a fixed contribution. Any such contribution will be allocated on the basis of Participants' Hours of Service, weeks of employment or other measuring period selected under AA §6-2(d). The Employer Contribution will be allocated under the service-based allocation formula under AA §6-3(g).

- (iv) **Contributions of Accrued Sick/Vacation Leave.** The Employer may elect under AA §6-4 to provide Employer Contributions of accrued sick and/or vacation leave, provided the following requirements are satisfied:
- (A) The leave converted under the arrangement can only be accrued unpaid leave;
 - (B) The leave converted can only be sick and/or vacation leave;
 - (C) The Employer designates how often the conversions occur;
 - (D) The eligibility requirements for participation in the plan cannot be such that an Employee becomes a Participant only in the plan year in which the Employee terminates employment;
 - (E) The only accrued unpaid leave which can be converted under the arrangement must only be leave for which the Employee has no right to request a cash payment;
 - (F) The leave conversion formula can only be one which involves multiplying an Employee's current daily rate of pay against the amount of accrued unpaid leave being converted; and
 - (G) The leave conversion formula is definitely determinable.
- (2) **Frozen Plan.** The Employer may designate under AA §2-5 that the Plan is a frozen Plan. As a frozen Plan, the Employer will not make any Employer Contributions with respect to Plan Compensation earned after the date identified in AA §2-5. If the Plan holds any unallocated forfeitures at the time the Plan is frozen, such forfeitures may be allocated to all eligible Participants in accordance with Section 6.11 in the year the Plan is frozen, regardless of any contrary selections under AA §8-7.
- (b) **Employer Contribution formulas (Money Purchase Plan).** The Employer may elect under AA §6 of the Money Purchase Plan Adoption Agreement to make any of the following Employer Contributions. Each Participant will receive an allocation of Employer Contributions equal to the amount determined under the contribution formula elected under AA §6-2. Any reference to the Adoption Agreement under this subsection (b) is a reference to the Money Purchase Plan Adoption Agreement. To receive an allocation of Employer Contributions, a Participant must satisfy any allocation conditions designated under the Plan, as described in Section 3.07 below.
- In determining the amount of Employer Contributions to be allocated to Participants under the Plan, the Plan will take into account Plan Compensation (as defined in Section 1.75) for the Plan Year. The Employer may designate under AA §6-4 alternative periods for determining the allocation of Employer Contributions. If alternative periods are designated under AA §6-4, a Participant's allocation of Employer Contributions will be determined separately for each designated period based on Plan Compensation earned during such period. If an alternative period is designated under AA §6-4, the Employer need not actually make the Employer Contribution during the designated period, provided the total Employer Contribution for the Plan Year is allocated based on the proper Plan Compensation. (If the permitted disparity allocation method applies under AA §6-2(c), the allocation will be based on the Plan Year.)
- If the Employer maintains any other qualified plan(s) which cover any Participants under this Plan, the Employer may elect under AA §6-3(b) to reduce such Participants' allocation under this Plan to take into account the benefits provided under the Employer's other qualified plan(s). The Employer may describe under AA §6-3(b)(2) how the offset will be applied.
- (1) **Uniform Employer Contribution.** If elected under AA §6-2(a), the Employer will make a contribution to each Participant under the Plan as a uniform percentage of Plan Compensation or as a uniform dollar amount, as designated in AA§6-2(a).
- (2) **Permitted disparity contribution formula.** If elected under AA §6-2(c), the Employer will make a permitted disparity contribution to each Participant using either the individual or group method. The Employer may not elect the permitted disparity contribution formula under the Plan if the Employer maintains another qualified plan, covering any of the same Employees, which uses permitted disparity in determining the allocation of contributions or the accrual of benefits under such plan.
- (i) **Individual method.** Under the individual method, each Participant will receive an allocation of the Employer Contribution equal to the amount determined under the contribution formula under AA §6-2(c)(1). A Participant may not receive an allocation with respect to Excess Compensation that exceeds the Maximum Disparity Rate.

- (A) **Excess Compensation.** The amount of Plan Compensation that exceeds the Integration Level.
- (B) **Integration Level.** The Taxable Wage Base, unless specified otherwise under AA §6-2(c)(3).
- (C) **Maximum Disparity Rate.** The Maximum Disparity Rate is the maximum amount that may be allocated with respect to Excess Compensation under the permitted disparity formula. Unless provided otherwise under AA §6-2(c)(3), the maximum amount that may be allocated as a percentage of Plan Compensation and Excess Compensation is the following percentage:

<u>Integration Level</u> <u>(as a percentage of the Taxable Wage Base)</u>	<u>Maximum</u> <u>Disparity Rate</u>
100%	5.7%
More than 80% but less than 100%	5.4%
More than 20% and not more than 80%	4.3%
20% or less	5.7%

The Employer may elect to apply a greater Maximum Disparity Rate under AA §6-2(c)(3)(ii).

- (D) **Taxable Wage Base.** The maximum amount of wages that are considered for Social Security purposes as in effect at the beginning of the Plan Year.
- (ii) **Group method.** Under the group method, the Employer contributes a fixed percentage of total Plan Compensation of all Participants. The Employer Contribution is then allocated under the two-step method (as described in subsection (a)(1)(i)(B)(I) above). In determining Excess Compensation, the Integration Level is the Taxable Wage Base, unless designated otherwise under AA §6-2(c)(3).
- (3) **Employee group contribution formula.** Under the Employee group contribution formula, the Employer may make a different contribution to each Participant's Employer Contribution Account based on the designated Employee groups identified under AA §6-2(d).

The Employer Contribution made for a designated Employee group will be allocated to each eligible Participant in such group as a uniform percentage of Plan Compensation or as a uniform dollar amount, as designated in AA §6-2(d)(2). The Employer also may elect to allocate an amount to each eligible Participant in a designated Employee group the maximum amount permissible under Code §415. See Section 5.02.

The Employee groups designated in AA §6-2(d) must be clearly defined in a manner that will not violate the definite determinable requirement of Treas. Reg. §1.401-1(b)(1)(ii). The portion of the Employer Contribution designated for a specific Employee group will be allocated only to Participants within that group. If a Participant is in more than one Employee group during the Plan Year, the Participant will receive an Employer Contribution based on the Participant's status on the last day of the Plan Year. In the event a Participant is in two or more Employee groups on the last day of the Plan Year, the Participant will receive an Employer Contribution based on the first Employee group listed under AA §6-2(d) in which the Participant is a part. The Employer can provide for a different treatment of Employees in multiple groups as part of the group description in AA §6-2(d)(1).

- (4) **Age-based contribution formula.** Under the age-based contribution formula, the Employer will contribute a specific percentage of each Participant's adjusted Plan Compensation. For this purpose, a Participant's adjusted Plan Compensation is determined by multiplying the Participant's Plan Compensation by an Actuarial Factor. A Participant's Actuarial Factor must be determined based on standard actuarial assumptions using a testing age that is the later of Normal Retirement Age or the Employee's current age. Unless designated otherwise under AA §6-2(e), a Participant's Actuarial Factor is determined based on an 8.5% interest rate and the UP-1984 mortality table. (See Appendix A of the Plan for the Actuarial Factors associated with an 8.5% interest rate and the UP-1984 mortality table and a testing age of 65. If an interest rate other than 8.5% or a mortality table other than the UP-1984 mortality table is selected under AA §6-2(e), or if a testing age other than age 65 is used, the Plan must determine the appropriate Actuarial Factors based on the designated interest rate, mortality table and testing age.)
- (5) **Service-based Employer Contribution.** If elected in AA §6-2(f), the Employer will make a contribution based on an Employee's service with the Employer during the Plan Year (or other period designated under AA §6-4.)

The Employer Contribution will be allocated on the basis of Participants' Hours of Service, weeks of employment or other measuring period selected under AA §6-2(f).

- (6) **Frozen Plan.** The Employer may designate under AA §2-5 that the Plan is a frozen Plan. As a frozen Plan, the Employer will not make any Employer Contributions with respect to Plan Compensation earned after the date identified in AA §2-5. If the Plan holds any unallocated forfeitures at the time of the termination, such forfeitures may be allocated to all eligible Participants in accordance with Section 6.11 in the year of the termination, regardless of any contrary selections under AA §8-7.
- (c) **Contribution formulas (Grandfathered 401(k) Plan).** If the Employer is eligible to maintain a Grandfathered 401(k) Arrangement (as defined under AA §2-3), the Employer may elect under the Adoption Agreement to make Employer Contributions, Matching Contributions and/or Salary Deferrals. Any reference to the Adoption Agreement under this subsection (c) is a reference to the Grandfathered 401(k) Plan Adoption Agreement.
- (1) **Employer Contributions.** An Employer may designate under AA §6 of the Grandfathered 401(k) Plan Adoption Agreement the amount of Employer Contributions that may be made under the Plan. The same rules apply with respect to Employer Contributions under the Grandfathered 401(k) Arrangement as apply under the Profit Sharing Plan, as set forth under subsection (a), above. If the Employer elects more than one Employer Contribution formula, each formula is applied separately. The Employer's aggregate Employer Contribution for a Plan Year will be the sum of the Employer Contributions under all such formulas.
- (2) **Salary Deferrals.** The Employer may elect under AA §6A of the Grandfathered 401(k) Plan Adoption Agreement to authorize Participants to make Salary Deferrals under the Plan. A Participant's total Salary Deferrals may not exceed the lesser of any limitation designated under AA §6A-2, the Elective Deferral Dollar Limit described under Section 5.03, or the amount permitted under the Code §415 Limitation described under Section 5.02. The Employer may elect under AA §6A-2(b) of the Grandfathered 401(k) Plan Adoption Agreement to apply a different limit on Salary Deferrals to the extent such Salary Deferrals are withheld from a Participant's bonus payments.
- (i) **Salary Deferral Election.** In order to make Salary Deferrals under the Plan, a Participant must enter into a Salary Deferral Election which authorizes the Employer to withhold a specific dollar amount or a specific percentage from the Participant's Plan Compensation. The Salary Deferral Election may permit a Participant to specify a different percentage or dollar amount be withheld from specified components of Plan Compensation, such as base pay, bonuses, commissions, etc. In addition, the Salary Deferral Election may provide the conditions on which an Employee's affirmative Salary Deferral Election will expire. If an Employee's Salary Deferral Election expires, such Employee can always complete a new affirmative election and designate a new deferral percentage. If the Plan is not an Automatic Contribution Arrangement and an Employee's affirmative election expires, the Salary Deferral Election may provide that the Employee's expiring deferral election remains in effect and may increase by a designated amount unless the Employee affirmatively elects otherwise. The Employer will deposit any amounts withheld from a Participant's Plan Compensation as Salary Deferrals into the Participant's Salary Deferral Account under the Plan. A Salary Deferral Election may only relate to Plan Compensation that is not currently available at the time the Salary Deferral Election is completed. In determining the amount to be withheld from a Participant's Plan Compensation, a Salary Deferral election may be rounded to the next highest or lowest whole dollar amount.

The Employer may designate under AA §6A-8 of the Grandfathered 401(k) Plan Adoption Agreement to apply a special effective date as of which Participants may begin making Salary Deferrals under the Plan. Regardless of any special effective date designated under AA §6A-8, a Salary Deferral Election may not be effective prior to the later of:

- (A) the date the Employee becomes a Participant;
- (B) the date the Participant executes the Salary Deferral Election; or
- (C) the date the Plan is first adopted or effective.

In addition, Salary Deferrals made pursuant to a Salary Deferral Election may not be made earlier than the date the Participant performs the services to which such Salary Deferrals relate or the date the compensation subject to such Salary Deferral Election would be currently available to the Participant absent the deferral election (if earlier). Regardless of when a Participant elects to commence making Salary Deferrals, the Employer may delay commencement for a reasonable period of time in order to implement the Salary Deferral election.

A Salary Deferral Election is valid even though it is executed by an Employee before he/she actually has qualified as a Participant, so long as the Salary Deferral Election is not effective before the date the Employee is a Participant.

- (ii) **Change in deferral election.** An Employee must be permitted to enter into a new Salary Deferral Election or to modify or terminate an existing Salary Deferral Election at least once a year. The Employer may designate additional dates on the Salary Deferral Election form (or other written procedures) as to when a Participant may modify or terminate a Salary Deferral Election. Any election to modify or terminate a Salary Deferral Election will take effect within a reasonable period following such election and will apply only on a prospective basis. The Employer may allow an Employee to increase his/her deferral election up to the Elective Deferral Dollar Limit at any time during the last two months of the Plan Year.
- (iii) **Automatic Contribution Arrangement.** The Employer may elect under AA §6A-7 of the Grandfathered 401(k) Plan Adoption Agreement to provide for an automatic deferral election under the Plan. If the Employer elects to apply an automatic deferral election, the Employer will automatically withhold the amount designated under AA §6A-7 from Participants' Plan Compensation, unless the Participant completes a Salary Deferral Election electing a different deferral amount (including a zero deferral amount). Unless provided otherwise under AA §6A-7, an Employee who is automatically enrolled under a prior plan document will continue to be automatically enrolled under the current Plan document.
 - (A) **Automatic increase.** The Plan may provide under AA §6A-7 of the Grandfathered 401(k) Plan Adoption Agreement that the automatic deferral amount will automatically increase by a designated percentage each Plan Year. Unless designated otherwise under AA §6A-7(a)(4), in applying any automatic deferral increase under AA §6A-7, the initial deferral amount will apply for the period that begins when the employee first participates in the automatic contribution arrangement and ends on the last day of the following Plan Year. The automatic increase will apply for each Plan Year beginning with the Plan Year immediately following the initial deferral period and for each subsequent Plan Year.
 - (B) **Annual notice requirement.** Each eligible Employee must receive a written notice describing the Participant's rights and obligations under the Plan which is sufficiently accurate and comprehensive to apprise the Employee of such rights and obligations and is written in a manner calculated to be understood by the average Plan Participant. The annual notice only needs to be provided to those Employees who are covered under the Automatic Contribution Arrangement. If it is impractical to provide the annual notice to a newly eligible Participant before the date such individual becomes eligible to participate under the Plan, the notice will be treated as timely if it is provided as soon as practicable after such date and the Employee is permitted to defer from Plan Compensation earned beginning on the date of participation.
 - (C) **Timing of annual notice.** The annual notice must be provided within a reasonable period before the beginning of each Plan Year (or, in the year an Employee becomes an eligible Employee, within a reasonable period before the Employee becomes an eligible Employee). In addition, a notice satisfies the timing requirements only if it is provided sufficiently early so that the Employee has a reasonable period of time after receipt of the notice and before the first Salary Deferral made under the arrangement to make an alternative deferral election. The annual notice will be deemed timely if it is provided to each eligible Employee at least 30 days (and no more than 90 days) before the beginning of each Plan Year. In the case of an Employee who does not receive the notice within such period because the Employee becomes an eligible Employee after the 90th day before the beginning of the Plan Year, the timing requirement is deemed to be satisfied if the notice is provided no more than 90 days before the Employee becomes an eligible Employee (and no later than the date the Employee becomes an eligible Employee).
 - (D) **Timing of automatic deferral.** Generally, the automatic deferral will commence as of the date the Employee is otherwise eligible to make Salary Deferrals under the Plan, if the Employee had completed a Salary Deferral Election. However, an automatic deferral will be treated as timely if the deferral is made pursuant to reasonable administrative procedures established by the Plan Administrator. If the Plan provides an Employee with a written notice as described in Section 3.03(c)(2)(i)(D) above no later than 30 days after his/her Entry Date, provides the Employee with the opportunity to make an affirmative Salary Deferral Election up to 30 days after the notice is provided, and, in the absence of the Employee's affirmative Salary Deferral Election, provides

that automatic deferrals will commence as soon as administratively practicable following the last day of the 30 day period, then the Plan will be treated as having a reasonable administrative procedure.

(E) **Permissible Withdrawals.** If so elected under AA §6A-7(b) of the Grandfathered 401(k) Plan Adoption Agreement, effective for Plan Years beginning on or after January 1, 2008, any Employee who has Salary Deferrals contributed to the Plan pursuant to an automatic deferral election may elect to withdraw such contributions (and earnings attributable thereto) in accordance with the requirements of this subsection (E). A permissible withdrawal under this subsection (E) may be made without regard to any elections under AA §10 and will not cause the Plan to fail the prohibition on in-service distribution applicable to Salary Deferrals under Section 7.10(c).

(I) **Amount of distribution.** A distribution satisfies the requirement of this subsection (E) if the distribution is equal to the amount of Salary Deferrals made pursuant to the automatic deferral election through the effective date of the withdrawal election (as described in subsection (III) below) adjusted for allocable gains and losses as of the date of the distribution.

The distribution amount determined under this subsection (I) may be reduced by any generally applicable fees. However, the Plan may not charge a greater fee for a permissible distribution under this subsection (E) than applies with respect to other Plan distributions.

(II) **Timing of permissive withdrawal election.** An election to withdraw Salary Deferrals under this subsection (E) must be made no later than 90 days after the date of the first default Salary Deferral. The date of the first default Salary Deferral is the date that the Plan Compensation from which such Salary Deferrals are withheld would otherwise have been included in gross income. The Employer may designate an alternative period for making permissive withdrawals under AA §6A-7(b)(3).

(III) **Effective date of permissible withdrawal.** The effective date of a permissible withdrawal election cannot be later than the pay date for the second payroll period that begins after the election is made or, if earlier, the first pay date that occurs at least 30 days after the election is made. If an Employee does not make automatic deferrals to the Plan for an entire Plan Year (e.g., due to termination of employment), the Plan may allow such Employee to take a permissive withdrawal, but only with respect to default contributions made after the Employee's return to employment.

(IV) **Consequences of permissible withdrawal.** Any amount distributed under this subsection (E) is includible in the Employee's gross income for the taxable year in which the distribution is made. However, the portion of any distribution consisting of Roth Deferrals is not included in an Employee's gross income a second time. In addition, a permissible withdrawal under this subsection (E) is not subject to any penalty tax under Code §72(t). Unless the Employee affirmatively elects otherwise, any withdrawal request will be treated as an affirmative election to stop having Salary Deferrals made on the Employee's behalf as of the date specified in subsection (III) above.

(iv) **Catch-Up Contributions.** If permitted under AA §6A-4 of the Grandfathered 401(k) Plan Adoption Agreement, a Participant who is aged 50 or over by the end of his/her taxable year beginning in the calendar year may make Catch-Up Contributions, provided such Catch-Up Contributions are in excess of an otherwise applicable limit under the Plan. For this purpose, an otherwise applicable Plan limit is a limit in the Plan that applies to Salary Deferrals without regard to Catch-up Contributions, such as a Plan-imposed Salary Deferral limit under AA §6A-2, the Code §415 Limitation (described in Section 5.02), or the Elective Deferral Dollar Limit (described in Section 5.03).

(A) **Catch-Up Contribution Limit.** Catch-up Contributions for a Participant for a taxable year may not exceed the Catch-Up Contribution Limit. The Catch-Up Contribution Limit for taxable years beginning in 2010 through 2014 is \$5,500. For taxable years beginning after 2014, the Catch-Up Contribution Limit will be adjusted for cost-of-living increases under Code §414(v)(2)(C). The Employer may operationally limit Catch-Up Contributions so that a Participant's total Catch-Up Contributions, when added to other Salary Deferrals, may not exceed 75 percent of the Participant's Plan Compensation for the taxable year.

- (B) **Special treatment of Catch-Up Contributions.** Catch-up Contributions are not subject to the Elective Deferral Dollar Limit or the Code §415 Limitation.
- (v) **Roth Deferrals.** For Plan Years beginning on or after January 1, 2006, if permitted under AA §6A-5 of the Grandfathered 401(k) Plan Adoption Agreement, a Participant may designate all or a portion of his/her Salary Deferrals as Roth Deferrals. For this purpose, a Roth Deferral is a Salary Deferral that satisfies the following conditions.
- (A) **Irrevocable election.** The Participant makes an irrevocable election (at the time the Participant enters into his/her Salary Deferral Election) designating all or a portion of his/her Salary Deferrals as Roth Deferrals. The irrevocable election applies with respect to Salary Deferrals that are made pursuant to such election. A Participant may modify or change a Salary Deferral Election to increase or decrease the amount of Salary Deferrals designated as Roth Deferrals, provided such change or modification applies only with respect to Salary Deferrals made after such change or modification. (See subsection (ii) above for rules regarding the timing of permissible changes or modifications to a Participant's Salary Deferral Election.)
- (B) **Subject to immediate taxation.** To the extent a Participant designates all or a portion of his/her Salary Deferrals as Roth Deferrals, such amounts will be includible in the Participant's income at the time the Participant would have received the contribution amounts in cash if the Employee had not made the Salary Deferral election.
- (C) **Separate account.** Any amounts designated as Roth Deferrals will be maintained by the Plan in a separate Roth Deferral Account. The Plan will credit and debit all contributions and withdrawals of Roth Deferrals to such separate Account. The Plan will separately allocate gains, losses, and other credits and charges to the Roth Deferral Account on a reasonable basis that is consistent with such allocations for other Accounts under the Plan. However, in no event may the Plan allocate forfeitures under the Plan to the Roth Deferral Account. The Plan will separately track Participants' accumulated Roth Deferrals and the earnings on such amounts.
- (D) **Satisfaction of Salary Deferral requirements.** Roth Deferrals are subject to the same requirements as apply to Salary Deferrals. Thus Roth Deferrals are subject to the following requirements:
- (I) Roth Deferrals are always 100% vested, as provided in Section 6.01.
- (II) Roth Deferrals are subject to the Elective Deferral Dollar Limit, as described in Section 5.03. For this purpose, all Salary Deferrals (both Pre-Tax Salary Deferrals and Roth Deferrals) are aggregated in applying the Elective Deferral Dollar Limit.
- (III) Roth Deferrals are subject to the same distribution restrictions as apply to Salary Deferrals under Section 7.10(c). See Section 7.11(b) for special distribution provisions applicable to Roth Deferrals.
- (IV) Roth Deferrals are subject to the required minimum distribution requirements under Code §401(a)(9), as set forth in Section 8.
- (E) **Rollover of Roth Deferrals.**
- (I) **Rollovers from this Plan.** For purposes of the rollover rules under Section 7.04, a Direct Rollover of a distribution from a Participant's Roth Deferral Account will only be made to another Roth Deferral Account under a qualified plan described in Code §401(a) or an annuity contract or custodial account described in Code §403(b) or to a Roth IRA described in §408A, and only to the extent the rollover is permitted under the rules of Code §402(c).
- (II) **Rollovers to this Plan.** Subject to the provisions under Section 3.05, a Participant may make a Rollover Contribution to his/her Roth Deferral Account only if the rollover is a Direct Rollover from another Roth Deferral Account under a qualified retirement plan (as described in Section 3.05) and only to the extent the rollover is permitted under the rules of Code §402(c). A rollover of Roth Deferrals may not be made to this Plan from a Roth

IRA. Any rollover of Roth Deferrals to this Plan will be held in a separate Roth Rollover Account.

- (III) **Minimum rollover amount.** The Plan Administrator may decide whether or not to provide for a Direct Rollover (including an Automatic Rollover) for distributions from a Participant's Roth Deferral Account if it is reasonably expected (at the time of the distribution) that the total amount the Participant will receive as a distribution during the calendar year will total less than \$200. In addition, the Plan Administrator may decide whether or not to take into account any distribution from a Participant's Roth Deferral Account in determining whether distributions from a Participant's other Accounts are reasonably expected to total less than \$200 during a year. For purposes of applying the Automatic Rollover provisions under Section 8.06, a Participant's Roth Deferral Account and the Participant's other Accounts are treated as accounts held under separate plans. (See Treas. Reg. §1.401(k)-1(f)(4)(ii).)
- (IV) **Separate treatment of Roth Deferrals.** The provisions under Section 7.04 that allow a Participant to elect a Direct Rollover of only a portion of an Eligible Rollover Distribution, but only if the amount rolled over is at least \$500, is applied by treating any amount distributed from the Participant's Roth Deferral Account as a separate distribution from any amount distributed from the Participant's other Accounts in the Plan, even if the amounts are distributed at the same time.
- (vi) **In-Plan Roth Conversions.** Effective on or after January 1, 2013, the Employer may elect under AA §6A-5(c) of the Profit Sharing/401(k) Plan Adoption Agreement to permit In-Plan Roth Conversions under the Plan. For this purpose, an In-Plan Roth Conversion is a conversion of amounts held in a Participant's Plan Account, other than a Roth Deferral Account or Roth Rollover Account, into the Participant's In-Plan Roth Conversion Account under the Plan, pursuant to Code §402A(c)(4). Any election to make an In-Plan Roth Conversion during a taxable year may not be changed after the In-Plan Roth Conversion is completed. (For In-Plan Roth Conversions completed prior to January 1, 2013, a Participant had to be eligible to receive a distribution of the converted amounts at the time of the In-Plan Roth Conversion. The provisions of this Section 3.03(c)(vi) do not affect an In-Plan Roth Conversion completed prior to January 1, 2013.)

An In-Plan Roth Conversion may be elected by a Participant, a Spousal beneficiary, or an Alternate Payee who is a Spouse or former Spouse. To the extent the term "Participant" is used for purposes of determining eligibility to make an In-Plan Roth Conversion, such term will also include a Spousal beneficiary and an Alternate Payee who is a Spouse or former Spouse.

- (A) **Amounts Eligible for In-Plan Roth Conversion.** If permitted under AA §6A-5(c) of the Profit Sharing/401(k) Adoption Agreement, a Participant may convert any portion of his/her vested Account Balance (other than amounts attributable to Roth Deferrals or Roth Deferral rollovers) to an In-Plan Roth Conversion Account. Unless elected otherwise under AA §6A-5(c), a Participant need not be eligible to receive a distribution from the Plan at the time of the In-Plan Roth Conversion.

In addition, an In-Plan Roth Conversion will not be treated as a distribution for the following purposes:

- (I) **Participant loans.** A Participant loan directly transferred in an In-Plan Roth Conversion without changing the repayment schedule is not treated as a new loan.
- (II) **Spousal consent.** An In-Plan Roth Conversion is not treated as a distribution for purposes of applying the spousal consent requirements under Code §401(a)(11). Thus, a married Plan Participant is not required to obtain spousal consent in connection with an election to make an In-Plan Roth Conversion, even if the Plan is otherwise subject to the spousal consent requirements under Code §401(a)(11).
- (III) **Participant consent.** An In-Plan Roth Conversion is not treated as a distribution for purposes of applying the participant consent requirements under Code §411(a)(11). Thus, amounts that are converted as part of an In-Plan Roth Conversion continue to be taken into account in determining whether the Participant's vested Account Balance exceeds \$5,000 for purposes of applying the Involuntary Cash-Out provisions and will not trigger the requirement for a notice of the Participant's right to defer receipt of the distribution.

- (IV) **Mandatory withholding.** An In-Plan Roth Conversion is not subject to 20% mandatory withholding under Code §3405(c).
- (V) **Distribution restrictions.** Generally, a distribution will be permitted from the In-Plan Roth Conversion Account to the extent permitted for regular Roth Deferrals under AA §10-1. The distribution restrictions normally applicable to Roth Deferrals, as described in Section 7.10(c) of the Plan, do not apply to the extent the conversion is from a contribution source that is not otherwise subject to the distribution restrictions applicable to Roth Deferrals. In addition, distribution restrictions that otherwise apply with respect to a specific contribution source will continue to apply if such contribution source is converted to Roth Deferrals. For example, if Traditional Safe Harbor Contributions are converted to Roth Deferrals, such amounts may not be distributed on account of hardship or other event not otherwise permitted under Section 7.10(c) of the Plan, unless permitted otherwise under IRS guidance.
- (B) **Effect of In-Plan Roth Conversion.** A Participant must include in gross income the taxable amount of an In-Plan Roth Conversion. For this purpose, the taxable amount of an In-Plan Roth Conversion is the fair market value of the distribution, reduced by any basis in the converted amounts. If the distribution includes Employer securities, the fair market value includes any net unrealized appreciation within the meaning of Code §402(e)(4). If an outstanding loan is rolled over as part of an In-Plan Roth Conversion, the amount includible in gross income includes the balance of the loan.
- Generally, the taxable amount of an In-Plan Roth Conversion is includible in gross income in the taxable year in which the conversion occurs.
- (C) **Application of Early Distribution Penalty under Code §72(t).** An In-Plan Roth Conversion is not subject to the early distribution penalty under Code §72(t) at the time of the conversion. However, if an amount allocable to the taxable amount of an In-Plan Roth Conversion is subsequently distributed within the 5-taxable-year period beginning with the first day of the Participant's taxable year in which the conversion was made, the amount distributed is treated as includible in gross income for purposes of applying the Code §72(t) early distribution penalty. For this purpose, the 5-taxable-year period ends on the last day of the Participant's fifth taxable year in the period. This subsection (C) will not apply to the extent the distribution is rolled over to a Roth account in another qualified plan or is rolled over to a Roth IRA. However, the rule under this subsection (C) will apply to any subsequent distributions made from such other Roth account or Roth IRA within the 5-taxable-year period.
- (D) **Contribution Sources.** Unless elected otherwise under AA §6A-5(c), an In-Plan Roth Conversion may be made from any contribution source under the Plan, other than a Roth Deferral Account or Roth Rollover Account. The Employer may elect in AA §6A-5(c) to limit the contribution sources that are eligible for In-Plan Roth Conversion. In addition, the Employer may elect in AA §6A-5(c) to limit In-Plan Roth Conversions to contribution accounts that are 100% vested.
- (3) **Matching Contributions.** The Employer may elect under AA §6B of the Grandfathered 401(k) Plan Adoption Agreement to authorize Matching Contributions under the Plan. If the Employer elects more than one Matching Contribution formula under AA §6B-2, each formula is applied separately. A Participant's aggregate Matching Contributions will be the sum of the Matching Contributions under all such formulas. Any Matching Contribution made under the Plan will be allocated to Participants' Matching Contribution Account. To receive an allocation of Matching Contributions, a Participant must satisfy any allocations conditions designated under the Plan, as described in Section 3.07 below.
- (i) **Contributions eligible for Matching Contributions.** The Matching Contribution formula(s) apply to Salary Deferrals, Catch-Up Contributions, After-Tax Employee Contributions and/or Employer Pick-Up Contributions made under the Plan, to the extent authorized under the Adoption Agreement. In addition, the Employer may elect under AA §6B-3(b) to match Elective Deferrals under another qualified plan, 403(b) plan or 457(b) plan maintained by the Employer. If the Employer elects to make a Matching Contribution based on the Employee's Elective Deferrals or Roth Deferrals under another qualified plan, 403(b) plan or 457(b) plan, the Employer shall make a Matching Contribution on behalf of any eligible Participant who makes Elective Deferrals or Roth Deferrals to the plan designated under AA §6B-3(b). Any such Matching Contribution made to the Plan will be allocated in accordance with any special

provisions added under AA §6B-3(b). Any such Matching Contributions will be in addition to any Matching Contributions made with respect to Salary Deferrals, After-Tax Employee Contributions, Catch-Up Contributions and/or Employer Pick-Up Contributions under this Plan.

- (ii) **Period for determining Matching Contributions.** AA §6B-5 sets forth the period for which the Matching Contribution formula(s) applies. For this purpose, the period designated in AA §6B-5 applies for purposes of determining the amount of Salary Deferrals, Catch-Up Contributions, After-Tax Employee Contributions, and/or Employer Pick-Up Contributions taken into account in applying the Matching Contribution formula(s) and in applying any limits on the amount of Salary Deferrals that may be taken into account under the Matching Contribution formula(s). (See subsection (iii) below for rules applicable to true-up contributions where the Employer contributes Matching Contributions to the Plan on a different period than selected under AA §6B-5.)

If the Employer elects a discretionary Matching Contribution under the Plan, the Employer may elect to make a different Matching Contribution for each period for which Matching Contributions are determined under the Plan. Thus, for example, if the discretionary Matching Contribution is based on the Plan Year quarter, the Employer may elect to make a different level of Matching Contribution for each Plan Year quarter. The Matching Contribution for the full Plan Year must be taken into account in applying the ACP Test with respect to such Plan Year.

- (iii) **True-up contributions.** If the Employer makes Matching Contributions more frequently than annually, the Employer may need to make true-up contributions for Participants. True-up contributions will be required if the Employer actually contributes Matching Contributions to the Plan on a more frequent basis than the period that is used to determine the amount of the Matching Contributions under AA §6B-5. For example, if Matching Contributions apply with respect to Salary Deferrals made for the Plan Year, but the Employer contributes the Matching Contributions on a quarterly basis, the Employer may have to make a true-up contribution to any Participant based on Salary Deferrals for the Plan Year. If a true-up contribution is required under this subsection (iii), the Employer may make such additional contribution as required to satisfy the contribution requirements under the Plan. If true-up contributions will not be made for any Participant under the Plan, payroll period should be selected under AA §6B-5(a).

If Matching Contributions are determined on a period other than the Plan Year, the Employer may make an additional discretionary Matching Contribution equal to the true-up contribution that would otherwise be required if Matching Contributions were determined on a Plan Year basis. If an additional discretionary Matching Contribution is made under this subsection (iii), such contribution must be provided to all eligible Participants who would otherwise be entitled to a true-up contribution based on Plan Compensation for the Plan Year.

3.03 Employer Pick-Up Contributions. The Employer may elect under AA §6-7(c) to make Employer Pick-Up Contributions. An Employer Pick-Up Contribution is a contribution made by an Employee that is “picked up” by the Employer in accordance with Code §414(h)(2). If the Employer elects to provide Employer Pick-Up Contributions under AA §6-7(c), a Participant who meets the eligibility requirements of AA §4-1 shall be deemed to have authorized the Employer to deduct the amount designated under AA §6-7(c) from the Participant’s Plan Compensation prior to payment. Contributions picked-up under this Section 3.03 will be withheld from the Employee’s compensation and deposited into the Participant’s Employer Pick-up Contribution Account. Contributions that are picked up under this Section 3.03 will be treated as Employer Contributions under the Plan and such contributions and earnings thereon will be 100% vested at all times.

To constitute an Employer Pick-up Contribution under this Section 3.03, the Employer must:

- (a) specify that the contributions, although designated as Employee contributions, are being paid by the Employer in lieu of contributions by the Employee;
- (b) take the action necessary to effectuate the pick-up, which must be completed before the period to which such contributions relate;
- (c) exclude from the Employee’s gross income the contributions picked up by the Employer until such time as they are distributed to the Employee; and
- (d) prohibit an Employee from opting out of the Employer Pick-up Contribution and prohibit the receipt of the contributed amounts directly instead of having them paid by the Employer to the Plan.

To satisfy the requirements of this Section 3.03, the Employer Pick-Up Contributions must be effectuated by a person duly authorized to take such action with respect to the Employer and must be evidenced by a contemporaneous written document,

such as minutes from a meeting, a resolution, an ordinance or this Plan document. Any Participating Employee may not enter into a cash or deferred election (within the meaning of Treas. Reg. § 1.401(k)-1(a)(3)) with respect to the designated Employee contributions, at any time from or after the date of the implementation of the Employer Pick-Up Contribution. For example, a Participant may not opt out of the Employer Pick-Up Contribution or receive the contributed amounts directly instead of having them paid by the Employer into the Plan.

- 3.04** **After-Tax Employee Contributions.** The Employer may elect under AA §6-7 to allow Participants to make After-Tax Employee Contributions under the Plan. If permitted under AA §6-7, a Participant's compensation will be reduced by the amount the Participant elects to contribute as an After-Tax Employee Contribution. The After-Tax Employee Contributions may be Voluntary After-Tax Employee Contributions, as designated under AA §6-7(a), or may be Mandatory After-Tax Employee Contributions, as designated under AA §6-7(b). Any After-Tax Employee Contributions made under the Plan will be held in Participants' After-Tax Employee Contribution Account, which is always 100% vested.

A Participant's election to change or resume an after-tax election will be effective as set forth under the After-Tax Employee Contributions election form or other written procedures adopted by the Plan Administrator. An Employee must be permitted to modify or terminate an existing After-Tax Employee Contribution election at least once a year. The Employer may designate additional dates on the After-Tax Employee Contribution election form (or other written procedures) as to when a Participant may commence, modify or terminate After-Tax Employee Contributions. Any election to modify or terminate an After-Tax Employee Contribution election will take effect within a reasonable period following such election and will apply only on a prospective basis.

A Participant may withdraw amounts from his/her After-Tax Employee Contribution Account at any time, in accordance with the distribution rules under Section 7.10(a), except as otherwise provided under AA §10. No forfeitures will occur solely as a result of an Employee's withdrawal of After-Tax Employee Contributions. The Employer may collect Participants' After-Tax Employee Contributions using payroll reduction or other collection procedures. The Employer may designate in the Adoption Agreement or in separate administrative procedures any special rules regarding the acceptance of After-Tax Employee Contributions. Any separate procedures will apply uniformly to all Participants under the Plan.

- 3.05** **Rollover Contributions.** An Employee (or former Employee) may make a Rollover Contribution to this Plan from a qualified retirement plan or from an IRA, if the acceptance of rollovers is permitted under AA §C-2 or if the Plan Administrator adopts administrative procedures regarding the acceptance of Rollover Contributions. Subject to the provisions under Section 3.02(c)(2)(v)(E) relating to rollovers of Roth Deferrals, any Rollover Contribution an Employee (or former Employee) makes to this Plan will be held in the Employee's Rollover Contribution Account, which is always 100% vested. A Participant may withdraw amounts from his/her Rollover Contribution Account at any time, in accordance with the distribution rules under Section 7, except as prohibited under AA §10. Any amounts received as a Rollover Contribution under this Section 3.05 will not be treated as an Annual Addition for purposes of applying the Code §415 Limitation described in Section 5.02.

For purposes of this Section 3.05, a qualified retirement plan is a tax-qualified retirement plan described in Code §401(a) or Code §403(a), an annuity contract described in §403(b) of the Code, or an eligible plan under §457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. To qualify as a Rollover Contribution under this Section, the Rollover Contribution must be transferred directly from the qualified retirement plan or IRA in a Direct Rollover or must be transferred to the Plan by the Employee within the requisite period of time for Rollover Contributions from the qualified plan or IRA.

The Plan Administrator may accept any Rollover Contribution that satisfies the requirements, including the time period to make Rollover Contributions, under Code §402(c) and applicable IRS regulations and other guidance. Thus, for example, the Plan Administrator may accept a Rollover Contribution as provided under Revenue Procedure 2016-47 relating to the waiver of the 60-day rollover period and acceptable self-certification by an Employee and the Plan may accept a Rollover Contribution of qualified plan loan offset amounts within the applicable time period.

If permitted under AA §C-2 or other administrative procedures, an Employee (or former Employee) may make a Rollover Contribution to the Plan even if the Employee is not a Participant with respect to any or all other contributions under the Plan. An Employee who makes a Rollover Contribution to this Plan prior to becoming a Participant shall be treated as a Participant only with respect to such Rollover Contribution Account, but shall not be treated as a Participant with respect to other contribution sources under the Plan until he/she otherwise satisfies the eligibility conditions under the Plan. To the extent Participant loans are authorized under the Plan, a "limited Participant" under this paragraph may request a Participant loan from the Rollover Contribution Account, unless provided otherwise under AA §B-3 or separate administrative procedures adopted by the Plan Administrator.

The Plan Administrator may refuse to accept a Rollover Contribution if the Plan Administrator reasonably believes the Rollover Contribution:

- (a) is not being made from a proper plan or IRA;

- (b) is not being made within sixty (60) days from receipt of the amounts from a qualified retirement plan or IRA;
- (c) could jeopardize the tax-exempt status of the Plan; or
- (d) could create adverse tax consequences for the Plan or the Employer.

Prior to accepting a Rollover Contribution, the Plan Administrator may require the Employee to provide satisfactory evidence establishing that the Rollover Contribution meets the requirements of this Section.

If the Plan accepts an invalid Rollover Contribution, the contribution will be treated, for purposes of applying the qualification requirements of Code §401(a) to the Plan, as if it were a valid Rollover Contribution if two conditions are satisfied:

- (a) When accepting the amount from the Employee as a Rollover Contribution, the Plan Administrator must reasonably conclude that the contribution is a valid Rollover Contribution; and
- (b) If the Plan Administrator later determines that the contribution was an invalid Rollover Contribution, the Plan Administrator must distribute the amount of the invalid Rollover Contribution, plus any earnings attributable thereto, to the Employee within a reasonable time after such determination.

The Plan Administrator may use the criteria set forth in IRS Revenue Ruling 2014-9, as well as other evidence, in reasonably determining whether a Rollover Contribution is valid. Thus, the Plan Administrator may access the EFAST2 database maintained by the Department of Labor to assist in determining whether a potential Rollover Contribution was distributed by a plan intended to be a qualified plan. If the Plan Administrator later determines that the Rollover Contribution was not valid, the Plan Administrator must have the amount rolled over plus any attributable earnings distributed within a reasonable period of time after such determination.

The Plan Administrator may apply different conditions for accepting Rollover Contributions from qualified retirement plans and IRAs. For example, the Plan Administrator may decide in its discretion whether to accept a Direct Rollover of a loan note from another qualified plan. Any conditions on Rollover Contributions must be applied uniformly to all Employees under the Plan.

3.06 Deductible Employee Contributions. The Plan Administrator will not accept deductible employee contributions that are made for a taxable year beginning after December 31, 1986. Contributions made prior to that date will be maintained in a separate Account which will be nonforfeitable at all times. The Account will share in the gains and losses under the Plan in the same manner as described in Section 10.03(d). No part of the deductible voluntary contribution Account will be used to purchase life insurance. The Participant may withdraw any part of the deductible voluntary contribution Account by making a written application to the Plan Administrator.

3.07 Allocation Conditions. In order to receive an allocation of Employer Contributions and/or Matching Contributions, a Participant must satisfy any allocation conditions designated under the Adoption Agreement with respect to such contributions. If the Employer elects to apply a minimum service requirement for Employer Contributions and/or Matching Contributions, the Employer may elect to base such minimum service requirement on the basis of Hours of Service or on the basis of consecutive days of employment under the Elapsed Time method.

- (a) **Special rule for year of Plan termination.** A last day employment condition automatically applies for any Plan Year in which the Plan is terminated, regardless of whether the Employer has elected to apply a last day employment condition under the Adoption Agreement. Thus, the Employer will not be obligated to make an Employer Contribution or Matching Contribution for the Plan Year in which the Plan terminates, unless the Employer provides for an Employer Contribution and/or Matching Contribution in its termination amendment. If there are unallocated forfeitures at the time of Plan termination, such forfeitures will be allocated to Participants under the Plan's procedures for allocating forfeitures.
- (b) **Service with Predecessor Employers.** To the extent provided by the Employer under AA §4-5, if the Employer maintains the plan of a Predecessor Employer, any service with such Predecessor Employer is treated as service with the Employer for purposes of applying the allocation conditions under this Section 3.07.

3.08 Contribution of Property. Subject to the consent of the Trustee, the Employer may make its contribution to the Plan in the form of property.

SECTION 4
SPECIAL RULES AFFECTING GOVERNMENTAL PLANS AND INDIAN TRIBAL GOVERNMENT PLANS

4.01 **Governmental Plan.** Provided the Plan is properly adopted by an entity that meets the requirements for establishing and maintaining a Governmental Plan under Code §414(d), this Plan is a qualified plan under Code §401(a).

- (a) **Governmental Plan exemptions.** As a Governmental Plan, this Plan is exempt from Title I of ERISA and certain qualification rules under Code §401(a), including:
- (1) The minimum age and service rules under Code §410(a) and the minimum coverage rules under Code §410(b).
 - (2) The minimum vesting requirements of Code §411, including minimum vesting schedules, consent requirements for plan distributions, and the anti-cutback rule under Code §411(d)(6).
 - (3) The nondiscrimination requirements under Code §§401(a)(4), 401(k) and 401(m).
 - (4) The top-heavy rules under Code §416.
 - (5) The joint and survivor annuity rules under Code §§401(a)(11) and 417.
 - (6) The requirements for protecting benefits pursuant to a plan merger or a transfer of plan assets and liabilities, as prescribed by Code §401(a)(12).
 - (7) The anti-assignment rule under Code §401(a)(13). However, the Code provisions relating to the taxability of benefits distributed pursuant to a Qualified Domestic Relations Order (QDRO) are applicable to benefits payable to an alternate payee under the QDRO. See Code §414(p)(11).
 - (8) The commencement of benefit requirements under Code §401(a)(14).
 - (9) The protections under Code §401(a)(19).
- (b) **Adoption Agreement elections.** An Employer's election of provisions similar to requirements applicable to plans covered under Title I of ERISA, or to otherwise inapplicable qualification requirements under Code §401(a), will not affect the Plan's status as a Governmental Plan under Section 1.54. Provided the Employer is qualified to maintain a Governmental Plan, the Plan remains exempt from ERISA and certain Code requirements as a Governmental Plan.

4.02 **Plan of Indian Tribal Government Treated as Governmental Plan.** A Plan established and maintained by:

- (a) an Indian Tribal Government, as defined in Code §7701(a)(40);
- (b) a subdivision of an Indian Tribal Government, determined in accordance with Code §7871(d); or
- (c) an agency or instrumentality of either subsection (a) or (b) above

is treated as a Governmental Plan, provided the conditions in this Section 4.02 are satisfied.

To qualify as a Governmental Plan, the Plan must cover only Employees substantially all of whose services are in the performance of essential government functions, but not in the performance of commercial activities (whether or not essential government functions). The interpretation of these conditions, including the meaning of essential government function and commercial activities, is determined under applicable regulations. Provided the requirements of this Section 4.02 are satisfied, the Plan may include a cash or deferred arrangement as provided under Code §401(k).

4.03 **FICA Replacement Plan.** An Employee who satisfies the requirements as a Qualified Participant under subsection (b) below will be exempt from FICA tax as provided under Code §3121(b)(7)(F) if the requirements under this Section 4.03 are satisfied. The Plan may be identified as a FICA Replacement Plan under AA §2-3.

- (a) **Minimum benefit requirement.** The Plan must provide a minimum retirement benefit as set forth under this subsection (a). For this purpose, the Plan satisfies the minimum retirement benefit requirement with respect to an Employee if allocations to the Employee's Account (without regard to any earnings allocated to the Employee's Account) are at least 7.5% of the Employee's Plan Compensation for service with the Employer. Matching Contributions by the Employer may be taken into account for this purpose.

- (1) **Definition of Plan Compensation.** The definition of Plan Compensation used in determining whether the minimum retirement benefit requirement under this subsection (a) is satisfied must be at least equal to the Employee's base pay, provided such designation is reasonable under all the facts and circumstances. Thus, the Employer may elect under AA §5-3 to exclude items such as overtime pay, bonuses, or fringe benefits. In addition, the Employer may elect under AA §5-3(l) to exclude any compensation in excess of the contribution base described in Code §3121(x) as of the beginning of the Plan Year.
 - (2) **Reasonable rate of earnings.** An Employee's Account must be credited with a reasonable rate of earnings. This requirement is satisfied if Employees' Accounts are held in a separate trust that is subject to general fiduciary standards and are credited with actual earnings under the Plan.
 - (3) **Employee Contributions.** Contributions from both the Employer and Employee may be used to make up the 7.5% allocation requirement under this subsection (a). If the Plan only provides for Employee Contributions, the Plan will satisfy the minimum benefit requirement under this subsection (a) if the total Employee Contributions are at least 7.5% of Plan Compensation.
- (b) **Qualified Participant.** An Employee is a Qualified Participant under the Plan with respect to the services performed on a given day if, on that day, the Employee has satisfied all conditions (other than vesting) for receiving an allocation under the Plan that meets the minimum retirement benefit requirement under subsection (a) above. An Employee will be a Qualified Participant on any day with respect to compensation earned during a period ending on that day and beginning on or after the beginning of the Plan Year, regardless of whether the allocations were made or accrued before the effective date of Code §3121(b)(7)(F).
- (1) **Part-Time, Seasonal and Temporary Employees.** A Part-Time, Seasonal, or Temporary Employee is not a Qualified Participant on a given day unless any benefit relied upon to meet the minimum benefit requirement under subsection (a) above is 100% vested. A Part-Time, Seasonal or Temporary Employee's benefit is considered 100% vested on a given day if on that day the Employee is unconditionally entitled to a single-sum distribution on account of death or separation from service of an amount that is at least equal to 7.5% of Plan Compensation for all periods of service taken into account in determining whether the Employee's benefit meets the minimum retirement benefit requirement under subsection (a) above.
 - (2) **Alternative lookback rule.** The Employer may elect to apply the alternative lookback rule described in Treas. Reg. §31.3121(b)(7)-2(d)(3) in determining whether an Employee is a Qualified Participant. Under the alternative lookback rule, an Employee may be treated as a Qualified Participant throughout a calendar year if the Employee is a Qualified Participant at the end of the Plan Year ending in the previous calendar year. For this purpose, if the alternative lookback rule is used, an Employee may be treated as a Qualified Participant on any given day during the first Plan Year of participation if it is reasonable on such day to believe that the Employee will be a Qualified Participant on the last day of such Plan Year.
- (c) **Special rule for short period.** An Employee may not be treated as a Qualified Participant if Plan Compensation for less than a full plan year or other 12-month period is regularly taken into account in determining allocations to the Employee's Account for the Plan Year unless, under all of the facts and circumstances, such arrangement is not a device to avoid the imposition of FICA taxes. For example, an arrangement under which Plan Compensation taken into account under AA §5-3 is limited to the contribution base described in section 3121(x)(1) is not considered a device to avoid FICA taxes by reason of such limitation.

SECTION 5
LIMITS ON CONTRIBUTIONS

5.01 Limits on Employer Contributions. Any contributions the Employer makes under the Plan are subject to the limitations set forth in this Section 5.

- (a) **Limitation on total Employer Contributions.** All Employer Contributions the Employer makes under the Plan are subject to the Code §415 Limitation, as described in Section 5.02 below. For purposes of applying the Code §415 Limitation, Employer Contributions include any Employer Contributions, Matching Contributions, or Salary Deferrals made under the Plan. See the definition of Annual Additions under Section 5.02(c)(1) below.
- (b) **Limitation on Salary Deferrals.** If the Employer adopts the Grandfathered 401(k) Arrangement, any Salary Deferrals made under the Plan are subject to the Elective Deferral Dollar Limit, as described in Section 5.03 below.

5.02 Code §415 Limitation.

- (a) **No other plan participation.** If the Participant does not participate in, and has never participated in, another qualified retirement plan, a welfare benefit fund (as defined under Code §419(e)), an individual medical account (as defined under Code §415(l)(2)), or a SEP (as defined under Code §408(k)) maintained by the Employer which provides an Annual Addition as defined in subsection (c)(1) below, then the amount of Annual Additions which may be credited to the Participant's Account for any Limitation Year will not exceed the lesser of the Maximum Permissible Amount or any other limitation contained in this Plan.

If an Employer Contribution that would otherwise be contributed or allocated to a Participant's Account will cause that Participant's Annual Additions for the Limitation Year to exceed the Maximum Permissible Amount, the amount to be contributed or allocated to such Participant will be reduced so that the Annual Additions allocated to such Participant's Account for the Limitation Year will equal the Maximum Permissible Amount. However, if a contribution or allocation is made to a Participant's Account in an amount that exceeds the Maximum Permissible Amount, such excess Annual Additions may be corrected pursuant to the correction procedures outlined under the IRS' Employee Plans Compliance Resolution System (EPCRS) as set forth in Rev. Proc. 2013-12.

- (b) **Participation in another plan.** This subsection (b) applies if, in addition to this Plan, the Participant receives an Annual Addition during any Limitation Year from another Defined Contribution Plan, a welfare benefit fund (as defined under Code §419(e)), an individual medical account (as defined under Code §415(l)(2)), or a SEP (as defined under Code §408(k)) maintained by the Employer.
 - (1) **This Plan's Code §415 Limitation.** The Annual Additions that may be credited to a Participant's Account under this Plan for any Limitation Year will not exceed the Maximum Permissible Amount (defined in subsection (c)(6) below), reduced by the Annual Additions credited to a Participant's Account under any other Defined Contribution Plan, welfare benefit fund, individual medical account, or SEP maintained by the Employer for the same Limitation Year.
 - (2) **Annual Additions reduction.** If the Annual Additions with respect to the Participant under any other Defined Contribution Plan, welfare benefit fund, individual medical account, or SEP maintained by the Employer are less than the Maximum Permissible Amount and the Annual Additions that would otherwise be contributed or allocated to the Participant's Account under this Plan would exceed the Code §415 Limitation for the Limitation Year, the amount contributed or allocated will be reduced so that the Annual Additions under all such Plans and funds for the Limitation Year will equal the Maximum Permissible Amount. However, if a contribution or allocation is made to a Participant's Account in an amount that exceeds the Maximum Permissible Amount, such excess Annual Additions may be corrected pursuant to the correction procedures outlined under the IRS' Employee Plans Compliance Resolution System (EPCRS) as set forth in Rev. Proc. 2013-12.
 - (3) **No Annual Additions permitted.** If the Annual Additions with respect to the Participant under such other Defined Contribution Plan(s), welfare benefit fund(s), individual medical account(s), or SEP(s), in the aggregate are equal to or greater than the Maximum Permissible Amount, no amount will be contributed or allocated to the Participant's Account under this Plan for the Limitation Year. However, if a contribution or allocation is made to a Participant's Account in an amount that exceeds the Maximum Permissible Amount, such excess Annual Additions may be corrected pursuant to the correction procedures outlined under the IRS' Employee Plans Compliance Resolution System (EPCRS) as set forth in Rev. Proc. 2013-12.

(c) **Definitions.**

- (1) **Annual Additions.** The amounts credited to a Participant's Account for the Limitation Year that are taken into account in applying the Code §415 Limitation, including:
- (i) Employer Contributions, including Matching Contributions, Salary Deferrals and Employer Pick-Up Contributions;
 - (ii) After-Tax Employee Contributions;
 - (iii) Forfeitures;
 - (iv) Amounts allocated to an individual medical account (as defined in Code §415(l)(2)), which is part of a pension or annuity plan maintained by the Employer;
 - (v) Amounts derived from contributions paid or accrued which are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Code §419A(d)(3)) under a welfare benefit fund (as defined in Code §419(e)) maintained by the Employer; and
 - (vi) Allocations under a SEP (as defined in Code §408(k)).

An Annual Addition is credited to a Participant's Account for a particular Limitation Year if such amount is allocated to the Participant's Account as of any date within that Limitation Year. An Annual Addition will not be deemed credited to a Participant's Account for a particular Limitation Year unless such amount is actually contributed to the Plan no later than the 15th day of the tenth calendar month following the end of the calendar year or fiscal year (as applicable, depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends. In the case of After-Tax Employee Contributions, such amount shall not be deemed credited to a Participant's Account for a particular Limitation Year unless the contributions are actually contributed to the Plan no later than 30 days after the close of that Limitation Year.

- (2) **Defined Contribution Dollar Limitation.** \$40,000, as adjusted under Code §415(d). For 2019, the Defined Contribution Dollar Limit is \$56,000.
- (3) **Employer.** For purposes of this Section 5.02, Employer shall mean the Employer that adopts this Plan, and all members of a controlled group of corporations (as defined in §414(b) of the Code, as modified by §415(h)), all commonly controlled trades or businesses (as defined in §414(c) of the Code, as modified by §415(h)) or affiliated service groups (as defined in §414(m)) of which the adopting Employer is a part, and any other entity required to be aggregated with the Employer pursuant to regulations under §414(o) of the Code.
- (4) **Excess Amount.** The excess of the Participant's Annual Additions for the Limitation Year over the Maximum Permissible Amount.
- (5) **Limitation Year.** The Plan Year, unless the Employer elects another 12-consecutive month period under AA §11-2(a). If the Limitation Year is amended to a different 12-consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made. If the Plan has an initial Plan Year that is less than 12 months, the Limitation Year for such first Plan Year is the 12-month period ending on the last day of that Plan Year, unless otherwise specified in AA §11-2(a).

If an Employer has multiple Limitation Years (e.g., due to the maintenance of multiple Defined Contribution Plans by a group of Related Employers), and a Participant is credited with Annual Additions in only one Defined Contribution Plan, the Code §415 Limitation is applied only with respect to that Plan. If a Participant is credited with Annual Additions in more than one Defined Contribution Plan, each such Plan satisfies the Code §415 Limitation based on Annual Additions for the Limitation Year with respect to such plan, plus any amounts credited to the Participant's Account under all other plans required to be aggregated pursuant to Code §415(f).

- (6) **Maximum Permissible Amount.** The maximum Annual Additions that may be contributed or allocated to a Participant's Account under the Plan for any Limitation Year shall not exceed the lesser of:
- (i) the Defined Contribution Dollar Limitation; or
 - (ii) 100 percent of the Participant's Total Compensation for the Limitation Year.

The Total Compensation limitation referred to in subsection (ii) above shall not apply to any contribution for

medical benefits (within the meaning of Code §401(h) or §419A(f)(2)) which is otherwise treated as an Annual Addition.

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

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

If a short Limitation Year is created because the Plan has an *initial* Plan Year that is less than 12 months, no proration of the Defined Contribution Dollar Limitation is required, unless provided otherwise under AA §11-2(c). (See subsection (5) above for the rule allowing the use of a full 12-month Limitation Year for the first year of the Plan, thereby avoiding the need to prorate the Defined Contribution Dollar Limitation.)

- (7) **Total Compensation.** The amount of compensation as defined under Section 1.94, subject to the Employer's election under AA §5-1.
- (i) **Total Compensation actually paid or made available.** For purposes of applying the limitations of this Section 5.02, Total Compensation for a Limitation Year is the Total Compensation actually paid or made available to an Employee during such Limitation Year. However, if elected in AA §5-4(c), the Employer may include in Total Compensation for a Limitation Year amounts earned but not paid in the Limitation Year because of the timing of pay periods and pay days, but only if:
- (A) the amounts are paid during the first few weeks of the next Limitation Year,
 - (B) such amounts are included on a uniform and consistent basis with respect to all similarly-situated employees, and
 - (C) no amounts are included in Total Compensation in more than one Limitation Year.
- (ii) **Disabled Participants.** Total Compensation does not include any imputed compensation for the period a Participant is disabled. However, the Employer may elect under AA §11-2(b) to include under the definition of Total Compensation, the amount a terminated Participant who is permanently and totally disabled (as described under Treas. Reg. §1.415(c)-2(g)(4)) would have received for the Limitation Year if the Participant had been paid at the rate of Total Compensation paid immediately before becoming permanently and totally disabled. If the Employer elects under AA §11-2(b) to include imputed compensation for a disabled Participant, a disabled Participant will receive an allocation of any Employer Contribution the Employer makes to the Plan based on the Employee's imputed compensation for the Plan Year. Any Employer Contributions made to a disabled Participant under this subsection (ii) are fully vested when made and will be made only to Non-Highly Compensated Employees.
- (d) **Restorative payments.** Restorative payments are not considered Annual Additions for any Limitation Year. For this purpose, restorative payments are payments made to restore losses to the Plan resulting from actions (or a failure to act) by a fiduciary for which there is a reasonable risk of liability under applicable federal or state law, where Participants who are similarly situated are treated similarly with respect to the payments.
- (e) **Corrective provisions.** The Plan is amended to eliminate any specific correction methods for correcting excess annual additions. If the Plan is eligible for self-correction under the IRS' EPCRS program, the Employer may use reasonable correction methods (including the correction methods described in § 1.415-6(b)(6) of the 1981 IRS regulations) to the extent permitted under the IRS' EPCRS program.
- (f) **Change of Limitation Year.** Where there is a change of Limitation Year, a "short" Limitation Year exists for the period beginning with the first day of the Limitation Year and ending on the day before the change in Limitation Year is effective. For this purpose, if the Plan is terminated effective as of a date other than the last day of the Limitation Year, the Plan is treated as if it were amended to change its Limitation Year.

5.03 Elective Deferral Dollar Limit. The Elective Deferral Dollar Limit under this Section 5.03 applies with respect to Salary Deferrals under the Grandfathered 401(k) Arrangement. Under this Elective Deferral Dollar Limit, an Employee may not make Elective Deferrals under this Plan (and any other plan, contract or arrangement maintained by the Employer) during any calendar year in an amount that exceeds the Elective Deferral Dollar Limit in effect for the Participant's taxable year beginning

in such calendar year. Additional restrictions apply if a Participant participates in a plan maintained by an unrelated employer. (See subsection (b)(6) below.)

The Elective Deferral Dollar Limit is the limit under Code §402(g)(1). The Elective Deferral Dollar Limit is \$19,000 for taxable years beginning in 2019. The Elective Deferral Dollar Limit will be adjusted for cost-of-living increases under Code §402(g)(4). Any such adjustments will be in multiples of \$500.

If a Participant is aged 50 or over by the end of the taxable year, the Elective Deferral Dollar Limit is increased by the Catch-Up Contribution Limit (as defined in Section 3.02(c)(2)(iv)(A)). If the Plan does not provide for Catch-up Contributions, the Elective Deferral Dollar Limit is not increased by the Catch-Up Contribution Limit.

- (a) **Excess Deferrals.** Excess Deferrals are Elective Deferrals made during the Participant's taxable year that exceed the Elective Deferral Dollar Limit (as described above) for such year; counting only Elective Deferrals made under this Plan and any other plan, contract or arrangement maintained by the Employer. (See subsection (b)(6) below for provisions that apply when a Participant makes Elective Deferrals to a plan of an unrelated Employer.)
- (b) **Correction of Excess Deferrals.** If a Participant makes Excess Deferrals (i.e., Elective Deferrals in excess of the Elective Deferral Dollar Limit) under this Plan and any other plan maintained by the Employer, such Excess Deferrals (plus allocable income or loss) shall be distributed to the Participant. A distribution of Excess Deferrals may be made at any time (subject to the correction provisions under the IRS' EPCRS program as described in Rev. Proc. 2013-12 or subsequent guidance). If the corrective distribution of Excess Deferrals is made by April 15 of the calendar year following the year the Excess Deferrals are made to the Plan, such amounts will be taxable in the year of deferral but not in the year of distribution. If a corrective distribution of Excess Deferrals is made after April 15 of the following calendar year, such amounts will be taxable in both the year of deferral and the year of distribution. See subsection (3) below.
 - (1) **Amount of corrective distribution.** The amount to be distributed from this Plan as a correction of Excess Deferrals equals the amount of Elective Deferrals the Participant contributes during the taxable year to this Plan and any other plan maintained by the Employer in excess of the Elective Deferral Dollar Limit, reduced by any corrective distribution of Excess Deferrals the Participant receives during the calendar year from this Plan or other plan(s) maintained by the Employer. If a Participant has both a Pre Tax-Deferral Account and a Roth Deferral Account, the Participant may designate the extent to which the corrective distribution of Excess Deferrals is taken from the Pre-Tax Deferral Account or from the Roth Deferral Account under AA §6A-5. If a Participant does not designate the Account(s) from which the distribution will be made, the corrective distribution will be made first from the Participant's Pre-Tax Deferral Account.
 - (2) **Allocable gain or loss.** A corrective distribution of Excess Deferrals must include any allocable gain or loss for the taxable year in which the Excess Deferrals are contributed to the Plan. The gain or loss allocable to Excess Deferrals may be determined in any reasonable manner, provided the manner used to determine allocable gain or loss is applied consistently for all Participants and in a manner that is reasonably reflective of the method used by the Plan for allocating income to Participants' Accounts. A corrective distribution of Excess Deferrals will not include any income or loss allocable to the period between the end of the taxable year and the date of distribution.
 - (3) **Taxation of corrective distribution.** If a corrective distribution of Excess Deferrals is made by April 15 of the following calendar year, amounts attributable to the Excess Deferrals will be includible in the Participant's gross income in the taxable year in which such amounts are deferred under the Plan and amounts attributable to income or loss on the Excess Deferrals will be includible in gross income in the year of distribution. However, a corrective distribution of Excess Deferrals will not be included in gross income to the extent such distribution is comprised of Roth Deferrals. A Roth Deferral is treated as an Excess Deferral only to the extent that the total amount of Roth Deferrals for an individual exceeds the applicable limit for the taxable year or the Roth Deferrals are identified as Excess Deferrals and the individual receives a distribution of the Excess Deferrals and allocable income under this paragraph.

If a corrective distribution of Excess Deferrals is made after April 15, the amount of the corrective distribution attributable to Excess Deferrals will be includible in the Participant's gross income in both the taxable year in which such amounts are deferred under the Plan and the taxable year in which such amounts are distributed. (See Section 7.11(b)(2) for a discussion of the ordering rules for determining the Accounts from which the corrective distribution is made where a Participant has both a Pre-Tax Deferral Account and a Roth Deferral Account.)

If a corrective distribution of Excess Deferrals made after April 15 of the following calendar year apply to Excess Deferrals that are Roth Deferrals, such amounts are includible in gross income (without adjustment for

any return of investment in the contract under Code §72(e)(8)). In addition, such distribution cannot be a “qualified distribution” as described in Code §402A(d)(2) and is not an Eligible Rollover Distributions (within the meaning of Code §402(c)(4)). For this purpose, if a Roth Deferral account includes any Excess Deferrals, any distributions from the Roth Deferral account are treated as attributable to those Excess Deferrals until the total amount distributed from the Roth Deferral account equals the total of such Excess Deferrals and attributable income.

- (4) **Coordination with other provisions.** A corrective distribution of Excess Deferrals made by April 15 of the following calendar year may be made without consent of the Participant or the Participant’s Spouse, and without regard to any distribution restrictions applicable under Section 7. A corrective distribution of Excess Deferrals made by the appropriate April 15 also is not treated as a distribution for purposes of applying the required minimum distribution rules under Section 8.
- (5) **Suspension of Salary Deferrals.** If a Participant’s Salary Deferrals under this Plan, in combination with any Elective Deferrals the Participant makes during the calendar year under any other plan maintained by the Employer, equal or exceed the Elective Deferral Dollar Limit, the Employer may suspend the Participant’s Salary Deferrals under this Plan for the remainder of the calendar year without the Participant’s consent.
- (6) **Correction of Excess Deferrals under plans not maintained by the Employer.** The correction provisions under this subsection (b) apply only if a Participant makes Excess Deferrals under this Plan (or under this Plan and other plans maintained by the Employer). However, if a Participant has Excess Deferrals for a calendar year on account of making Elective Deferrals to a plan of an unrelated employer, the Participant may assign to this Plan any portion of his/her Elective Deferrals made under all plans during the calendar year to the extent such Elective Deferrals exceed the Elective Deferral Dollar Limit. The Participant must notify the Plan Administrator in writing on or before March 1 of the following calendar year of the amount of the Excess Deferrals to be assigned to this Plan. If any Roth Deferrals were made to a plan, the notification must also identify the extent to which, if any, the Excess Deferrals are comprised of Roth Deferrals.

Upon receipt of a timely notification, the Excess Deferrals assigned to this Plan will be distributed (along with any allocable income or loss) to the Participant in accordance with the corrective distribution provisions under this subsection (b). A Participant is deemed to notify the Plan Administrator of Excess Deferrals (including any portion of Excess Deferrals that are comprised of Roth Deferrals) to the extent such Excess Deferrals arise only under this Plan and any other plan maintained by the Employer.

SECTION 6
PARTICIPANT VESTING AND FORFEITURES

6.01 Vesting of Contributions. A Participant's vested interest in his/her Employer Contribution Account and Matching Contribution Account is determined based on the vesting schedule elected in AA §8. A Participant is always fully vested in his/her Employer Pick-Up Contribution Account, Salary Deferral Account, After-Tax Employee Contribution Account, and Rollover Contribution Account.

6.02 Vesting Schedules. A Participant's vested interest in his/her Employer Contribution Account and/or Matching Contribution Account is determined by multiplying the Participant's vesting percentage (determined under the applicable vesting schedule selected in AA §8) by the total amount under the applicable Account.

(a) **Full and immediate vesting schedule.** Under the full and immediate vesting schedule, the Participant is always 100% vested in his/her Account Balance.

(b) **6-year graded vesting schedule.** Under the 6-year graded vesting schedule, an Employee vests in his/her Employer Contribution Account and/or Matching Contribution Account in the following manner:

After 2 Years of Service – 20% vesting
After 3 Years of Service – 40% vesting
After 4 Years of Service – 60% vesting
After 5 Years of Service – 80% vesting
After 6 Years of Service – 100% vesting

(c) **3-year cliff vesting schedule.** Under the 3-year cliff vesting schedule, an Employee is 100% vested after 3 Years of Service. Prior to the third Year of Service, the vesting percentage is zero.

(d) **Modified vesting schedule.** Under the modified vesting schedule, the Employer may designate the vesting percentage that applies for each Year of Service. As a Governmental Plan, the Plan is not subject to the requirements of Code §411 and may modify the vesting schedule, provided the Plan satisfies the requirements of Code §§401(a)(4) and (7) as in effect before the enactment of ERISA. For this purpose, the modified vesting schedule must be at least as favorable as one of the following safe harbor vesting schedules:

(1) **15-year cliff vesting schedule.** The Participant is fully vested after 15 years of creditable service. Service can be based on years of employment, years of participation or other creditable years of service.

(2) **20-year graded vesting schedule.** The Participant is fully vested based on a graded vesting schedule of 5 to 20 years of creditable service. Service can be based on years of employment, years of participation or other creditable years of service.

(3) **20-year cliff vesting for qualified public safety employees.** Participant is fully vested after 20 years of creditable service. Service can be based on years of employment, years of participation or other creditable years of service. The safe harbor schedule is available only with respect to the vesting schedule applicable to a group in which substantially all of the participants are qualified public safety employees (within the meaning of Code §72(t)(10)(B)).

6.03 Special vesting rules.

(a) **Normal Retirement Age.** Unless designated otherwise under AA §8-2(b), regardless of the Plan's vesting schedule, an Employee's right to his/her Account Balance is fully vested upon the date he/she attains Normal Retirement Age (as defined in AA §7-1), provided the Employee is still employed at such time.

(b) **100% vesting upon death, disability, or Early Retirement Age.** The Employer may elect under AA §8-4 to allow a Participant's vesting percentage to automatically increase to 100% if the Participant dies, becomes Disabled, and/or attains Early Retirement Age while employed by the Employer.

(c) **Vesting upon merger, consolidation or transfer.** No accelerated vesting will be required solely because a Defined Contribution Plan is merged with another Defined Contribution Plan, or because assets are transferred from a Defined Contribution Plan to another Defined Contribution Plan.

(d) **Vesting schedules applicable to prior contributions.** If the Plan holds Employer Contributions and/or Matching Contributions that are subject to vesting, but the Plan no longer provides for such contributions, the Plan will continue to apply the vesting schedule applicable to those contributions as determined under the prior Plan document. See

Section 6.11(e) for the rules applicable to forfeitures of such prior contributions. The Employer may document any prior vesting schedule in AA §A-8.

- (e) **Different Vesting Schedules for Different Sources.** The Employer may designate different vesting schedules for different sources (e.g., Matching Contributions and/or Employer Contributions).

6.04 **Year of Service.** An Employee's position on the vesting schedule is dependent on the Employee's Years of Service with the Employer. Generally, an Employee will earn a vesting Year of Service for each Vesting Computation Period (as defined in Section 6.05) during which the Employee completes at least 1,000 Hours of Service (or the Hours of Service designated under AA §8-5(a)). Alternatively, the Employer may elect to calculate Years of Service using the Elapsed Time method (as defined in subsection 6.04(b) below).

- (a) **Hours of Service.** Unless the Employer elects to use the Elapsed Time method under AA §8-5(c), vesting Years of Service will be determined based on an Employee's Hours of Service earned during the Vesting Computation Period.
- (1) **Actual Hours of Service.** In determining an Employee's vesting Years of Service, the Employer will credit an Employee with the actual Hours of Service earned during the Vesting Computation Period, unless the Employer elects under AA §8-5(d) to determine Hours of Service using the Equivalency Method.
- (2) **Equivalency Method.** Instead of counting actual Hours of Service in applying the Plan's vesting schedules, the Employer may elect under AA §8-5(d) to determine Hours of Service based on the Equivalency Method. Under the Equivalency Method, an Employee receives credit for a specified number of Hours of Service based on the period worked with the Employer.
- (i) **Monthly.** Under the monthly Equivalency Method, an Employee is credited with 190 Hours of Service for each calendar month during which the Employee completes at least one Hour of Service with the Employer.
- (ii) **Daily.** Under the daily Equivalency Method, an Employee is credited with 10 Hours of Service for each day during which the Employee completes at least one Hour of Service with the Employer.
- (iii) **Weekly.** Under the weekly Equivalency Method, an Employee is credited with 45 Hours of Service for each week during which the Employee completes at least one Hour of Service with the Employer.
- (iv) **Semi-monthly.** Under the semi-monthly Equivalency Method, an Employee is credited with 95 Hours of Service for each semi-monthly period during which the Employee completes at least one Hour of Service with the Employer.
- (v) **Other Equivalency Method.** The Employer may describe an alternative Equivalency Method in the Adoption Agreement, provided any description of an Equivalency Method is definitely determinable.
- (3) **Employee need not be employed for entire Vesting Computation Period.** Unless provided otherwise under AA §8-5(e), if an Employee completes the required Hours of Service during a Vesting Computation Period, the Employee will receive credit for a Year of Service as of the end of such Vesting Computation Period, even if the Employee is not employed for the entire Vesting Computation Period.
- (b) **Elapsed Time method.** Instead of using Hours of Service in applying the Plan's vesting schedules, the Employer may elect under AA §8-5(c) to apply the Elapsed Time method for calculating an Employee's vesting service with the Employer. Under the Elapsed Time method, an Employee receives credit for the aggregate period of time worked for the Employer commencing with the Employee's first day of employment (or reemployment, if applicable) and ending on the date the Employee terminates employment with the Employer. If an Employee's aggregate period of service includes fractional years, such fractional years are expressed in terms of days.

In calculating an Employee's aggregate period of service, the Employer may credit an Employee with service for any Period of Severance that lasts less than 12 consecutive months. For this purpose, a Period of Severance is any continuous period of time during which the Employee is not employed by the Employer. A Period of Severance begins on the date the Employee retires, quits or is discharged, or if earlier, the 12-month anniversary of the date on which the Employee is first absent from service for a reason other than retirement, quit or discharge. In the case of an Employee who is absent from work for maternity or paternity reasons, the 12-consecutive month period beginning on the first anniversary of the first date of such absence shall not constitute a Period of Severance. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence:

- (1) by reason of the pregnancy of the Employee;
- (2) by reason of the birth of a child of the Employee;
- (3) by reason of the placement of a child with the Employee in connection with the adoption of such child by the Employee; or
- (4) for purposes of caring for a child of the Employee for a period beginning immediately following the birth or placement of such child.

For purposes of applying the Elapsed Time method, unless otherwise provided, service will be credited for employment with any Related Employer.

6.05 Vesting Computation Period. Generally, the Vesting Computation Period is the Plan Year. Alternatively, the Employer may elect under AA §8-5(b) to use the 12-month period commencing on the Employee's date of hire (or reemployment date, if applicable) and each subsequent 12-month period commencing on the anniversary of such date or the Employer may elect to use any other 12-consecutive month period as the Vesting Computation Period.

6.06 Excluded service. Generally, all service with the Employer counts for purposes of applying the Plan's vesting schedules. However, the Employer may elect under AA §8-3 to exclude certain service with the Employer in calculating an Employee's vesting Years of Service.

- (a) **Service before the Effective Date of the Plan.** The Employer may elect under AA §8-3(a) to exclude service earned during any period prior to the date the Employer established the Plan or a Predecessor Plan. For this purpose, a Predecessor Plan is a qualified plan maintained by the Employer that is terminated within the 5-year period immediately preceding or following the establishment of this Plan. A Participant's service under a Predecessor Plan must be counted for purposes of determining the Participant's vested percentage under this Plan.
- (b) **Service before a specified age.** The Employer may elect under AA §8-3(b) to exclude service before an Employee attains a specified age. An Employee will be credited with a Year of Service for the Vesting Computation Period during which the Employee attains the required age, provided the Employee satisfies all other conditions required for a Year of Service.

6.07 Service with Predecessor Employers. To the extent provided, if the Employer maintains the plan of a Predecessor Employer, any service with such Predecessor Employer is treated as service with the Employer for purposes of applying the provisions of this Plan.

6.08 Break in Service Rules. In addition to any service excluded under Section 6.06, the Employer may elect under AA §8-6 to disregard an Employee's vesting service with the Employer earned prior to a Break in Service. For this purpose, an Employee incurs a Break in Service for any Vesting Computation Period (as defined in Section 6.05) during which the Employee does not complete more than five hundred (500) Hours of Service with the Employer. However, if the Employer elects to require less than 1,000 Hours of Service to earn a vesting Year of Service, a Break in Service will occur for any Vesting Computation Period during which the Employee does not complete more than one-half (1/2) of the Hours of Service required to earn a vesting Year of Service.

6.09 Special Vesting Rule - In-Service Distribution When Account Balance is Less than 100% Vested. If amounts are distributed from a Participant's Employer Contribution Account or Matching Contribution Account at a time when the Participant's vested percentage in such amounts is less than 100% and the Participant may increase the vested percentage in the Account Balance:

- (a) A separate Account will be established for the Participant's interest in the Plan as of the time of the distribution; and
- (b) At any relevant time the Participant's vested portion of the separate Account will be equal to an amount ("X") determined by the formula:

$$X = P (AB + D) - D$$

Where:

P is the vested percentage at the relevant time;

AB is the Account Balance at the relevant time; and

D is the amount of the distribution.

6.10 Forfeiture of Benefits. A Participant will forfeit the nonvested portion of his/her Employer Contribution and/or Matching Contribution Account upon the occurrence of any of the events described below or at any such time as the Plan Administrator determines. The Plan Administrator has the responsibility to determine the amount of a Participant's forfeiture. Until an amount is forfeited pursuant to this Section 6.10, a Participant's entire Account must remain in the Plan and continue to share in gains and losses of the Trust. A Participant will not forfeit any of his/her nonvested Account until the occurrence of one of the following events.

- (a) **Cash-Out Distribution.** Following termination of employment, a Participant may receive a total distribution of his/her vested benefit under the Plan (a Cash-Out Distribution) in accordance with the distribution provisions under Section 7. If a Participant receives a Cash-Out Distribution upon termination of employment, the Participant's nonvested benefit under the Plan will be forfeited in accordance with subsection 6.10(a)(1) below. If at the time of termination, a Participant is totally nonvested in his/her entire Account Balance, the Participant will be deemed to receive a total Cash-Out Distribution of his/her entire vested Account Balance (i.e., a deemed Cash-Out Distribution of zero dollars) as of the date of termination, subject to the forfeiture provisions under subsection 6.10(a)(1) below.

A Cash-Out Distribution does not occur until such time as the Participant receives a distribution of his/her entire vested Account Balance, including amounts attributable to Salary Deferrals. If a Participant receives a distribution of less than the entire vested portion of his/her Account Balance (including any additional amounts to be allocated under subsection 6.10(a)(1)(ii) below), the Participant will not be treated as receiving a Cash-Out Distribution until such time as the Participant receives a distribution of the remainder of the vested portion of his/her Account Balance.

- (1) **Timing of forfeiture.** Unless elected otherwise under AA §8-8(b), if a Participant receives a Cash-Out Distribution of his/her vested Account Balance (as defined in subsection (a) above), the Participant will immediately forfeit the nonvested portion of such Account Balance, as of the date of the distribution or deemed distribution (as determined under subsection (i) or (ii) below, whichever applies). (See Section 6.11 below for a discussion of the treatment of forfeitures under the Plan.)
- (i) **No further allocations.** For purposes of applying the Cash-Out Distribution rules, a terminated Participant who receives a total distribution of his/her vested Account Balance will be treated as receiving the Cash-Out Distribution as of the date the Participant receives such distribution (or in the case of a deemed Cash-Out Distribution (as described in subsection (a) above) as of the date the Participant terminates employment), provided the Participant is not entitled to any further allocations under the Plan for the Plan Year in which the Participant terminates employment. The Participant will forfeit his/her nonvested benefit as of the date the Participant receives the Cash-Out Distribution, in accordance with the provisions under Section 6.11.
- (ii) **Additional allocations.** For purposes of applying the Cash-Out Distribution rules, if upon termination of employment, a Participant is entitled to an additional allocation for the Plan Year in which the Participant terminates, such Participant will not be deemed to receive a Cash-Out Distribution until such time as the Participant receives a distribution of his/her entire vested Account Balance, including any amounts that are still to be allocated under the Plan. Thus, a terminated Participant who is entitled to an additional allocation (e.g., an additional Employer Contribution) for the Plan Year of termination will not be deemed to have a total Cash-Out Distribution until the Participant receives a distribution of such additional amounts. In the case of a deemed Cash-Out Distribution (as described in subsection (a) above), if the Participant is entitled to an additional allocation under the Plan for the Plan Year in which the Participant terminates employment, the deemed Cash-Out Distribution is deemed to occur on the first day of the Plan Year following the Plan Year in which the termination occurs, provided the Participant is still totally nonvested in his/her Account Balance.
- (iii) **Modification of Cash-Out Distribution rules.** The Employer may elect under AA §8-8(a) to modify the Cash-Out Distribution provision under subsection (ii) above to provide that the Cash-Out Distribution and related forfeiture occur immediately upon distribution (or deemed distribution) of the terminated Participant's vested Account Balance, without regard to whether the Participant is entitled to an additional allocation under the Plan.
- (2) **Repayment of Cash-Out Distribution.** Unless elected otherwise under AA §8-8(c), if a Participant receives a Cash-Out Distribution (as defined in subsection (a) above) that results in a forfeiture under subsection (1) above, and the Participant resumes employment covered under the Plan, such Participant may repay to the Plan the amount received as a Cash-Out Distribution. For this purpose, unless elected otherwise under AA §8-6, to be entitled to a restoration of benefits (as described in subsection (3) below), the Participant must repay the entire amount of the Cash-Out Distribution, including any amounts attributable to Salary Deferrals. A Participant will only be permitted to repay his/her Cash-Out Distribution if such repayment is made before the earlier of:

- (i) five (5) years after the first date on which the Participant is subsequently re-employed by the Employer; or
- (ii) the date the Participant incurs a Five-Year Forfeiture Break in Service (as defined in subsection (b) below).

If a Participant receives a deemed Cash-Out Distribution (as described in subsection (a) above), and the Participant resumes employment covered under this Plan before the date the Participant incurs a Five-Year Forfeiture Break in Service, the Participant is deemed to repay the Cash-Out Distribution immediately upon his/her reemployment.

- (3) **Restoration of forfeited benefit.** If a rehired Participant repays a Cash-Out Distribution in accordance with subsection (2) above, any amounts that were forfeited on account of such Cash-Out Distribution (unadjusted for any interest that might have accrued on such amounts after the distribution date) will be restored to the Plan no later than the end of the Plan Year following the Plan Year in which the Participant repays the Cash-Out Distribution (or is deemed to repay the Cash-Out Distribution under subsection (2) above). No amount will be restored under the Plan, however, until such time as the Participant repays the entire amount of the Cash-Out Distribution. (However, see subsection (d) below for a discussion of special rules that apply if a Participant's Cash-Out Distribution includes a distribution of Salary Deferrals.) In no event will a Participant be entitled to a restoration under this subsection (3) if the Participant returns to employment after incurring a Five-Year Forfeiture Break in Service (as defined in subsection (b) below).
- (4) **Sources of restoration.** If a Participant's forfeited benefit is required to be restored under subsection (3) above, the restoration of such forfeited benefits will occur from the following sources. If the following sources are not sufficient to completely restore the Participant's benefit, the Employer must make an additional contribution to the Plan.
 - (i) Any unallocated forfeitures for the Plan Year of the restoration.
 - (ii) Any unallocated earnings for the Plan Year of the restoration.
 - (iii) Any portion of a discretionary Employer Contribution to the extent such contribution has not been allocated to Participants' Accounts for the Plan Year of the restoration.
- (5) **Application of forfeiture rules under the Plan.** As a Governmental Plan (which is not subject to the rules under Code §411, the Plan Administrator has discretion on the manner in which the forfeiture and Cash-Out Distribution rules apply under the Plan.
- (b) **Five-Year Forfeiture Break in Service.** If a Participant has five (5) consecutive one-year Breaks in Service (a Five-Year Forfeiture Break in Service), all Years of Service after such Breaks in Service will be disregarded for the purpose of vesting in the portion of the Participant's Employer Contribution Account and/or Matching Contribution Account that accrued before such Breaks in Service. A Participant who incurs a Five-Year Forfeiture Break in Service will forfeit the nonvested portion of his/her Employer Contribution and/or Matching Contribution Account as of the end of the Vesting Computation Period in which the Participant incurs the fifth consecutive Break in Service. Except as provided under Section 6.08, a Participant who is rehired after incurring a Five-Year Forfeiture Break in Service will be credited with both pre-break and post-break service for purposes of determining his/her vested percentage in amounts that accrue under the Plan after the Five-Year Forfeiture Break in Service.
- (c) **Missing Participant or Beneficiary.** If a Participant or Beneficiary cannot be located within a reasonable period following a reasonable diligent search, the missing Participant's or Beneficiary's Account may be forfeited. An Employer will be deemed to have performed a reasonable diligent search if it performs the actions described in subsection (1) below. However, the Employer or Plan Administrator will be deemed to have waited a reasonable period following a reasonable diligent search if the Employer or Plan Administrator waits at least 6 months following the completion of the actions described in subsection (1) below.
 - (1) **Reasonable diligent search.** The Employer or Plan Administrator will be deemed to have performed a reasonable diligent search if it performs the following actions:
 - (i) Send a certified letter to the Participant's or Beneficiary's last known address.
 - (ii) Check related plan records of the Employer (e.g., health plan records) to determine if a more current address exists for the Participant or Beneficiary.

- (iii) If the Participant cannot be located, the Employer or Plan Administrator may attempt to identify and contact any individual that the Participant has designated as a Beneficiary under the Plan for updated information concerning the location of the missing Participant.
- (iv) In addition to the search methods discussed above, the Employer or Plan Administrator may use other search methods, including the use of Internet search tools, commercial locator services, and credit reporting agencies to locate the missing Participant.
- (2) **Forfeiture of Account of missing Participant or Beneficiary.** If a Participant or Beneficiary is deemed to be missing (as described in this subsection (c)), the Plan Administrator may forfeit the distributable amount attributable to such missing Participant or Beneficiary, as permitted under applicable laws and regulations. If, after an amount is forfeited under this subsection (2), the missing Participant or Beneficiary is located, the Plan will restore the forfeited amount (unadjusted for gains or losses) to such Participant or Beneficiary within a reasonable time. However, if a missing Participant or Beneficiary has not been located by the time the Plan terminates, the forfeiture of such Participant's or Beneficiary's distributable amount will be irrevocable.
- (3) **Expenses attributable to search for missing Participant.** Reasonable expenses attendant to locating a missing Participant may be charged to such Participant's Account, provided that the amount of such expenses is reasonable. The Plan Administrator may take into account the size of a Participant's Account in relation to the cost of the search when deciding how extensive a search is required before declaring such Participant as missing under this subsection (c).
- (d) **Excess Deferrals.** If a Participant receives a distribution of Excess Deferrals, the portion of his/her Matching Contribution Account (whether vested or not) which is attributable to such distributed amounts will be forfeited. A forfeiture of Matching Contributions under this subsection (d) occurs in the Plan Year in which the Participant receives the distribution of Excess Deferrals.

6.11 Allocation of Forfeitures. The Employer may decide in its discretion how to treat forfeitures under the Plan. Alternatively, the Employer may designate under AA §8-7 how forfeitures occurring during a Plan Year will be treated. Under AA §8-7, the Employer may elect to use forfeitures in the Plan Year in which the forfeitures occur or in the Plan Year following the Plan Year in which the forfeitures occur. The Employer may elect under AA §8-7 to allocate forfeitures in any manner permitted under this Section 6.11.

- (a) **Reallocation as additional contributions under Profit Sharing Plan Adoption Agreement.** The Employer may elect in AA §8-7 to reallocate forfeitures as additional contributions under the Plan. If the Employer elects under the Profit Sharing Plan Adoption Agreement to reallocate forfeitures as additional contributions, the Employer may allocate such amounts as additional Employer Contributions and/or additional Matching Contributions. If the forfeitures allocated under this subsection (a) relate to discretionary contributions, such amounts may be allocated in the same manner as selected under AA §6-3 with respect to the contribution type being allocated. If the forfeitures relate to fixed contributions, such amounts may be allocated in addition to such fixed contributions in the ratio that the Plan Compensation of each Participant bears to the Plan Compensation of all Participants. In allocating forfeitures under this subsection (a), the Employer may take into account any limits under AA §6B-4 in determining the amount of forfeitures to be allocated as additional Matching Contributions. In applying the provisions of this subsection (a), no allocation of forfeitures will be made to any Participant with respect to forfeitures that arise out of his/her own Account. A Participant may share in any additional forfeitures to the extent the Participant is eligible to receive an allocation of such forfeitures under AA §8-7.
- (b) **Reallocation as additional Employer Contributions under Money Purchase Plan Adoption Agreement.** The Employer may elect in AA §8-7 to reallocate forfeitures as additional Employer Contributions under the Plan. If the Employer elects under the Money Purchase Plan Adoption Agreement to reallocate forfeitures as additional Employer Contributions, such amounts will be allocated in the ratio that the Plan Compensation of each Participant bears to the Plan Compensation of all Participants. In applying the provisions of this subsection (b), no allocation of forfeitures will be made to any Participant with respect to forfeitures that arise out of his/her own Account.
- (c) **Reduction of contributions.** The Employer may elect in AA §8-7 to use forfeitures to reduce Employer Contributions and/or Matching Contributions under the Plan. If the Employer elects to use forfeitures to reduce contributions, the Employer may, in its discretion, use such forfeitures to reduce Employer Contributions, Matching Contributions, or both. The Employer may adjust its contribution deposits in any manner, provided the total Employer Contributions and/or Matching Contributions made for the Plan Year properly take into account the forfeitures that are to be used to reduce such contributions for that Plan Year. If contributions are allocated over multiple allocation periods, the Employer may reduce its contribution for any allocation periods within the Plan Year in which the forfeitures are to be allocated so that the total amount allocated for the Plan Year is proper. If the Plan provides for a discretionary Employer or Matching Contribution and the Employer elects not to make an Employer or Matching Contribution for the Plan

Year, any forfeitures will be allocated to eligible Participants as an additional Employer or Matching Contribution, as provided under subsection (a) above.

- (d) **Payment of Plan expenses.** The Employer may elect under AA §8-7 to use forfeitures to pay Plan expenses for the Plan Year in which the forfeitures would otherwise be applied. If any forfeitures remain after the payment of Plan expenses under this subsection, the remaining forfeitures will be allocated as selected under AA §8-7. This subsection (d) only applies to the extent Plan expenses are paid by the Plan. Nothing herein affects the ability of the Employer to pay Plan expenses, as authorized under Section 11.04(a). In determining the Plan expenses that may be offset by Plan forfeitures, the Employer may use any reasonable method to determine the Plan expenses attributable to a particular year. In addition, the Employer may elect to use forfeitures first to reduce Employer and/or Matching Contributions or as an additional allocation (as set forth in AA §8-7) prior to using forfeitures to pay Plan expenses.
- (e) **Forfeiture rules for other contribution types.**
 - (1) **Prior Employer and/or Matching Contributions.** If the Plan maintains Employer Contribution and/or Matching Contribution Accounts, but the Plan no longer provides for such contributions, such amounts will continue to vest under the vesting schedule applicable to such contributions under the prior Plan or under any vesting schedule designated under Appendix A of the Adoption Agreement. If there are any forfeitures related to such prior contributions, such amounts may be reallocated as an additional Employer Contribution or as an additional Matching Contribution in accordance with the provisions of subsection (a) or (b) above, to the extent such contributions are authorized under the Plan, or may be used to reduce any Employer Contribution or Matching Contribution, consistent with the provisions of subsection (c) above. If the Plan does not provide for either Employer Contributions or Matching Contributions, the Employer may reallocate forfeitures of prior contributions as an Employer Contribution (using the pro rata allocation formula) or as a discretionary Matching Contribution under the Profit Sharing Plan Adoption Agreement, as applicable, or as a fixed contribution under the Money Purchase Plan Adoption Agreement. Alternatively, the Employer may use such forfeitures to pay Plan expenses as authorized under subsection (d) above. The Employer may elect to use such forfeitures in the Plan Year the forfeiture occurs or in the following Plan Year.
 - (2) **Other contributions.** If a Participant has any other amounts under the Plan which are treated as forfeited (e.g. a forfeiture for a missing Participant under Section 6.10(c)), and no selections are made under AA §8-7 regarding the treatment of forfeitures under the Plan, such amounts may be forfeited in accordance with any of the forfeiture options described in this Section 6.11.

SECTION 7 PLAN DISTRIBUTIONS

A Participant may receive a distribution of his/her vested Account Balance at the time and in the manner provided under this Section 7. Upon reaching the Required Beginning Date (defined in Section 8.05(e)), a Participant must begin receiving distributions under the Plan (in accordance with the provisions of Section 8.)

7.01 Available Forms of Distribution. The Employer may elect under AA §9-1 the forms of distribution that are available to a Participant or Beneficiary under the Plan. Different distribution options may apply depending on whether a distribution is made upon termination of employment, death, disability or as an in-service withdrawal. Available distribution options under AA §9-1 may include a lump sum of all or a portion of the Participant's vested Account Balance, an in-kind distribution of an Annuity Contract, partial lump sums, installments, annuity payments, or any other form designated in AA §9-1. In addition, distribution options may be available as provided under a guaranteed income product to the extent such distribution options are consistent with qualification requirements applicable to such distributions. Any distribution options selected under the Plan must comply with the required minimum distribution rules under Section 8.

If the Plan provides for installment payments as an optional form of distribution, such payments may be made in monthly, quarterly, semi-annual, or annual payments over a period not exceeding the life expectancy of the Participant and his/her designated Beneficiary. The Plan Administrator may permit a Participant or Beneficiary to accelerate the payment of all, or any portion, of an installment distribution. If the Plan provides for annuity payments, the Plan must purchase an annuity that provides for payments over a period that does not extend beyond either the life of the Participant (or the lives of the Participant and his/her designated Beneficiary) or the life expectancy of the Participant (or the life expectancy of the Participant and his/her designated Beneficiary). (The availability of installments and/or annuity payments may be restricted under AA §9-1(d).)

If the Plan holds Employer Contributions and/or Matching Contributions, but the Plan no longer provides for such contributions, the Plan may continue to apply the distribution options applicable to those contributions as determined under the prior Plan document, unless elected otherwise. The Employer may document any prior distribution options in AA Appendix A or AA §10-3.

7.02 Amount Eligible for Distribution. For purposes of determining the amount a Participant or Beneficiary may receive as a distribution from the Plan, a Participant's Account Balance is determined as of the Valuation Date (as specified in AA §11-1) immediately preceding the date the Participant or Beneficiary receives his/her distribution from the Plan. For this purpose, the Account Balance must be increased for any contributions allocated to the Participant's Account since the most recent Valuation Date and must be reduced for any distributions made from the Participant's Account since the most recent Valuation Date. A Participant or Beneficiary does not share in any allocation of gains or losses attributable to the period between the most recent Valuation Date and the date of the distribution, unless provided otherwise under uniform funding and valuation procedures established by the Plan Administrator. See Section 10.03.

7.03 Participant Consent. To the extent elected under AA §9-2, if the value of a Participant's entire vested Account Balance exceeds the Involuntary Cash-Out threshold (as defined in subsection (a) below), the Participant must consent to any distribution of such Account Balance prior to his/her Required Beginning Date (as defined in Section 8.05(e)) or, if so provided in AA §9-2(a)(4), as of the date the Participant attains (or would have attained if not deceased) the later of Normal Retirement Age or age 62. A failure by the Participant (and Spouse, if applicable) to consent to a distribution while a benefit is immediately distributable shall be deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy this section.

(a) **Involuntary Cash-Out threshold.** For purposes of determining whether a distribution is subject to the Participant consent requirements as described in Section 7.03, the Involuntary Cash-Out threshold is \$5,000 unless a different amount is designated under AA §9-2(a). (See Section 7.05 for a discussion of the Automatic Rollover rules that apply if a Participant does not consent to a distribution that is otherwise available without Participant consent.) For purposes of determining whether a Participant's vested Account Balance exceeds the Involuntary Cash-Out threshold, the value of the Participant's vested Account Balance shall be determined without regard to that portion of the Account Balance that is attributable to Rollover Contributions (and earnings allocable thereto) within the meaning of Code §§402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16). The Employer may elect in AA §9-2(a)(5) to include Rollover Contributions (and earnings allocable thereto) in determining whether the Participant's vested Account Balance exceeds the Involuntary Cash-Out threshold.

(b) **Participant notice.** If a distribution is subject to Participant consent, the Participant must consent in writing to the distribution within a reasonable period prior to the Annuity Starting Date (as defined in Section 1.10). For this purpose, any consent made within the 180-day period ending on the Annuity Starting Date will be deemed to be made within a reasonable period. If the distribution is subject to spousal consent under AA §9-2(b), the Participant's Spouse also must consent to the distribution in accordance with Section 9.02.

Prior to receiving a distribution from the Plan, a Participant must be notified of his/her right to defer any distribution from the Plan. The notification shall include a general description of the material features and the relative values of the optional forms of benefit available under the Plan (consistent with the requirements under Code §417(a)(3)). Effective for Plan Years beginning on or after January 1, 2007, the Participant notice must include a description of the consequences of a Participant's decision not to defer the receipt of a distribution. The notice must be provided no less than 30 days and no more than 180 days prior to the Participant's Annuity Starting Date. However, distribution may commence less than 30 days after the notice is given, if the Participant is clearly informed of his/her right to take 30 days after receiving the notice to decide whether or not to elect a distribution (and, if applicable, a particular distribution option), and the Participant, after receiving the notice, affirmatively elects to receive the distribution prior to the expiration of the 30-day minimum period. The notice requirements described in this paragraph may be satisfied by providing a summary of the required information, so long as the conditions described in applicable regulations for the provision of such a summary are satisfied, and the full notice is also provided (without regard to the 180-day period described in this subsection).

- (c) **Special rules.** The consent rules under this Section 7.03 apply to distributions made after the Participant's termination of employment and to distributions made prior to the Participant's termination of employment. However, the consent of the Participant (and the Participant's Spouse, if applicable) shall not be required to the extent that a distribution is required to satisfy the required minimum distribution rules under Section 8 or to satisfy the requirements of Code §415, as described in Section 5.02. A Participant also will not be required to consent to a corrective distribution of Excess Deferrals.

7.04 **Direct Rollovers.** Notwithstanding any provision in the Plan to the contrary, a Participant may elect, at the time and the manner prescribed by the Plan Administrator, to have all or any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan in a Direct Rollover. If an Eligible Rollover Distribution is less than \$500, the Participant may not elect a Direct Rollover of only a portion of such distribution (i.e., a Participant must elect a complete Direct Rollover if the Eligible Rollover Distribution is less than \$500). For purposes of this Section 7.04, a Participant includes a Participant or former Participant. In addition, this Section applies to any distribution from the Plan made to a Participant's surviving Spouse or to a Participant's Spouse or former Spouse who is the Alternate Payee under a QDRO, as defined in Section 1.80. This Section 7.04 also applies to distributions made to a Participant's non-Spouse beneficiary, as set forth in subsection (c) below.

(a) **Definitions.**

- (1) **Eligible Rollover Distribution.** An Eligible Rollover Distribution is any distribution of all or any portion of a Participant's Account Balance, except an Eligible Rollover Distribution does not include:
- (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Participant or the joint lives (or joint life expectancies) of the Participant and the Participant's Beneficiary, or for a specified period of ten years or more;
 - (ii) any distribution to the extent such distribution is a required minimum distribution under Code §401(a)(9), as described under Section 8;
 - (iii) any Hardship distribution, as described in Section 7.10(e);
 - (iv) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to Employer securities);
 - (v) any distribution if it is reasonably expected (at the time of the distribution) that the total amount the Participant will receive as a distribution during the calendar year will total less than \$200;
 - (vi) a distribution made to satisfy the requirements of Code §415 (as described in Section 5.02) or a distribution to correct Excess Deferrals.
- (2) **Eligible Retirement Plan.** For purposes of applying the Direct Rollover provisions under this Section 7.04, an Eligible Retirement Plan is:
- (i) a qualified plan described in Code §401(a);
 - (ii) an individual retirement account described in Code §408(a);
 - (iii) an individual retirement annuity described in Code §408(b);

- (iv) an annuity plan described in Code §403(a);
- (v) an annuity contract described in Code §403(b);
- (vi) an eligible plan under Code §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 and which agrees to separately account for amounts transferred into such plan from this Plan; or
- (vii) for rollovers made on or after December 31, 2015, a SIMPLE IRA described in Code §408(p). However, the following restrictions apply: (1) the provision does not allow SIMPLE IRAs to accept rollovers from designated Roth accounts, and (2) the change applies only to rollovers made after the two-year period beginning on the date the Participant first participated in their employer's SIMPLE IRA plan.

The definition of Eligible Retirement Plan also applies in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is the Alternate Payee under a QDRO.

To the extent any portion of an Eligible Rollover Distribution is attributable to Roth Deferrals (as defined in Section 3.02(c)(2)(v)), an Eligible Retirement Plan with respect to such portion of the distribution shall include only another designated Roth account of the Participant or a Roth IRA. To the extent any portion of an Eligible Rollover Distribution is attributable to After-Tax Employee Contributions, an Eligible Retirement Plan with respect to such portion of the distribution shall include only an individual retirement account or annuity described in Code §408(a) or (b) or a qualified Defined Contribution Plan described in Code §401(a) or §403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not includible in gross income.

- (3) **Direct Rollover.** A Direct Rollover is a payment made directly from the Plan to the Eligible Retirement Plan specified by the Participant. The Plan Administrator may develop reasonable procedures for accommodating Direct Rollover requests.
- (b) **Direct Rollover notice.** A Participant entitled to an Eligible Rollover Distribution must receive a written explanation of his/her right to a Direct Rollover, the tax consequences of not making a Direct Rollover, and if applicable, any available special income tax elections. The notice must be provided within 30 –180 days prior to the Participant's Annuity Starting Date in the same manner as described in Section 7.03(b). The Direct Rollover notice must be provided to all Participants, unless the total amount the Participant will receive as a distribution during the calendar year is expected to be less than \$200.

If a Participant terminates employment and is eligible for a distribution which is not subject to Participant consent, and the Participant does not respond to the Direct Rollover notice indicating whether a Direct Rollover is desired and the name of the Eligible Retirement Plan to which the Direct Rollover is to be made, the Plan Administrator may distribute the Participant's entire vested Account Balance in the form of an Automatic Rollover (pursuant to Section 7.05). If a distribution would qualify for Automatic Rollover, the Direct Rollover notice must describe the procedures for making an Automatic Rollover, including the name, address, and telephone number of the IRA trustee and information regarding IRA maintenance and withdrawal fees and how the IRA funds will be invested. The Direct Rollover notice also must describe the timing of the Automatic Rollover and the Participant's ability to affirmatively opt out of the Automatic Rollover.
- (c) **Direct Rollover by non-Spouse beneficiary.** The Plan must permit a non-Spouse beneficiary (as defined in Code §401(a)(9)(E)) to make a direct rollover of an eligible rollover distribution to an individual retirement account under Code §408(a) or an individual retirement annuity under Code §408(b) that is established on behalf of the designated beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Code §402(c)(11). A non-Spouse rollover will be subject to the direct rollover requirements under Code §401(a)(31), the rollover notice requirements under Code §402(f) or the mandatory withholding requirements under Code §3405(c).
- (d) **Direct Rollover of non-taxable amounts.** Notwithstanding any other provision of the Plan, an Eligible Rollover Distribution may include the portion of any distribution that is not includible in gross income. For this purpose, an Eligible Retirement Plan includes a Defined Contribution or Defined Benefit Plan qualified under Code §401(a) and a tax-sheltered annuity plan under Code §403(b), provided the rollover is accomplished through a direct rollover and the recipient Eligible Retirement Plan separately accounts for any amounts attributable to the rollover of any nontaxable distribution and earnings thereon.
- (e) **Rollovers to Roth IRA.** A Participant or beneficiary (including a non-spousal beneficiary to the extent permitted under subsection (c) above), may rollover an Eligible Rollover Distribution (as defined in subsection (a)(1) above) to a Roth

IRA, provided the Participant (or beneficiary) satisfies the requirements for making a Roth contribution under Code §408A(c)(3)(B). Any amounts rolled over to a Roth IRA will be included in gross income to the extent such amounts would have been included in gross income if not rolled over (as required under Code §408A(d)(3)(A)). For purposes of this subsection (e), the Plan Administrator is not responsible for assuring the Participant (or beneficiary) is eligible to make a rollover to a Roth IRA.

7.05 Automatic Rollover.

- (a) **Automatic Rollover requirements.** If a Participant is entitled to an Involuntary Cash-Out Distribution (as defined in subsection (b) below), and the Participant does not elect to receive a distribution of such amount (either as a Direct Rollover to an Eligible Retirement Plan or as a direct distribution to the Participant), then the Plan Administrator may pay the distribution in a Direct Rollover to an individual retirement plan (IRA) designated by the Plan Administrator. (The Automatic Rollover provisions under this subsection (a) apply to any Involuntary Cash-Out Distribution for which the Participant fails to consent to a distribution, without regard to whether the Participant can be located. See Section 6.10(c) for alternatives if the Participant cannot be located after a reasonable diligent search.). For purposes of applying the Automatic Rollover provisions under this Section 7.05, a Participant's Roth Deferral Account and the Participant's other Accounts are treated as accounts held under separate plans. (See Treas. Reg. §1.401(k)-1(f)(4)(ii).)
- (b) **Involuntary Cash-Out Distribution.** An Involuntary Cash-Out Distribution is any distribution that is made from the Plan without the Participant's consent. Unless elected otherwise under AA §9-2(a)(3), an Involuntary Cash-Out Distribution, for purposes of applying the Automatic Rollover requirements under this Section 7.05 does not include any amounts below \$1,000. (See Section 7.03 for the Participant consent requirements with respect to distributions under the Plan.) The Plan Administrator may decide whether or not to provide for an Automatic Rollover for a distribution if it is reasonably expected (at the time of the distribution) that the total amount the Participant will receive as a distribution during the calendar year will total less than \$200.
- (c) **Treatment of Rollover Contributions.** Unless elected otherwise under AA §9-2(a)(5), for purposes of determining whether a mandatory distribution is greater than \$1,000, the portion of the Participant's distribution attributable to any Rollover Contribution is excluded.

7.06 Distribution Upon Termination of Employment. Subject to the required minimum distribution provisions under Section 8, a Participant who terminates employment for any reason (other than death) is entitled to receive a distribution of his/her vested Account Balance in accordance with this Section 7.06. (See Section 7.07 for the applicable rules when a Participant dies before distribution of his/her vested Account Balance is completed.)

- (a) **Account Balance not exceeding Cash-Out threshold.** If a Participant's vested Account Balance does not exceed \$5,000 (or other Cash-Out threshold designated under AA §9-2(a)(2)) at the time of distribution, the only distribution option available under the Plan is a lump sum option. The Participant will be eligible to receive a distribution of his/her vested Account Balance as of the date selected in AA §9-3(b).
- (b) **Account Balance exceeding Cash-Out threshold.** If a Participant's vested Account Balance exceeds \$5,000 (or other Cash-Out threshold designated under AA §9-2(a)(2)) at the time of distribution, the Participant may elect to receive a distribution of his/her vested Account Balance in any form permitted under AA §9-1. The Participant will be eligible to receive a distribution of his/her vested Account Balance as of the date selected in AA §9-3(a). The Employer may elect to accelerate the distribution to Employees upon special circumstances, such as termination after attainment of Normal Retirement Age or other special circumstances.

7.07 Distribution Upon Death. Subject to the Required Minimum Distribution rules in Section 8, a Participant's vested Account Balance will be distributed to the Participant's Beneficiary(ies) in accordance with this Section 7.07. (See subsection (c) below for rules regarding the determination of Beneficiaries upon the death of the Participant.) The form of benefit payable with respect to a deceased Participant will depend on whether the Participant dies before or after distribution of his/her Account Balance has commenced.

- (a) **Death after commencement of benefits.** If a Participant begins receiving a distribution of his/her benefits under the Plan, and subsequently dies prior to receiving the full value of his/her vested Account Balance, the remaining benefit will continue to be paid to the Participant's Beneficiary(ies) in accordance with the form of payment that has already commenced. If a Participant commences distribution prior to death only with respect to a portion of his/her Account Balance, then the rules in subsection (b) below apply to the rest of the Account Balance.
- (b) **Death before commencement of benefits.** If a Participant dies before commencing distribution of his/her benefits under the Plan, the form and timing of any death benefits will depend on whether the value of the death benefit exceeds \$5,000 (or other threshold designated under AA §9-2(a)(2)).

- (1) **Death benefit not exceeding \$5,000.** If the value of the death benefit does not exceed \$5,000, such benefit will be paid to the Participant's Beneficiary(ies) in a single sum as soon as administratively feasible following the Participant's death.
- (2) **Death benefit exceeding \$5,000.** If the value of the death benefit exceeds \$5,000, such benefit will be paid in a lump sum as soon as administratively feasible following the Participant's death. However, the death benefit may be payable in a different form if prescribed by the Participant's Beneficiary designation, or the Beneficiary, before a lump sum payment of the benefit is made, elects to receive the distribution in an alternative form of benefit permitted under Section 7.01.

In no event will any death benefit be paid in a manner that is inconsistent with the Required Minimum Distribution rules under Section 8. The Beneficiary of any pre-retirement death benefit described in this subsection (b) may postpone the commencement of the death benefit to a date that is not later than the latest commencement date permitted under Section 8.

- (c) **Determining a Participant's Beneficiary.** The determination of a Participant's (or Beneficiary's, if applicable) Beneficiary(ies) to receive any death benefits under the Plan will be based on the Participant's (or Beneficiary's, if applicable) Beneficiary designation under the Plan. If a Participant (or Beneficiary, if applicable) does not designate a Beneficiary to receive the death benefits under the Plan, distribution will be made to the default Beneficiaries, as set forth in subsection (3) below.
 - (1) **Post-retirement death benefit.** If a Participant dies after commencing distribution of benefits under the Plan (but prior to receiving a distribution of his/her entire vested Account Balance under the Plan), the Beneficiary of any post-retirement death benefit is determined in accordance with the Beneficiary selected under the distribution option in effect prior to death.
 - (2) **Pre-retirement death benefit.** If a Participant dies before commencing distribution of his/her benefits under the Plan, the surviving Spouse (determined at the time of the Participant's death) will be treated as the sole Beneficiary, unless:
 - (i) there is a valid contrary Beneficiary designation;
 - (ii) there is no surviving Spouse (determined under applicable laws at the time of Participant's death); or
 - (iii) the Spouse makes a valid disclaimer.
 - (3) **Default beneficiaries.** To the extent a Beneficiary has not been named by the Participant, and is not designated under the terms of the Investment Arrangement(s), this Plan, or the Adoption Agreement to receive all or any portion of the deceased Participant's death benefit, such amount shall be distributed to the Participant's surviving Spouse (if the Participant was married at the time of death) who shall be considered the designated Beneficiary. If a Participant is legally divorced, the former Spouse is not considered the default Beneficiary. If the Participant does not have a surviving Spouse at the time of death, distribution will be made to the Participant's surviving children (including legally adopted children, but not including step-children), as designated Beneficiaries, in equal shares. If the Participant has no surviving children, distribution will be made to the Participant's estate. The Employer may modify the default beneficiary rules described in this subparagraph under AA §9-5(a).
 - (4) **Identification of Beneficiaries.** The Plan Administrator may request proof of the Participant's death and may require the Beneficiary to provide evidence of his/her right to receive a distribution from the Plan in any form or manner the Plan Administrator may deem appropriate. The Plan Administrator's determination of the Participant's death and of the right of a Beneficiary to receive payment under the Plan shall be conclusive. If a distribution is to be made to a minor or incompetent Beneficiary, payments may be made to the person's legal guardian or conservator recognized under state law, or custodian in accordance with the Uniform Gifts to Minors Act or similar law as permitted under the laws of the state where the Beneficiary resides. The Plan Administrator or Trustee will not be liable for any payments made in accordance with this subsection (4) and will not be required to make any inquiries with respect to the competence of any person entitled to benefits under the Plan. (See Section 9.03 for a special one-year marriage rule that may apply under AA §9-5(b).)
 - (5) **Death of Beneficiary.** Unless specified otherwise in the Participant's (or Beneficiary's, if applicable) Beneficiary designation form or under AA §9-5, if a Beneficiary does not predecease the Participant but dies before distribution of the death benefit is made to the Beneficiary, the death benefit will be paid to the Beneficiary's estate. If the Participant and the Participant's Beneficiary die simultaneously, and the Participant's

Beneficiary designation form does not address simultaneous death, the determination of the death beneficiary will be determined under any state simultaneous death laws, to the extent applicable. If no applicable state law applies, the death benefit will be paid to the contingent beneficiaries named under the Participant's beneficiary designation. If there are no contingent beneficiaries, the death benefit will be paid to the Participant's default beneficiaries, as described in subsection (3) above.

- (6) **Divorce from Spouse.** Except as otherwise provided in an Investment Arrangement, and unless designated otherwise under AA §9-5(c), if a Participant designates his/her Spouse as Beneficiary and subsequent to such Beneficiary designation, the Participant and Spouse are divorced, the designation of the Spouse as Beneficiary under the Plan is automatically rescinded unless specifically provided otherwise under a divorce decree or QDRO, or unless the Participant enters into a new Beneficiary designation naming the prior Spouse as Beneficiary. In addition, the provisions under this subsection (6) will not apply if the Participant has entered into a Beneficiary designation that specifically overrides the provisions of this subsection (6).
- (d) **Slayer Rule.** Notwithstanding anything to the contrary in the Plan, if the Plan Administrator receives notice prior to distribution of a Participant's vested Account that an individual is responsible for the death of such Participant, then no payment of benefits with respect to such Participant will be made under any provision of the Plan to such individual. An individual will be treated as being responsible for the death of a Participant for purposes of the foregoing sentence only if, by virtue of such individual's involvement in the death of the Participant, such individual's entitlement to any interest in assets of the deceased could be denied (whether or not there is in fact any such entitlement) under any applicable state law, including, without limitation, laws governing intestate succession, wills, jointly-owned property, bonds, and life insurance. For purposes of the Plan, any such responsible individual will be deemed to have predeceased the Participant. The Plan Administrator shall withhold distribution of benefits otherwise payable under the Plan for such period of time as is necessary or appropriate under the circumstances to make a determination with regard to the application of this section.

7.08 Distribution to Disabled Employees. Unless elected otherwise under AA §9-4, no special distribution rules apply to Disabled Employees. However, the Employer may elect in AA §9-4 to permit a distribution at an earlier date for Disabled Employees.

7.09 Qualified Distributions for Retired Public Safety Officers. If permitted under separate administrative procedures, 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 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 distribution may be excluded from the Participant's gross income to the extent that the aggregate amount of the distribution does not exceed the lesser of 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 §152), or \$3,000, determined by aggregating all distributions with respect to the Participant that are used to pay qualified health insurance premiums from all eligible retirement plans of the Employer as defined in Code §414(d).

- (a) **Qualified health insurance premiums.** 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 §152) by an accident or health insurance plan (including under a self-insured plan) or qualified long-term care insurance contract (within the meaning of Code §7702B(b)).
- (b) **Eligible retired public safety officer.** The term "eligible retired public safety officer" means an individual who separated from service, either by reason of disability or after attainment of Normal Retirement Age, as a public safety officer with the Employer. For this purpose, a public safety officer is 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.

7.10 In-Service Distributions. The Employer may elect under AA §10 to permit in-service distributions under the Plan. Except to the extent provided under subsection (a) below, if an in-service distribution is not specifically permitted under AA §10, a Participant may not receive a distribution from the Plan until termination of employment, death or disability.

- (a) **After-Tax Employee Contributions and Rollover Contributions.** Unless designated otherwise under AA §10-2, a Participant may withdraw at any time, upon written request, all or any portion of his/her Account Balance attributable to After-Tax Employee Contributions or Rollover Contributions. No forfeiture will occur solely as a result of an Employer's withdrawal of After-Tax Employee Contributions.
- (b) **Employer Contributions and Matching Contributions.** The Employer may elect under AA §10 the extent to which in-service distributions will be permitted from Employer Contributions (including Matching Contributions, if applicable) under the Plan. If permitted under AA §10 of the Profit Sharing Plan Adoption Agreement, Employer Contributions may be withdrawn upon the occurrence of a specified event (such as attainment of a designated age or the occurrence of a Hardship, as defined in subsection (e) below). In addition, a Participant may withdraw his/her Employer

Contributions (and Matching Contributions, if applicable) upon the completion of a certain number of years, provided no distribution solely on account of years may be made with respect to Employer Contributions that have been accumulated in the Plan for less than 2 years, unless the Participant has been a Participant in the Plan for at least 5 years. (See Section 6.09 for special vesting rules that apply if a Participant takes an in-service distribution prior to becoming 100% vested in such contributions.)

For Plan Years beginning after January 1, 2007, if the Plan is a pension plan (e.g., a money purchase plan or if the Plan holds transferred assets from a money purchase plan), a Participant may not receive an in-service distribution of his/her vested Account Balance prior to the earlier of the attainment of Normal Retirement Age or age 62 (to the extent permitted under AA §10-1 or AA §10-2).

- (c) **Salary Deferrals under Grandfathered 401(k) Arrangement.** If the Plan qualifies as a Grandfathered 401(k) Arrangement, as designated under AA §2-3 of the Profit Sharing Adoption Agreement, any Salary Deferrals (including any earnings on such amounts) generally may not be distributed prior to the Participant's severance from employment, death, or disability. However, the Employer may elect under AA §10 to permit an in-service distribution of such amounts upon attainment of a specified age (no earlier than age 59½, upon a Hardship (as defined in subsection (e) below) or upon a Qualified Reservist Distribution, as defined under subsection (d) below.

If Normal Retirement Age or Early Retirement Age is earlier than age 59½ and an in-service distribution is permitted upon attainment of Normal Retirement Age or Early Retirement Age from Salary Deferrals, the Normal Retirement Age and/or Early Retirement Age will be deemed to be age 59½ for purposes of determining eligibility to distribute Salary Deferrals.

- (d) **Penalty-free withdrawals for individuals called to active duty.** Effective September 11, 2001, the distribution provisions applicable to Salary Deferrals include a Qualified Reservist Distribution, as defined in subsection (1) below. If a Participant takes a Qualified Reservist Distribution, such distributions will not be subject to the 10% penalty tax under Code §72(t). A Qualified Reservist Distribution is only available if permitted under AA §10-1.

- (1) **Qualified Reservist Distribution.** For purposes of this subsection (d), a Qualified Reservist Distribution means any distribution to an individual if:

- (i) such distribution is from amounts attributable to elective deferrals described in Code §402(g)(3)(A) or (C) or Code §501(c)(18)(D)(iii),
- (ii) such individual was (by reason of being a member of a reserve component (as defined in §101 of Title 37 of the United States Code)) ordered or called to active duty for a period in excess of 179 days or for an indefinite period, and
- (iii) such distribution is made during the period beginning on the date of such order or call, and ending at the close of the active duty period.

- (2) **Active duty.** A Qualified Reservist Distribution will only be available for individuals who are ordered or called into active duty after September 11, 2001.

- (e) **Hardship distribution.** The Employer may elect under AA §10-1 or AA §10-2 of the Profit Sharing Plan Adoption Agreement to authorize an in-service distribution upon the occurrence of a Hardship event. A Hardship distribution of Salary Deferrals must meet the requirements of a safe harbor Hardship as described under subsection (1) below. For other contribution types, the Employer may elect to apply the safe harbor Hardship rules under subsection (1) below or the non-safe harbor Hardship provisions under subsection (2) below.

- (1) **Safe harbor Hardship distribution.** To qualify for a safe harbor Hardship, a Participant must demonstrate an immediate and heavy financial need, as described in subsection (i) below, and the distribution must be necessary to satisfy such need, as described in subsection 0 below.

- (i) **Immediate and heavy financial need.** To be considered an immediate and heavy financial need, the Hardship distribution must be made to satisfy one of the following financial needs:

- (A) to pay expenses incurred or necessary for medical care (as described in Code §213(d)) of the Participant, the Participant's Spouse or dependents (determined without regard to whether the expenses exceed 7.5% of adjusted gross income);
- (B) for the purchase (excluding mortgage payments) of a principal residence for the Participant;

- (C) for payment of tuition and related educational fees (including room and board) for the next 12 months of post-secondary education for the Participant, the Participant's Spouse, children or dependents;
- (D) to prevent the eviction of the Participant from, or a foreclosure on the mortgage of, the Participant's principal residence;
- (E) to pay funeral or burial expenses for the Participant's deceased parent, Spouse, child or dependent;
- (F) to pay expenses to repair damage to the Participant's principal residence that would qualify for a casualty loss deduction under Code § 165 (determined without regard to whether the loss exceeds the 10% of adjusted gross income limit); or
- (G) for any other event that the IRS recognizes as a safe harbor Hardship distribution event under ruling, notice or other guidance of general applicability.

For purposes of determining eligibility of a Hardship distribution under this subsection (i), a dependent is determined under Code § 152. However, for taxable years beginning on or after January 1, 2005, the determination of dependent for purposes of tuition and education fees under subsection (C) above will be made without regard to Code § 152(b)(1), (b)(2), and (d)(1)(B), and the determination of dependent for purposes of funeral or burial expenses under subsection (E) above will be made without regard to Code § 152(d)(1)(B).

A Participant must provide the Plan Administrator with a written request for a Hardship distribution. The Plan Administrator may require written documentation, as it deems necessary, to sufficiently document the existence of a proper Hardship event.

- (ii) **Distribution necessary to satisfy need.** A distribution will be considered as necessary to satisfy an immediate and heavy financial need of the Participant if:

- (A) The distribution is not in excess of the amount of the immediate and heavy financial need (including amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution);
- (B) The Participant has obtained all available distributions, other than Hardship distributions, and all nontaxable loans under the Plan and all plans maintained by the Employer; and
- (C) The Participant is suspended from making Salary Deferrals (and After-Tax Employee Contributions) for at least 6 months after the receipt of the Hardship distribution.

- (2) **Non-safe harbor Hardship distribution.** The Employer may elect in AA § 10-1(e) or AA § 10-2(e) of the Profit Sharing Plan Adoption Agreement to permit Participants to take a Hardship distribution without satisfying the requirements of subsection (1) above.

- (i) **Immediate and heavy financial need.** For purposes of determining whether a Hardship exists under this subsection (2), the same Hardship distribution events described in subsection (1)(i) will qualify as a Hardship distribution event under this subsection (2). The Employer may modify the permissible Hardship distribution events under AA § 10-3(f) of the Profit Sharing Plan Adoption Agreement.
- (ii) **Distribution necessary to satisfy need.** A Hardship distribution under this subsection (2) need not satisfy the requirements under subsection (1)(ii) above. Instead, all relevant facts and circumstances are considered to determine whether the Employee has other resources reasonably available to relieve or satisfy the need. For this purpose, resources include assets of the Employee's Spouse and minor children that are reasonably available to the Employee. In addition, the amount withdrawn for hardship may include amounts necessary to pay federal, state or local income taxes, or penalties reasonably anticipated to result from the distribution.

The Employer or Plan Administrator may rely upon the Employee's written representation that the need cannot be reasonably relieved through the following sources:

- (A) Reimbursement or compensation by insurance;

- (B) Liquidation of the Employee's assets;
- (C) Cessation of Salary Deferrals or After-Tax Employee Contributions under the Plan;
- (D) Other currently available distributions or nontaxable loans from the Plan or any other plan maintained by the Employer (or any other employer);
- (E) Borrowing from commercial sources on reasonable commercial terms in an amount sufficient to satisfy the need.

The Employer or Plan Administrator may not rely upon the written representation under this subsection (ii) if the Employer has actual knowledge to the contrary.

- (3) **Amount available for Hardship distribution.** A Participant may receive a Hardship distribution of any portion of his/her vested Employer Contribution Account or Matching Contribution Account (including earnings thereon), as permitted under AA §10. A Participant may receive a Hardship distribution of Salary Deferrals provided such distribution, when added to other Hardship distributions from Salary Deferrals, does not exceed the total Salary Deferrals the Participant has made to the Plan (increased by income allocable to such Salary Deferrals as of the later of December 31, 1988 or the end of the last Plan Year ending before July 1, 1989).
- (4) **Availability to terminated Employees.** If a Hardship distribution is permitted under AA §10-1 or AA §10-2, a Participant may take such a Hardship distribution after termination of employment to the extent no other distribution is available from the Plan.
- (5) **Application of Hardship distributions rules with respect to primary beneficiaries.** If elected under AA §10-3(e), if the Plan otherwise permits Hardship distributions based on the safe harbor hardship provisions under subsection (1), the existence of an immediate and heavy financial need under subsection (1)(i) may be determined with respect to a primary beneficiary under the Plan. For this purpose, a primary beneficiary is an individual who is named as a beneficiary under the Plan and has an unconditional right to all or a portion of a Participant's Account Balance upon the death of the Participant. Hardship distributions with respect to primary beneficiaries under this subsection (5) are limited to Hardship distributions on account of medical expenses, educational expenses and funeral expenses (as described in subsections (1)(i)(A), (1)(i)(C) and (1)(i)(E), above)). Any Hardship distribution with respect to a primary beneficiary must satisfy all the other requirements applicable to Hardship distributions under subsection (e).

7.11 Sources of Distribution. Except as otherwise provided in the Investment Arrangement, and unless provided otherwise in separate administrative provisions adopted by the Plan Administrator, in applying the distribution provisions under this Section 7, distributions will be made on a pro rata basis from all Accounts from which a distribution is permitted. Alternatively, the Plan Administrator may permit Participants to direct the Plan Administrator as to which Account the distribution is to be made. Regardless of a Participant's direction as to the source of any distribution, the tax effect of such a distribution will be governed by Code §72 and the regulations thereunder.

- (a) **Exception for Hardship withdrawals.** If the Plan permits a Hardship withdrawal from both Salary Deferrals (including Roth Deferrals) and Employer Contributions, a Hardship distribution will first be treated as having been made from a Participant's Employer Contribution Account and then from the Employer's Matching Contribution Account, to the extent such Hardship distribution is available with respect to such Accounts. Only when all available amounts have been exhausted under the Participant's Employer Contribution Account and/or Matching Contribution Account will a Hardship distribution be made from a Participant's Pre-Tax Salary Deferral Account and/or Roth Deferral Account. (See subsection (b) below for the ordering rules for distributions from the Pre-Tax Salary Deferral and Roth Deferral Accounts.) The Plan Administrator may modify the ordering rules under this subsection (a) under separate administrative procedures.
- (b) **Roth Deferrals.** If a Participant has both a Pre-Tax Salary Deferral Account and a Roth Deferral Account, withdrawals and loans from such Accounts will be made in accordance with this subsection (b).
 - (1) **Distributions and withdrawals.** Unless designated otherwise under AA §6A-5 of the Grandfathered 401(k) Plan Adoption Agreement or separate administrative procedures, if a Participant has both a Pre-Tax Salary Deferral Account and a Roth Deferral Account, the Participant may designate the extent to which a distribution or withdrawal of Salary Deferrals will come from the Pre-Tax Salary Deferral Account or the Roth Deferral Account. Alternatively, the Employer may provide under AA §6A-5 of the Grandfathered 401(k) Plan Adoption Agreement (or under separate administrative procedures) that any distribution or withdrawal of Salary Deferrals will be made on a pro rata basis from the Pre-Tax Salary Deferral Account and the Roth Deferral Account.

Alternatively, the Employer may designate any other order of distribution and withdrawals under AA §6A-5 or separate administrative procedures.

- (2) **Distribution of Excess Deferrals.** Unless designated otherwise under AA §6A-5 of the Grandfathered 401(k) Plan Adoption Agreement or separate administrative procedures, if a Participant has both a Pre-Tax Salary Deferral Account and a Roth Deferral Account, and the Plan is required to make a corrective distribution of Excess Deferrals to such Participant, the Participant may designate whether the Plan will make such corrective distribution of Excess Deferrals from the Pre-Tax Salary Deferral Account or the Roth Deferral Account. Alternatively, the Employer may elect under AA §6A-5 of the Grandfathered 401(k) Plan Adoption Agreement (or under separate administrative procedures) that corrective distributions of Salary Deferrals to correct Excess Deferrals will be made pro rata from the Pre-Tax Salary Deferral Account and Roth Deferral Account or first from the Pre-Tax Salary Deferral Account or first from the Roth Deferral Account.

Unless designated otherwise under separate administrative procedures, if a Participant is permitted to designate the extent to which a corrective distribution is made from the Pre-Tax Salary Deferral Account or the Roth Deferral Account, and the Participant fails to designate the appropriate Account by the date the corrective distribution is made from the Plan, such corrective distribution may be withdrawn equally from both the Pre-Tax Salary Deferral Account and the Roth Deferral Account, or the Employer may withdraw such amounts first from either the Pre-Tax Salary Deferral Account or the Roth Deferral Account.

- (c) **In-kind distributions.** Nothing in this Section 7 precludes the Plan Administrator from making a distribution in the form of property, or other in-kind distribution. If the Plan invests in Annuity Contracts, the Plan Administrator may make a distribution in the form of distributed Annuity Contracts. An in-kind distribution is only available to the extent such investments are held in the Participant's Account at the time of the distribution. This subsection does not give any Participant the right to request an in-kind distribution if not otherwise authorized by the Plan Administrator.

- 7.12 **Correction of Qualification Defects.** Nothing in this Section 7 precludes the Plan Administrator from making a distribution to a Participant to correct a qualification defect consistent with the correction procedures under the IRS' voluntary compliance programs. Thus, for example, if an Employee is permitted to enter the Plan prior to his/her proper Entry Date under Section 2.03(b) and the Plan Administrator determines that a corrective distribution is a proper means of correcting the operational violation, nothing in this Section 7 would prevent the Plan from making such corrective distribution. Any such distribution must be made in accordance with the correction procedures applicable under the IRS' voluntary correction programs under Rev. Proc. 2013-12 (or successive guidance).

SECTION 8
REQUIRED MINIMUM DISTRIBUTIONS

8.01 Required Minimum Distributions. Unless specified otherwise under Appendix A of the Adoption Agreement, the provisions of this Section apply to calendar years beginning on or after January 1, 2003. A Participant's entire interest under the Plan will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date (as defined in Section 8.05(e)). All distributions required under this Section 8 will be determined and made in accordance with the regulations under Code §401(a)(9) and the minimum distribution incidental benefit requirement of Code §401(a)(9)(G). For purposes of applying the required minimum distribution rules under this Section 8, any distribution made in a form other than a lump sum must be made over one of the following periods (or a combination thereof):

- (a) the life of the Participant;
- (b) the life of the Participant and a Designated Beneficiary;
- (c) a period certain not extending beyond the life expectancy of the Participant; or
- (d) a period certain not extending beyond the joint and last survivor life expectancy of the Participant and a Designated Beneficiary.

8.02 Death of Participant before required distributions begin. If the Participant dies before required distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

- (a) **Surviving Spouse is sole Designated Beneficiary.** Unless designated otherwise under AA §10-4, if the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, the surviving Spouse may elect to take distributions under the five-year rule (as described in Section 8.06(a) below) or under the life expectancy method. If the life expectancy method applies, distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70-1/2, if later.
- (b) **Surviving Spouse is not the sole Designated Beneficiary.** Unless designated otherwise under AA §10-4, if the Participant's surviving Spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary may elect to take distributions under the five-year rule (as described in Section 8.06(a) below) or under the life expectancy method. If the life expectancy method applies, then distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died. If the Designated Beneficiary does not elect to commence distributions by December 31 of the calendar year immediately following the calendar year in which the Participant dies, a complete distribution must be made by December 31 of the calendar year containing the fifth anniversary of the Participant's death. See Section 8.06(a) below.
- (c) **No Designated Beneficiary.** If there is no Designated Beneficiary as of the date of the Participant's death who remains a Beneficiary as of September 30 of the year immediately following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (d) **Death of surviving Spouse.** If the Participant's surviving Spouse is the Participant's sole Designated Beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Section 8.02 (other than subsection (a) above) will apply as if the surviving Spouse were the Participant.

For purposes of this Section 8.02 and AA §10-4, unless subsection (d) above applies, distributions are considered to begin on the Participant's Required Beginning Date. If subsection (d) above applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under subsection (a) above. If distributions under an annuity purchased from an insurance company irrevocably commence to the participant before the Participant's Required Beginning Date (or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under subsection (a) above), the date distributions are considered to begin is the date distributions actually commence.

8.03 Required Minimum Distributions during Participant's lifetime.

- (a) **Amount of Required Minimum Distribution for each Distribution Calendar Year.** During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:
 - (1) the quotient obtained by dividing the Participant's Account Balance by the distribution period set forth in the Uniform Lifetime Table found in Treas. Reg. §1.401(a)(9)-9, Q&A-2, using the Participant's age as of the Participant's birthday in the Distribution Calendar Year; or

- (2) if the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's Spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in Treas. Reg. §1.401(a)(9)-9, Q&A-3, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the Distribution Calendar Year.
- (b) **Lifetime Required Minimum Distributions continue through year of Participant's death.** Required Minimum Distributions will be determined under this subsection (b) beginning with the first Distribution Calendar Year and continuing up to, and including, the Distribution Calendar Year that includes the Participant's date of death.

8.04 **Required Minimum Distributions After Participant's Death.**

(a) **Death on or after date required distributions begin.**

- (1) **Participant survived by Designated Beneficiary.** If the Participant dies on or after the date required distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's Designated Beneficiary, determined as follows:
 - (i) The Participant's remaining life expectancy is calculated in accordance with the Single Life Table found in Treas. Reg. §1.401(a)(9)-9, Q&A-1, using the age of the Participant in the year of death, reduced by one for each subsequent year.
 - (ii) If the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, the remaining life expectancy of the surviving Spouse is calculated using the Single Life Table found in Treas. Reg. §1.401(a)(9)-9, Q&A-1, for each Distribution Calendar Year after the year of the Participant's death using the surviving Spouse's age as of the Spouse's birthday in that year. For Distribution Calendar Years after the year of the surviving Spouse's death, the remaining life expectancy of the surviving Spouse is calculated using the age of the surviving Spouse as of the Spouse's birthday in the calendar year of the Spouse's death, reduced by one for each subsequent calendar year.
 - (iii) If the Participant's surviving Spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining life expectancy is calculated under the Single Life Table using the age of the Designated Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.
- (2) **No Designated Beneficiary.** If the participant dies on or after the date required distributions begin and there is no Designated Beneficiary as of the Participant's date of death who remains a 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 under the Single Life Table calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(b) **Death before date required distributions begin.**

- (1) **Participant survived by Designated Beneficiary.** Unless designated otherwise under AA §10-4, if the Participant dies before the date required distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining life expectancy of the Participant's Designated Beneficiary, determined as provided in subsection (a) above.
- (2) **No Designated Beneficiary.** If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of the date of death of the Participant who remains a Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest must be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (3) **Death of surviving Spouse before distributions to surviving Spouse are required to begin.** If the Participant dies before the date distributions begin, the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, and the surviving Spouse dies before distributions are required to begin to the surviving Spouse under Section 8.02(a), this subsection (b) will apply as if the surviving Spouse were the Participant.

8.05 **Definitions.**

- (a) **Designated Beneficiary.** A Beneficiary designated by the Participant (or the Plan), whose life expectancy may be taken into account to calculate minimum distributions, pursuant to Code §401(a)(9) and Treas. Reg. §1.401(a)(9)-4.
- (b) **Distribution Calendar Year.** 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 that 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 pursuant to Section 8.02. 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.
- (c) **Life expectancy.** For purposes of determining a Participant's Required Minimum Distribution amount, life expectancy is computed using one of the following tables, as appropriate: (1) Single Life Table, (2) Uniform Life Table, or (3) Joint and Last Survivor Table found in Treas. Reg. §1.401(a)(9)-9, Q&A-1.
- (d) **Account Balance.** For purposes of determining a Participant's Required Minimum Distribution, the Participant's Account Balance is determined based on 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 or forfeitures allocated to the Account Balance as of dates in the calendar year after the Valuation Date, and decreased by distributions made in the 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.
- (e) **Required Beginning Date.** Unless designated otherwise under AA §10-4, a Participant's Required Beginning Date under the Plan is April 1 that follows the end of the calendar year in which the later of the following two events occurs:
 - (1) the Participant attains age 70½; or
 - (2) the Participant terminates employment.

A Participant may begin in-service distributions prior to his/her Required Beginning Date only to the extent authorized under Section 7.10 and AA §10. However, if this Plan were amended to add the Required Beginning Date rules under this subsection (e), a Participant who attained age 70½ prior to January 1, 1999 (or, if later, January 1 following the date the Plan is first amended to contain the Required Beginning Date rules under this subsection (e)) may receive in-service minimum distributions in accordance with the terms of the Plan in existence prior to such amendment.

8.06 **Special Rules.**

- (a) **Election to apply 5-year rule to required distributions after death.** If the Participant dies before distributions begin and there is a Designated Beneficiary, the Employer may elect under AA §10-4, instead of applying the provisions of Sections 8.02 and 8.04, to require the Participant's entire interest to be distributed to the 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 distributions to either the Participant or the surviving Spouse begin, this election will apply as if the surviving Spouse were the Participant.
- (b) **Election to allow Participants or Beneficiaries to elect 5-year rule.** If a Participant or Designated Beneficiary is permitted under AA §10-4 to elect whether to apply the life expectancy rule under Section 8.02 above or the five year rule under subsection (a) above, the election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 8.02 or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving Spouse's) death. If neither the Participant nor Beneficiary makes an election under this paragraph, distributions will be made in accordance with the five-year rule under subsection (a) above, unless the Employer specifies otherwise under AA §10-4(b).
- (c) **Forms of Distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a lump sum on or before the Required Beginning Date, as of the first Distribution Calendar Year distributions will be made in accordance with Sections 8.02 and 8.04. 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 §401(a)(9) and the regulations.

- (d) **Treatment of trust beneficiaries as Designated Beneficiaries.** If a trust is properly named as a Beneficiary under the Plan, the beneficiaries of the trust will be treated as the Designated Beneficiaries of the Participant solely for purposes of determining the distribution period under this Section 8 with respect to the trust's interests in the Participant's vested Account Balance. The beneficiaries of a trust will be treated as Designated Beneficiaries for this purpose only if, during any period during which required minimum distributions are being determined by treating the beneficiaries of the trust as Designated Beneficiaries, the following requirements are met:

- (1) the trust is a valid trust under state law, or would be but for the fact there is no corpus;
- (2) the trust is irrevocable or will, by its terms, become irrevocable upon the death of the Participant;
- (3) the beneficiaries of the trust who are beneficiaries with respect to the trust's interests in the Participant's vested Account Balance are identifiable from the trust instrument; and
- (4) the Plan Administrator receives the documentation described in subsection (e)(1) below.

If the foregoing requirements are satisfied and the Plan Administrator receives such additional information as it may request, the Plan Administrator may treat such beneficiaries of the trust as Designated Beneficiaries.

- (e) **Special rules applicable to trust beneficiaries.**

- (1) **Information that must be supplied to Plan Administrator.**

- (i) **Required minimum distribution before death where Spouse is sole beneficiary.** If a Participant designates a trust as the beneficiary of his/her entire benefit and the Participant's Spouse is the sole beneficiary of the trust, the Participant must provide the information under (A) or (B) below to satisfy the information requirements under subsection (d)(4) above.
 - (A) The Participant must provide to the Plan Administrator a copy of the trust instrument and agree that if the trust instrument is amended at any time in the future, the Participant will, within a reasonable time, provide to the Plan Administrator a copy of each such amendment; or
 - (B) The Participant must:
 - (I) provide to the Plan Administrator a list of all of the beneficiaries of the trust (including contingent and remaindermen beneficiaries with a description of the conditions on their entitlement sufficient to establish that the Spouse is the sole beneficiary) for purposes of Code §401(a)(9);
 - (II) certify that, to the best of the Participant's knowledge, the list under subsection (I) above is correct and complete and that the requirements of subsection (d) above are satisfied;
 - (III) agree that, if the trust instrument is amended at any time in the future, the Participant will, within a reasonable time, provide to the Plan Administrator corrected certifications to the extent that the amendment changes any information previously certified; and
 - (IV) agree to provide a copy of the trust instrument to the Plan Administrator upon demand.
- (ii) **Required minimum distribution after death.** In order to satisfy the documentation requirement of subsection (d)(4) above for required minimum distributions after the death of the Participant (or Spouse in a case to which Treas. Reg. §.401(a)(9)-3, Q&A-5 applies), the trustee of the trust must satisfy the requirements of subsection (A) or (B) below by October 31 of the calendar year immediately following the calendar year in which the Participant died.
 - (A) The trustee of the trust must:
 - (I) provide the Plan Administrator with a final list of all beneficiaries of the trust (including contingent and remaindermen beneficiaries with a description of the conditions on their entitlement) as of September 30 of the calendar year following the calendar year of the Participant's death;

(II) certify that, to the best of the trustee's knowledge, the list in subsection (I) above is correct and complete and that the requirements of subsection (d) above are satisfied; and

(III) agree to provide a copy of the trust instrument to the Plan Administrator upon demand.

(B) The trustee of the trust must provide the Plan Administrator with a copy of the actual trust document for the trust that is named as a beneficiary of the Participant under the Plan as of the Participant's date of death.

(2) **Relief for discrepancy.** If required minimum distributions are determined based on the information provided to the Plan Administrator in certifications or trust instruments described in subsection (1) above, the Plan will not fail to satisfy Code §401(a)(9) merely because the actual terms of the trust instrument are inconsistent with the information in those certifications or trust instruments previously provided to the Plan Administrator, provided the Plan Administrator reasonably relied on the information provided and the required minimum distributions for calendar years after the calendar year in which the discrepancy is discovered are determined based on the actual terms of the trust instrument.

8.07 Transitional Rule. Notwithstanding the other requirements of this Section 8, distribution on behalf of any Employee may be made in accordance with all of the following requirements (regardless of when such distribution commences):

- (a) The distribution by the Plan is one that would not have disqualified the Plan under Code §401(a)(9) as in effect prior to amendment by the Deficit Reduction Act of 1984;
- (b) The distribution is in accordance with a method of distribution designated by the Participant whose interest in the Plan is being distributed or, if the Participant is deceased, by a Beneficiary of such Participant;
- (c) Such designation was in writing, was signed by the Participant or the beneficiary, and was made before January 1, 1984;
- (d) The Participant had accrued a benefit under the Plan as of December 31, 1983; and
- (e) The method of distribution designated by the Participant or the beneficiary specifies the time at which distribution will commence, the period over which distributions 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 will not be covered by this transitional rule unless the information in the designation 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 the method of distribution was specified in writing and the distribution satisfies the requirements in subsections (a) - (e) above.

If a designation is revoked any subsequent distribution must satisfy the requirements of Code §401(a)(9) and the proposed regulations thereunder. If a designation is revoked subsequent to the date distributions are required to begin, the Plan must distribute by the end of the calendar year following the calendar year in which the revocation occurs the total amount not yet distributed which would have been required to have been distributed to satisfy Code §401(a)(9) and the proposed regulations thereunder, but for the TEFRA §242(b)(2) election. For calendar years beginning after December 31, 1988, such distributions must meet the minimum distribution incidental benefit requirements. Any changes in the designation will be considered to be a revocation of the designation. However, the mere substitution or addition of another Beneficiary (one not named in the designation) under the designation will not be considered to be a revocation of the designation, so long as such substitution or addition does not alter the period over which distributions are to be made under the designation, directly or indirectly (for example, by altering the relevant measuring life). In the case in which an amount is transferred or rolled over from one plan to another plan, the rules in Treas. Reg. §1.401(a)(9)-8, Q&A-14 and Q&A-15 shall apply.

8.08 Modification of Minimum Distribution Rules Relating to Qualified Longevity Annuity Contracts. The following provisions modify the required minimum distribution rules under this Section 8 of the Plan to conform the rules to final Treasury Regulation §1.401(a)(9)-6 relating to the purchase of Qualifying Longevity Annuity Contracts (QLACs). The Plan will apply the provisions consistent with the requirements under the Treas. Reg. §§1.401(a)(9)-5 and 1.401(a)(9)-6, as amended.

- (a) The following provisions modify the required minimum distribution rules under this Section 8 of the Plan to conform the rules to final Treasury Regulation §1.401(a)(9)-6 relating to the purchase of Qualifying Longevity Annuity

Contracts (QLACs). The Plan will apply the provisions consistent with the requirements under the Treas. Reg. §§1.401(a)(9)-5 and 1.401(a)(9)-6, as amended.

(b) **Effective/Applicability Dates.**

- (1) **General effective dates.** This Section 8.08 applies to contracts purchased on or after July 2, 2014. If on or after July 2, 2014 an existing contract is exchanged for a contract that satisfies the requirements of this Section 8.08, the new contract will be treated as purchased on the date of the exchange, and the fair market value of the contract that is exchanged for a QLAC will be treated as a premium paid with respect to the QLAC.
- (2) **Delayed applicability date for requirement that contract state that it is intended to be QLAC.** An annuity contract purchased before January 1, 2016, will not fail to be a QLAC merely because the contract does not satisfy the requirement of subsection (d)(1)(vi), provided that:
 - (i) When the contract (or a certificate under a group annuity contract) is issued, the Employee is notified that the annuity contract is intended to be a QLAC; and
 - (ii) The contract is amended (or a rider, endorsement or amendment to the certificate is issued) no later than December 31, 2016, to state that the annuity contract is intended to be a QLAC.

(c) **Account Balance for Determining Minimum Distributions.** For purposes of determining a Participant's Required Minimum Distribution as described under this Section 8.08 of the Plan, the Participant's Account Balance as defined under Section 8.05(d) of the Plan, does not include the value of any Qualifying Longevity Annuity Contract (QLAC), described under subsection (d) below and Treas. Reg. §1.401(a)(9)-6, Q&A - 17, that is held under the Plan.

(d) **Rules Applicable to Qualifying Longevity Annuity Contracts.**

- (1) **Definition of Qualifying Longevity Annuity Contracts.** A Qualifying Longevity Annuity Contract (QLAC) is an annuity contract that is purchased from an insurance company for an Employee and that, in accordance with the rules of application of this Article II and Treas. Reg. §1.401(a)(9)-6, Q&A - 17, satisfies each of the following requirements:
 - (i) Premiums for the contract satisfy the requirements of subsection (2) of this subsection (d);
 - (ii) The contract provides that distributions under the contract must commence not later than a specified annuity starting date that is no later than the first day of the month next following the 85th anniversary of the Employee's birth;
 - (iii) The contract provides that, after distributions under the contract commence, those distributions must satisfy the requirements of this Article and Treas. Reg. §1.401(a)(9) (other than the requirement that annuity payments commence on or before the Required Beginning Date);
 - (iv) The contract does not make available any commutation benefit, cash surrender right, or other similar feature;
 - (v) No benefits are provided under the contract after the death of the employee other than the benefits described in Subsection (3) of this subsection (d);
 - (vi) When the contract is issued, the contract (or a rider or endorsement with respect to that contract) states that the contract is intended to be a QLAC; and
 - (vii) The contract is not a variable contract under Code §817, an indexed contract, or a similar contract, except to the extent provided by the Commissioner of the Internal Revenue Service in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin.

(2) **Limitations on premiums.**

- (i) **In general.** The premiums paid with respect to the contract on a date satisfy the requirements of this subsection (2) if they do not exceed the lesser of the dollar limitation in subsection (ii) below or the percentage limitation in subsection (iii) below.
- (ii) **Dollar limitation.** The dollar limitation is an amount equal to the excess of:
 - (A) \$125,000 (as adjusted under Section (d)(2) of Treas. Reg. §1.401(a)(9)-6, Q&A - 17), over
 - (B) The sum of:
 - (I) The premiums paid before that date with respect to the contract, and
 - (II) The premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is purchased for the Employee under the Plan, or any other plan, annuity, or account described in Code §§ 401(a), 403(a), 403(b), or 408 or eligible governmental plan under Code §457(b).
- (iii) **Percentage limitation.** The percentage limitation is an amount equal to the excess of:
 - (A) 25 percent of the Employee's Account Balance under the Plan (including the value of any QLAC held under the plan for the Employee) as of that date, determined in accordance with Treas. Reg. §1.401(a)(9)-6, Q&A - 17 (d)(1)(iii), over
 - (B) The sum of:
 - (I) The premiums paid before that date with respect to the contract, and
 - (II) The premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is held or was purchased for the employee under the plan.

(3) **Payments after death of the Employee.**

- (i) **Surviving spouse is sole beneficiary.**
 - (A) **Death on or after annuity starting date.** If the Employee dies on or after the annuity starting date for the contract, and the Employee's surviving spouse is the sole beneficiary under the contract, then except as provided in Treas. Reg. §1.401(a)(9)-6, Q&A - 17 (c)(4), the only benefit permitted to be paid after the Employee's death is a life annuity payable to the surviving spouse where the periodic annuity payment is not in excess of 100 percent of the periodic annuity payment that is payable to the Employee.
 - (B) **Death before annuity starting date.**
 - (I) **Amount of annuity.** If the employee dies before the annuity starting date and the employee's surviving spouse is the sole beneficiary under the contract then, except as provided in paragraph in Treas. Reg. §1.401(a)(9)-6, Q&A - 17 (c)(4), the only benefit permitted to be paid after the Employee's death is a life annuity payable to the surviving spouse where the periodic annuity payment is not in excess of 100 percent of the periodic annuity payment that would have been payable to the Employee as of the date that benefits to the surviving spouse commence. However, the annuity is permitted to exceed 100 percent of the periodic annuity payment that would have been payable to the employee to the extent necessary to satisfy the requirement to provide a Qualified Preretirement Survivor Annuity.
 - (II) **Commencement date for annuity.** Any life annuity payable to the surviving spouse under Subsection (I) above must commence no later than the date on which the annuity payable to the Employee would have commenced under the contract if the Employee had not died.

(ii) **Surviving spouse is not sole beneficiary.**

- (A) **Death on or after annuity starting date.** If the Employee dies on or after the annuity starting date for the contract and the Employee's surviving spouse is not the sole beneficiary under the contract then, except as provided in Treas. Reg. §1.401(a)(9)-6, Q&A - 17 (c)(4), the only benefit permitted to be paid after the Employee's death is a life annuity payable to the designated beneficiary where the periodic annuity payment is not in excess of the applicable percentage (determined under paragraph Treas. Reg. §1.401(a)(9)-6, Q&A - 17 (c)(2)(iii)) of the periodic annuity payment that is payable to the Employee.
 - (B) **Death before annuity starting date.**
 - (I) **Amount of annuity.** If the Employee dies before the annuity starting date and the Employee's surviving spouse is not the sole beneficiary under the contract then, except as provided in Treas. Reg. §1.401(a)(9)-6, Q&A - 17 (c)(4), the only benefit permitted to be paid after the Employee's death is a life annuity payable to the designated beneficiary where the periodic annuity payment is not in excess of the applicable percentage (determined under Treas. Reg. §1.401(a)(9)-6, Q&A - 17(c)(2)(iii)) of the periodic annuity payment that would have been payable to the Employee as of the date that benefits to the designated beneficiary commence under this subsection (I)
 - (II) **Commencement date for annuity.** In any case in which the employee dies before the annuity starting date, any life annuity payable to a designated beneficiary under this subsection (II) must commence by the last day of the calendar year immediately following the calendar year of the Employee's death.
- (4) **Rules of application.**
- (i) **Rules relating to premiums.**
 - (A) **Reliance on representations.** For purposes of the limitation on premiums described in Subsections (2)(ii) and (2)(iii) above, unless the Plan Administrator has actual knowledge to the contrary, the Plan Administrator may rely on an Employee's representation (made in writing or such other form as may be prescribed by the Commissioner of the Internal revenue Service) of the amount of the premiums described in subsections (2)(ii)(B)(II) and (2)(iii)(B)(II) above, but only with respect to premiums that are not paid under a plan, annuity, or contract that is maintained by the Employer or Related Employer.
 - (B) **Consequences of excess premiums.**
 - (I) **General Rule.** If an annuity contract fails to be a QLAC solely because a premium for the contract exceeds the limits under subsection (II) below, then the contract is not a QLAC beginning on the date that premium payment is made unless the excess premium is returned to the non-QLAC portion of the Employee's account in accordance with Treas. Reg. §1.401(a)(9)-6, Q&A - 17 (d)(1)(ii)(B). If the contract fails to be a QLAC, then the value of the contract may not be disregarded under A-3(d) of Treas. Reg. §1.401(a)(9)-5 as of the date on which the contract ceases to be a QLAC.
 - (II) **Correction in year following year of excess.** If the excess premium is returned (either in cash or in the form of a contract that is not intended to be a QLAC) to the non-QLAC portion of the Employee's account by the end of the calendar year following the calendar year in which the excess premium was originally paid, then the contract will not be treated as exceeding the limits under this subsection (II) at any time, and the value of the contract will not be included in the Employee's Account Balance. If the excess premium (including the fair market value of an annuity contract that is not intended to be a QLAC, if applicable) is returned to the non-QLAC portion of the Employee's account after the last valuation date for the calendar year in which the excess premium was originally paid, then the Employee's account balance for that calendar year must be increased to reflect that excess premium in the same manner as an Employee's Account Balance is increased under Treas. Reg. §1.401(a)(9)-7, A-2 to reflect a rollover received after the last valuation date.
 - (III) **Return of excess premium not a commutation benefit.** If the excess premium is returned to the non-QLAC portion of the Employee's account as described in Treas. Reg.

§1.401(a)(9)-6, Q&A - 17 (d)(1)(ii)(B), it will not be treated as a violation of the requirement in subsection (d)(1)(iv) that the contract not provide a commutation benefit.

- (C) **Application of 25-percent limit.** For purposes of the 25-percent limit under subsection (2)(iii)(A) above, an Employee's Account Balance on the date on which premiums for a contract are paid is the account balance as of the last valuation date preceding the date of the premium payment, adjusted as follows. The Account Balance is increased for contributions allocated to the account during the period that begins after the valuation date and ends before the date the premium is paid, and decreased for distributions made from the account during that period.
- (ii) **Dollar and age limitations subject to adjustments.**
 - (A) **Dollar limitation.** In the case of calendar years beginning on or after January 1, 2015, the \$125,000 amount under subsection (2)(ii)(A) above will be adjusted at the same time and in the same manner as the limits are adjusted under Code §415(d), except that the base period shall be the calendar quarter beginning July 1, 2013, and any increase under this subsection that is not a multiple of \$10,000 will be rounded to the next lowest multiple of \$10,000.
 - (B) **Age limitation.** The maximum age set forth in subsection (1)(ii) above may be adjusted to reflect changes in mortality, with any such adjusted age to be prescribed by the Commissioner of the Internal Revenue Service in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin.
 - (C) **Prospective application of adjustments.** If a contract fails to be a QLAC because it does not satisfy the dollar limitation in subsection (2)(ii) above, or the age limitation in subsection (1)(ii) above, any subsequent adjustment that is made pursuant to Subsections (A) or (B) above will not cause the contract to become a QLAC.
- (iii) **Determination of whether contract is intended to be a QLAC.** If a contract fails to be a QLAC at any time for a reason other than an excess premium described in Treas. Reg. §1.401(a)(9)-6, Q&A - 17 (d)(1)(ii), then as of the date of purchase the contract will not be treated as a QLAC (for purposes of A-3(d) of Treas. Reg. §1.401(a)(9)-5), or as a contract that is intended to be a QLAC as of the date of purchase.
- (iv) **Group annuity contract certificates.** The requirement under subsection (d)(1)(vi) above, that the contract state that it is intended to be a QLAC when issued is satisfied if a certificate is issued under a group annuity contract and the certificate, when issued, states that the Employee's interest under the group annuity contract is intended to be a QLAC.

SECTION 9
SPOUSAL CONSENT RULES

- 9.01** **Application of Joint and Survivor Annuity Rules.** As a Governmental Plan, the Qualified Joint and Survivor Annuity rules under Code §§401(a)(11) and 417 do not apply to the Plan. The Employer may elect to require spousal consent for Plan distributions under AA §9-2(b).
- 9.02** **Spousal consent.** If the Employer elects under AA §9-2(b) to require spousal consent to a Plan distribution, the Spouse's consent will be required with respect to a distribution as designated in AA §9-2(b). A Spouse's consent, if required, must be provided pursuant to a Qualified Election. For this purpose, a Qualified Election is a written election signed by both the Participant and the Participant's Spouse that specifically acknowledges the effect of the election. The Spouse's consent must be witnessed by a plan representative or notary public. If the Qualified Election permits the Participant to change a payment form or Beneficiary designation without any further consent by the Spouse, the Qualified Election must acknowledge that the Spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit, as applicable, and that the Spouse voluntarily elects to relinquish either or both of such rights.
- 9.03** **One-year marriage rule.** The Employer may elect under AA §9-5(b), for purposes of identifying a Beneficiary under Section 7.07(c) and for purposes of applying the spousal consent rules under this Section 9, that an individual will not be considered the surviving Spouse of the Participant if the Participant and the surviving Spouse have not been married for the entire one-year period ending on the date of the Participant's death.

SECTION 10
PLAN ACCOUNTING AND INVESTMENTS

10.01 Participant Accounts. The Plan Administrator will maintain a separate Account for each Participant to reflect the Participant's entire interest under the Plan. The Plan Administrator may maintain any (or all) of the following separate sub-Accounts:

- Employer Contribution Account
- Matching Contribution Account
- After-Tax Employee Contribution Account
- Rollover Contribution Account
- Transfer Account.

In addition, if this Plan qualifies as a Grandfathered 401(k) Arrangement (as designated under AA §2-3 of the Profit Sharing Plan Adoption Agreement), the Plan Administrator may also maintain the following separate Accounts:

- Pre-Tax Salary Deferral Account
- Roth Deferral Account
- Roth Rollover Contribution Account
- In-Plan Roth Conversion Account

The Plan Administrator may establish other Accounts, as it deems necessary, for the proper administration of the Plan.

10.02 Valuation of Accounts. A Participant's portion of the Trust assets is determined as of each Valuation Date under the Plan. The value of a Participant's Account consists of the fair market value of the Participant's share of the Trust assets. The Trustee must value Plan assets at least annually. The Trustee's determination of the value of Trust assets shall be final and conclusive.

- (a) **Periodic valuation.** The Employer may elect under AA §11-1 or may elect operationally to value assets on a periodic basis. The Trustee and the Plan Administrator may adopt reasonable procedures for performing such valuations.
- (b) **Daily valuation.** The Employer may elect under AA §11-1 or may elect operationally to value assets on a daily basis. The Plan Administrator may adopt reasonable procedures for performing such valuations. Unless otherwise set forth in the written procedures, a daily valued Plan will have its assets valued at the end of each business day during which the New York Stock Exchange is open. The Plan Administrator has authority to interpret the provisions of this Plan in the context of a daily valuation procedure. This includes, but is not limited to, the determination of the value of the Participant's Account for purposes of Participant loans, distribution and consent rights, and corrective distributions.
- (c) **Interim valuations.** The Plan Administrator may request the Trustee to perform interim valuations.

10.03 Adjustments to Participant Accounts. Unless the Plan Administrator adopts other reasonable administrative procedures, as of each Valuation Date under the Plan, each Participant's Account is adjusted in the following manner.

- (a) **Distributions and forfeitures from a Participant's Account.** A Participant's Account will be reduced by any distributions, forfeitures and other reductions from the Account since the previous Valuation Date.
- (b) **Life insurance premiums and dividends.** A Participant's Account will be reduced by the amount of any life insurance premium payments under the Plan made for the benefit of the Participant since the previous Valuation Date. The Account will be credited with any dividends or credits paid on any life insurance policy held by the Trust for the benefit of the Participant.
- (c) **Contributions and forfeitures allocated to a Participant's Account.** A Participant's Account will be credited with any contribution, forfeiture or other additions allocated to the Participant since the previous Valuation Date.
- (d) **Net income or loss.** A Participant's Account will be adjusted for any net income or loss in accordance with any reasonable procedures that the Plan Administrator may establish. Such procedures may be reflected in a funding agreement governing the applicable investments under the Plan. To the extent the Plan Administrator does not establish separate written procedures, net income or loss will be allocated to Participants' Accounts in accordance with the following provisions.
- (1) **Net income or loss attributable to General Trust Account.** To the extent a Participant's Account is invested as part of a General Trust Account, such Account is adjusted for its allocable share of net income or loss experienced by the General Trust Account. The net income or loss of the General Trust Account is allocated to the Participant Accounts in the ratio that each Participant's Account bears to all Accounts, based on the value of each Participant's Account as of the prior Valuation Date, as adjusted in subsections (a) - (c) above. In

determining Participant Account Balances as of the prior Valuation Date, the Employer may apply a weighted average method that credits each Participant's Account with a portion of the contributions made since the prior Valuation Date. The Plan's investment procedures may designate the specific type(s) of contributions eligible for a weighted allocation of net income or loss and may designate alternative methods for determining the weighted allocation. If the Employer elects to apply a weighted average method, such method will be applied uniformly to all Participant Accounts under the General Trust Account.

- (2) **Net income or loss attributable to a Directed Account.** If the Participant or Beneficiary is entitled to direct the investment of all or part of his/her Account (see Section 10.07), the Account (or the portion of the Account which is subject to such direction) will be maintained as a Directed Account, which reflects the value of the directed investments as of any Valuation Date. The assets held in a Directed Account may be (but are not required to be) segregated from the other investments held in the Trust. Net income or loss attributable to the investments made by a Directed Account is allocated to such Account in a manner that reasonably reflects the investment experience of such Directed Account. Where a Directed Account reflects segregated investments, the manner of allocating net income or loss shall not result in a Participant (or Beneficiary) being entitled to distribution from the Directed Account that exceeds the value of such Account as of the date of distribution.

10.04 Share or unit accounting. The Plan's investment procedures may provide for share or unit accounting to reflect the value of Accounts, if such method is appropriate for the investments allocable to such Accounts.

10.05 Suspense accounts. The Plan's investment procedures also may provide for special valuation procedures for suspense accounts that are properly established under the Plan.

10.06 Investments under the Plan.

- (a) **Investment options.** The person(s) responsible for the investment of Plan assets is authorized to invest Plan assets in any prudent investment. Investment options include, but are not limited to, the following:

- common and preferred stock or other equity securities (including stock bought and sold on margin);
- corporate bonds;
- open-end or closed-end mutual funds (including funds for which a Volume Submitter Sponsor, Trustee, or affiliate serves as investment advisor or other capacity);
- money market accounts;
- certificates of deposit;
- debentures;
- commercial paper;
- put and call options;
- limited partnerships;
- mortgages;
- U.S. Government obligations, including U.S. Treasury notes and bonds;
- real and personal property having a ready market;
- life insurance or annuity policies;
- commodities;
- savings accounts;
- notes; and
- securities issued by the Trustee and/or its affiliates, as permitted by law.

- (b) **Investment of tax deductible Employee contributions in life insurance and collectibles.** No portion of any voluntary, tax deductible Employee contributions being held under the Plan (or any earnings thereon) may be invested in life insurance contracts or, as with any Participant-directed investment, in tangible personal property characterized by the IRS as a collectible.

10.07 Participant-directed investments. Unless otherwise indicated in the Adoption Agreement or in separate procedures, and except as otherwise required in an Investment Arrangement, each Participant shall have the exclusive right, in accordance with the provisions of the Plan, to direct the investment of all or a portion of the amounts allocated to the separate Accounts of the Participant under the Plan. (A reference to Participant under this Section 10.07 also applies to any Beneficiary or Alternate Payee eligible to direct investments under the Plan.)

- (a) **Limits on participant investment direction.** The Employer may elect under AA §C-1 or under separate investment procedures to limit Participant direction of investment to specific types of contributions or with respect to specific

investment options. The terms of an Investment Arrangement may impose additional limitations. In no case may Participants direct that investments be made in collectibles, other than U.S. Government or State issued gold and silver coins. (See Section 10.03(d)(2) for rules regarding allocation of net income or loss to a Directed Account.)

- (b) **Failure to direct investment.** If Participant direction of investments is permitted, the Plan Administrator will designate how accounts will be invested in the absence of proper affirmative direction from the Participant. The Plan or Plan Administrator may designate a default fund under the Plan on behalf of Participants who have been identified by the Plan Administrator as having not specified investment choices under the Plan.

10.08 Investment in Life Insurance. A group or individual life insurance policy purchased by the Plan may be issued on the life of a Participant, a Participant's Spouse, a Participant's child or children, a family member of the Participant, or any other individual with an insurable interest. If this Plan is a money purchase plan, a life insurance policy may only be issued on the life of the Participant. A life insurance policy includes any type of policy, including a second-to-die policy, provided that the holding of a particular type of policy is not prohibited under rules applicable to qualified plans.

Any premiums on life insurance held for the benefit of a Participant will be charged against such Participant's vested Account Balance. Unless directed otherwise, the Plan Administrator will reduce each of the Participant's Accounts under the Plan equally to pay premiums on life insurance held for such Participant's benefit. Any premiums paid for life insurance policies must satisfy the incidental life insurance rules under subsection (a) below.

- (a) **Incidental Life Insurance Rules.** Any life insurance purchased under the Plan must meet the following requirements:
- (1) **Ordinary life insurance policies.** The aggregate premiums paid for ordinary life insurance policies (i.e., policies with both nondecreasing death benefits and nonincreasing premiums) for the benefit of a Participant must be at any time less than 50% of the aggregate amount of Employer Contributions (including Salary Deferrals) and forfeitures that have been allocated to the Account of such Participant.
 - (2) **Life insurance policies other than ordinary life.** The aggregate premiums paid for term, universal or other life insurance policies (other than ordinary life insurance policies) for the benefit of a Participant shall not at any time exceed 25% of the aggregate amount of Employer Contributions (including Salary Deferrals) and forfeitures that have been allocated to the Account of such Participant.
 - (3) **Combination of ordinary and other life insurance policies.** The sum of one-half (½) of the aggregate premiums paid for ordinary life insurance policies plus all the aggregate premiums paid for any other life insurance policies for the benefit of a Participant shall not at any time exceed 25% of the aggregate amount of Employer Contributions (including Salary Deferrals) and forfeitures which have been allocated to the Account of such Participant.
 - (4) **Exception for certain Profit Sharing Plans.** If the Plan is a Profit Sharing Plan, the limitations in this Section do not apply to the extent life insurance premiums are paid only with Employer Contributions and forfeitures that have been accumulated in the Participant's Account for at least two years or are paid with respect to a Participant who has been a Participant for at least five years. For purposes of applying this special limitation, Employer Contributions do not include any Salary Deferrals, QMACs, QNECs or Safe-Harbor Contributions under a 401(k) plan.
 - (5) **Exception for After-Tax Employee Contributions and Rollover Contributions.** The Plan Administrator also may invest, with the Participant's consent, any portion of the Participant's After-Tax Employee Contribution Account or Rollover Contribution Account in a group or individual life insurance policy for the benefit of such Participant, without regard to the incidental life insurance rules under this Section.
- (b) **Ownership of Life Insurance Policies.** The Trustee is the owner of any life insurance policies purchased under the Plan. Any life insurance policy purchased under the Plan must designate the Trustee as owner and beneficiary under the policy. The Trustee will pay all proceeds of any life insurance policies to the Beneficiary of the Participant for whom such policy is held in accordance with the distribution provisions under Section 7. In no event shall the Trustee retain any part of the proceeds from any life insurance policies for the benefit of the Plan.
- (c) **Evidence of Insurability.** Prior to purchasing a life insurance policy, the Plan Administrator may require the individual whose life is being insured to provide evidence of insurability, such as a physical examination, as may be required by the Insurer.
- (d) **Distribution of Insurance Policies.** Life insurance policies under the Plan, which are held on behalf of a Participant, must be distributed to the Participant or converted to cash upon the later of the Participant's Annuity Starting Date (as defined in Section 1.10) or termination of employment. Any life insurance policies that are held on behalf of a

terminated Participant must continue to satisfy the incidental life insurance rules under subsection (a) above. If a life insurance policy is purchased on behalf of an individual other than the Participant, and such individual dies, the Participant may withdraw any or all life insurance proceeds from the Plan, to the extent such proceeds exceed the cash value of the life insurance policy determined immediately before the death of the insured individual.

- (e) **Discontinuance of Insurance Policies.** Investments in life insurance may be discontinued at any time, either at the direction of the Trustee or other fiduciary responsible for making investment decisions. If the Plan provides for Participant direction of investments, life insurance as an investment option may be eliminated at any time by the Plan Administrator. Where life insurance investment options are being discontinued, the Plan Administrator, in its sole discretion, may offer the sale of the insurance policies to the Participant, or to another person, provided that the prohibited transaction exemption requirements prescribed by the Department of Labor are satisfied.
- (f) **Protection of Insurer.** An Insurer (as defined in Section 1.59) that issues a life insurance policy under the terms of this Section 10.08, shall not be responsible for the validity of this Plan and shall be protected and held harmless for any actions taken or not taken by the Trustee or any actions taken in accordance with written directions from the Trustee or the Employer (or any duly authorized representatives of the Trustee or Employer). An Insurer shall have no obligation to determine the propriety of any premium payments or to guarantee the proper application of any payments made by the insurance company to the Trustee.

The Insurer is not and shall not be considered a party to this Plan and is not a fiduciary with respect to the Plan solely as a result of the issuance of life insurance policies under this Section 10.08.

- (g) **No Responsibility for Act of Insurer.** Neither the Employer, the Plan Administrator nor the Trustee shall be responsible for the validity of the provisions under a life insurance policy issued under this Section 10.08 or for the failure or refusal by the Insurer to provide benefits under such policy. The Employer, the Plan Administrator and the Trustee are also not responsible for any action or failure to act by the Insurer or any other person which results in the delay of a payment under the life insurance policy or which renders the policy invalid or unenforceable in whole or in part.

SECTION 11
PLAN ADMINISTRATION AND OPERATION

- 11.01 Plan Administrator.** The Employer is the Plan Administrator, unless the Employer designates in writing an alternative Plan Administrator. The Plan Administrator has the responsibilities described in this Section 11.
- 11.02 Designation of Alternative Plan Administrator.** The Employer may designate another person or persons as the Plan Administrator by name, by reference to the person or group of persons holding a particular position, by reference to a procedure under which the Plan Administrator is designated, or by reference to a person or group of persons charged with the specific responsibilities of Plan Administrator.
- (a) **Acceptance of responsibility by designated Plan Administrator.** If the Employer designates an alternative Plan Administrator, the designated Plan Administrator must accept its responsibilities in writing. The Employer and the designated Plan Administrator jointly will determine the time period for which the alternative Plan Administrator will serve.
 - (b) **Multiple alternative Plan Administrators.** If the Employer designated more than one person as an alternative Plan Administrator, such Plan Administrators shall act by majority vote, unless the group delegates particular Plan Administrator duties to a specific person.
 - (c) **Resignation or removal of designated Plan Administrator.** A designated Plan Administrator may resign by delivering a written notice of resignation to the Employer. The Employer may remove a designated Plan Administrator by delivering a written notice of removal. If a designated Plan Administrator resigns or is removed, and no new alternative Plan Administrator is designated, the Employer is the Plan Administrator.
 - (d) **Employer responsibilities.** If the Employer designates an alternative Plan Administrator, the Employer will provide in a timely manner all appropriate information necessary for the Plan Administrator to perform its duties. This information includes, but is not limited to, Participant compensation data, Employee employment, service and termination information, and other information the Plan Administrator may require. The Plan Administrator may rely on the accuracy of any information and data provided by the Employer.
 - (e) **Indemnification of Plan Administrator.** The Employer will indemnify, defend and hold harmless the Plan Administrator (including the individual members of any administrative committee appointed by the Employer to handle administrative functions of the Plan or any Employees who have administrative responsibility for the Plan) with respect to any liability, loss, damage or expense resulting from any act or omission (except willful misconduct or gross negligence) in their official capacities in the administration of this Plan, including attorney, accountant and advisory fees and all other expenses reasonably incurred in their defense.
- 11.03 Duties, Powers and Responsibilities of the Plan Administrator.** The Plan Administrator will administer the Plan for the exclusive benefit of the Plan Participants and Beneficiaries, and in accordance with the terms of the Plan. If the terms of the Plan are unclear, the Plan Administrator may interpret the Plan, provided such interpretation is consistent with the rules of Code §401(a) and subject to the limitations of the Investment Arrangement(s). This right to interpret the Plan is an express grant of discretionary authority to resolve ambiguities in the Plan document and to make discretionary decisions regarding the interpretation of the Plan's terms, including who is eligible to participate under the Plan, and the benefit rights of a Participant or Beneficiary. Unless an interpretation or decision is determined to be arbitrary and capricious, the Plan Administrator will not be held liable for any interpretation of the Plan terms or decision regarding the application of a Plan provision.
- (a) **Delegation of duties, powers and responsibilities.** The Plan Administrator may delegate its duties, powers or responsibilities to one or more persons. Such delegation must be in writing and accepted by the person or persons receiving the delegation. The Employer must agree to such delegation by an alternative Plan Administrator.
 - (b) **Specific Plan Administrator responsibilities.** The Plan Administrator has the general responsibility to control and manage the operation of the Plan. This responsibility includes, but is not limited to, the following:
 - (1) To interpret and enforce the provisions of the Plan, including those related to Plan eligibility, vesting and benefits;
 - (2) To communicate with the Trustee and other responsible persons with respect to the crediting of Plan contributions, the disbursement of Plan distributions and other relevant matters;
 - (3) To develop separate procedures (if necessary) consistent with the terms of the Plan to assist in the administration of the Plan, including the adoption of a separate or modified loan policy (see Section 13), procedures for direction of investment by Participants (see Section 10.07), procedures for determining whether domestic

relations orders are QDROs, and procedures for the determination of investment earnings to be allocated to Participants' Accounts (see Section 10.03(d));

- (4) To maintain all records necessary for tax and other administration purposes;
- (5) To furnish and to file all appropriate notices, reports and other information to Participants, Beneficiaries, the Employer, the Trustee and government agencies (as necessary);
- (6) To provide information relating to Plan Participants and Beneficiaries;
- (7) To retain the services of other persons, including investment managers, attorneys, consultants, advisers and others, to assist in the administration of the Plan;
- (8) To review and decide on claims for benefits under the Plan; and
- (9) To correct any defect or error in the operation of the Plan;

11.04 **Plan Administration Expenses.**

- (a) **Reasonable Plan administration expenses.** All reasonable expenses related to plan administration may be paid from Plan assets, except to the extent the expenses are paid (or reimbursed) by the Employer. For this purpose, Plan expenses include, but are not limited to, all reasonable costs, charges and expenses incurred by the Trustee in connection with the administration of the Trust (including such reasonable compensation to the Trustee as may be agreed upon from time to time between the Employer or Plan Administrator and the Trustee and any fees for legal services rendered to the Trustee).
- (b) **Plan expense allocation.** The Plan Administrator may allocate plan expenses among the accounts of Plan Participants. The Plan Administrator has authority to allocate these expenses either proportionally based on the value of the Account Balances or pro rata based on the number of Participants in the Plan. The Plan Administrator will determine the proper method for allocating expenses in accordance with such reasonable nondiscriminatory rules as the Plan Administrator deems appropriate under the circumstances. Unless the Plan Administrator decides otherwise, the following expenses will be allocated to the Participant's Account relative to which the expense is incurred: distribution expenses, including those relating to lump sums, installments, QDROs, hardship, in-service and required minimum distributions; loan expenses; participant direction expenses, including brokerage fees; and benefit calculations.
- (c) **Expenses related to administration of former Employee or surviving Spouse.** The Plan may charge reasonable Plan administrative expenses to the Account of that former Employee or surviving Spouse, but only if the administrative expenses are on a pro rata basis. Under the pro rata basis, the expenses are based on the amount in each account of a former Employee or surviving Spouse receiving benefits from the Plan. The Plan Administrator may use another reasonable basis for charging the expenses.
- (d) **Reimbursement Spending Account.** The Employer may maintain a reimbursement spending account to hold certain miscellaneous amounts that are remitted to the Plan. Any amounts allocated to the reimbursement spending account will be applied to pay reasonable Plan expenses no later than the end of the Plan Year following the Plan Year in which such amounts were allocated to the reimbursement spending account and any remaining amounts held in the reimbursement spending account may be allocated to Participants as an allocation of earnings for the Plan Year. Such excess amounts held under the reimbursement spending account may be allocated in a reasonable manner. For example, such excess amounts may be allocated to all Participants under the Plan pro-rata on the basis of Account Balances or under any other reasonable method.

11.05 **Qualified Domestic Relations Orders (QDROs).** As a Governmental Plan, the requirements of Code §414(p) do not apply to the Plan. The Employer may elect under AA §C-4 to use the rules set forth below (which are patterned after the rules under Code §414(p)) for domestic relations orders or may elect under AA §C-4 or under separate administrative procedures to develop its process for addressing domestic relations orders received by the Plan.

- (a) **In general.** Upon receipt of an order which appears to be a QDRO, the Plan Administrator will notify the Participant involved and each Alternate Payee under the order. The Plan Administrator will determine whether the order is a QDRO and will notify each affected individual of such determination.
- (b) **Definitions related to Qualified Domestic Relations Orders (QDROs).**
 - (1) **QDRO.** A QDRO is a domestic relations order that creates or recognizes the existence of an Alternate Payee's right to receive, or assigns to an Alternate Payee the right to receive, all or a portion of the benefits payable with

respect to a Participant under the Plan. The QDRO must contain certain information and meet other requirements described in this Section 11.05.

- (2) **Domestic relations order.** A domestic relations order is a judgment, decree, or order (including the approval of a property settlement) that is made pursuant to state domestic relations law (including community property law).
- (3) **Alternate Payee.** An Alternate Payee must be a Spouse, former Spouse, child, or other dependent of a Participant.
- (c) **Recognition as a QDRO.** To be a QDRO, an order must be a domestic relations order (as defined in subsection (b)(2) above) that relates to the provision of child support, alimony payments, or marital property rights for the benefit of an Alternate Payee. The Plan Administrator is not required to determine whether the court or agency issuing the domestic relations order had jurisdiction to issue an order, whether state law is correctly applied in the order, whether service was properly made on the parties, or whether an individual identified in an order as an Alternate Payee is a proper Alternate Payee under state law.

A domestic relations order otherwise meeting the requirements to be a QDRO shall not fail to be treated as a QDRO solely because:

- (1) the order is issued after, or revises, another domestic relations order or QDRO; or
- (2) of the time at which the order is issued, including orders issued after the death of the Participant.

Any QDRO described in this Section 11.05 shall be subject to the same requirements and protections which apply to QDROs under Code §414(p)(7).

- (d) **Contents of QDRO.** A QDRO must contain the following information:
 - (1) the name and last known mailing address of the Participant and each Alternate Payee;
 - (2) the name of each plan to which the order applies;
 - (3) the dollar amount or percentage (or the method of determining the amount or percentage) of the benefit to be paid to the Alternate Payee; and
 - (4) the number of payments or time period to which the order applies.
- (e) **Impermissible QDRO provisions.**
 - (1) The order must not require the Plan to provide an Alternate Payee or Participant with any type or form of benefit, or any option, not otherwise provided under the Plan;
 - (2) The order must not require the Plan to provide for increased benefits (determined on the basis of actuarial value);
 - (3) The order must not require the Plan to pay benefits to an Alternate Payee that are required to be paid to another Alternate Payee under another order previously determined to be a QDRO; and
 - (4) The order must not require the Plan to pay benefits to an Alternate Payee in the form of a Qualified Joint and Survivor Annuity for the lives of the Alternate Payee and his or her subsequent Spouse.
- (f) **Immediate distribution to Alternate Payee.** Even if a Participant is not eligible to receive an immediate distribution from the Plan, an Alternate Payee may receive a QDRO benefit immediately in a lump sum, provided such distribution is consistent with the QDRO provisions.
- (g) **Fee for QDRO determination.** The Plan Administrator may condition the making of a QDRO determination on the payment of a fee by a Participant or an Alternate Payee (either directly or as a charge against the Participant's Account).
- (h) **QDRO procedure.**
 - (1) **Access to information.** The Plan Administrator will provide access to Plan and Participant benefit information sufficient for a prospective Alternate Payee to prepare a QDRO. Such information might include the summary plan description, other relevant plan documents, and a statement of the Participant's benefit entitlements. The

disclosure of this information is conditioned on the prospective Alternate Payee providing to the Plan Administrator information sufficient to reasonably establish that the disclosure request is being made in connection with a domestic relations order.

- (2) **Notifications to Participant and Alternate Payee.** The Plan Administrator will promptly notify the affected Participant and each Alternate Payee named in the domestic relations order of the receipt of the order. The Plan Administrator will send the notification to the address included in the domestic relations order. Along with the notification, the Plan Administrator will provide a copy of the Plan's procedures for determining whether a domestic relations order is a QDRO.
- (3) **Alternate Payee representative.** The prospective Alternate Payee may designate a representative to receive copies of notices and Plan information that are sent to the Alternate Payee with respect to the domestic relations order.
- (4) **Evaluation of domestic relations order.** Within a reasonable period of time, the Plan Administrator will evaluate the domestic relations order to determine whether it is a QDRO. A reasonable period will depend on the specific circumstances. The domestic relations order must contain the information described in subsection (d) above. If the order is only deficient in a minor respect, the Plan Administrator may supplement information in the order from information within the Plan Administrator's control or through communication with the prospective Alternate Payee.
 - (i) **Separate accounting.** Upon receipt of a domestic relations order, the Plan Administrator will separately account for and preserve the amounts that would be payable to an Alternate Payee until a determination is made with respect to the status of the order. During the period in which the status of the order is being determined, the Plan Administrator will take whatever steps are necessary to ensure that amounts that would be payable to the Alternate Payee, if the order were a QDRO, are not distributed to the Participant or any other person. The separate accounting requirement may be satisfied, at the Plan Administrator's discretion, by a segregation of the assets that are subject to separate accounting.
 - (ii) **Separate accounting until the end of 18-month period.** The Plan Administrator will continue to separately account for amounts that are payable under the QDRO until the end of an 18-month period. The 18-month period will begin on the first date following the Plan's receipt of the order upon which a payment would be required to be made to an Alternate Payee under the order. If, within the 18-month period, the Plan Administrator determines that the order is a QDRO, the Plan Administrator must pay the Alternate Payee in accordance with the terms of the QDRO. If, however, the Plan Administrator determines within the 18-month period that the order is not a QDRO, or, if the status of the order is not resolved by the end of the 18-month period, the Plan Administrator may pay out the amounts otherwise payable under the order to the person or persons who would have been entitled to such amounts if there had been no order. If the order is later determined to be a QDRO, the order will apply only prospectively; that is, the Alternate Payee will be entitled only to amounts payable under the order after the subsequent determination.
 - (iii) **Preliminary review.** The Plan Administrator will perform a preliminary review of the domestic relations order to determine if it is a QDRO. If this preliminary review indicates the order is deficient in some manner, the Plan Administrator will allow the parties to attempt to correct any deficiency before issuing a final decision on the domestic relations order. The ability to correct is limited to a reasonable period of time.
 - (iv) **Notification of determination.** The Plan Administrator will notify in writing the Participant and each Alternate Payee of the Plan Administrator's decision as to whether a domestic relations order is a QDRO. In the case of a determination that an order is not a QDRO, the written notice will contain the following information:
 - (A) references to the Plan provisions on which the Plan Administrator based its decision;
 - (B) an explanation of any time limits that apply to rights available to the parties under the Plan (such as the duration of any protective actions the Plan Administrator will take); and
 - (C) a description of any additional material, information, or modifications necessary for the order to be a QDRO and an explanation of why such material, information, or modifications are necessary.

- (v) **Treatment of Alternate Payee.** If an order is accepted as a QDRO, the Plan Administrator will act in accordance with the terms of the QDRO as if it were a part of the Plan. Except as designated otherwise under this subsection (v), an Alternate Payee will be considered a Beneficiary under the Plan and be afforded the same rights as a Beneficiary. The Plan Administrator will provide any appropriate disclosure information relating to the Plan to the Alternate Payee. In determining the rights of an Alternate Payee, unless designated otherwise under AA §C-4(b), the following rules apply:
- (A) **Loans.** An Alternate Payee is not permitted to take a loan from the Plan.
- (B) **Death benefits.** If an Alternate Payee dies prior to receiving the entire amount designated under the QDRO, such benefits will be paid in accordance with Section 7.07, treating the Alternate Payee as the Beneficiary. If the Alternate Payee dies without a designated Beneficiary, the benefits will be paid to the Alternate Payee's estate. Any death benefit will be paid in a single sum as soon as administratively feasible after the Alternate Payee's death.
- (C) **Direction of investments.** An Alternate Payee has the right to direct the investment of the portion of the Participant's benefit that is segregated for the Alternate Payee's benefit pursuant to a QDRO in the same manner as the Participant.

11.06 **Claims Procedure.** The Plan Administrator may establish procedures for administering benefit claims. Such benefit claims procedures should provide claimants with a reasonable opportunity to have a full and fair review of a denied claim. The Plan Administrator is authorized to conduct an examination of the relevant facts to determine the merits of a Participant's or Beneficiary's claim for Plan benefits.

SECTION 12
TRUST AND OTHER PLAN FUNDING

- 12.01** **Establishment of Trust or Other Funding Mechanism.** In conjunction with the establishment of this Plan, the Employer will establish and maintain a domestic Trust in the United States consisting of such sums as shall from time to time be paid to the Trustee under the Plan and such earnings, income and appreciation as may accrue thereon.

The Employer, in lieu of a Trust, may establish an alternative funding mechanism, as allowed for plans qualified under Code §401(a).

- 12.02** **Conflicting Trust Provisions.** In the event of any conflict between the terms of this Plan and any conflicting provision contained in any associated Trust, custodial account document or any document that is incorporated by reference, the terms of this Plan will govern.

- 12.03** **More than One Trustee.** If the Plan has more than one person acting as Trustee, the Trustees may allocate the Trustee responsibilities by mutual agreement. The Trustees may agree to make decisions by a majority vote or may permit any one of the Trustees to make any decision, undertake any action or execute any documents affecting this Trust without the approval of the remaining Trustees. The Trustees may agree to the allocation of responsibilities in a separate trust agreement or other binding document.

- 12.04** **Annual Valuation.** The Plan assets will be valued at least on an annual basis. The Employer may designate more frequent Valuation Dates under AA §11-1. Notwithstanding any election under AA §11-1, the Trustee and Plan Administrator may agree to value the Trust on a more frequent basis, and/or to perform an interim valuation of the Trust.

- 12.05** **Appointment of Custodian.** The Plan Administrator may appoint a Custodian to hold all or any portion of the Plan assets. A Custodian has the powers, rights and responsibilities similar to those of a Directed Trustee. The Custodian will be protected from any liability with respect to actions taken pursuant to the direction of the Trustee, Plan Administrator, the Employer, an investment manager, or other third party with authority to provide direction to the Custodian. The Employer may enter into a separate agreement with the Custodian. Such separate agreement must be consistent with the responsibilities and obligations set forth in this Plan document.

- 12.06** **Custodial Accounts, Annuity Contracts and Insurance Contracts.** As provided under Code §401(f), a custodial account, an annuity contract or a contract issued by an Insurer is treated as a qualified trust under the Plan if (i) the custodial account or contract would, except for the fact that it is not a trust, constitute a qualified trust under Code §401(a) and (ii) in the case of a custodial account the assets thereof are held by a bank (as defined in Code §408(n)) or another person who demonstrates to the IRS that the manner in which the assets are held are consistent with the requirements of Code §401(a).

No insurance contract will be purchased under the Plan unless such contract or a separate definite written agreement between the Employer and the Insurer provides that no value under contracts providing benefits under the Plan or credits determined by the Insurer (on account of dividends, earnings, or other experience rating credits, or surrender or cancellation credits) with respect to such contracts may be paid or returned to the Employer or diverted to or used for other than the exclusive benefit of the Participants or their Beneficiaries. However, any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the contribution.

If this Plan is funded by individual contracts that provide a Participant's benefit under the Plan, such individual contracts shall constitute the Participant's Account Balance. If this Plan is funded by group contracts, under the group annuity or group insurance contract, premiums or other consideration received by the insurance company must be allocated to Participants' accounts under the Plan.

SECTION 13
PARTICIPANT LOANS

- 13.01 Availability of Participant Loans.** The Employer may elect under Appendix B of the Adoption Agreement to permit Participants to take loans from their vested Account Balance under the Plan. Participant loans may be treated as a segregated investment on behalf of each individual Participant for whom the loan is made or may be treated as a general investment of the Plan. If the Employer elects to permit loans under the Plan, the Employer may elect to use the default loan policy under this Section 13, as modified under Appendix B of the Adoption Agreement, or an outside loan policy for purposes of administering Participant loans under the Plan. If a separate written loan policy is adopted, the terms of such separate loan policy will control over the terms of this Plan with respect to the administration of any Participant loans. Any separate written loan policy must satisfy the requirements under Code §72(p) and the regulations thereunder. All loans are subject to the terms of the Investment Arrangement(s)

To receive a Participant loan, a Participant must sign (including, where applicable, using electronic or other means recognized as sufficient) a promissory note along with a pledge or assignment of the portion of the Account Balance used for security on the loan. The loan will be evidenced by a legally enforceable agreement which specifies the amount and term of the loan, and the repayment schedule.

- 13.02 Must be Available in Reasonably Equivalent Manner.** Participant loans must be made available to Participants in a reasonably equivalent manner. The Employer may elect under AA §B-8 to limit the availability of Participant loans to specified events. For example, the availability of Participant loans may be limited to the occurrence of a hardship event as described in Section 7.10(e)(1)(i).

- 13.03 Loan Limitations.** A Participant loan may not be made to the extent such loan (when added to the outstanding balance of all other loans made to the Participant) exceeds the lesser of:

- (a) \$50,000 (reduced by the excess, if any, of the Participant's highest outstanding balance of loans from the Plan during the one-year period ending on the day before the date on which such loan is made, over the Participant's outstanding balance of loans from the Plan as of the date such loan is made) or
- (b) one-half (½) of the Participant's vested Account Balance, determined as of the Valuation Date coinciding with or immediately preceding such loan, adjusted for any contributions or distributions made since such Valuation Date.

If so elected under AA §B-4, a Participant may take a loan equal to the greater of \$10,000 or 50% of the Participant's vested Account Balance. However, if a Participant takes a loan in excess of 50% of the Participant's vested Account Balance, such loan is still subject to the adequate security requirements under Section 13.06.

In applying the limitations under this Section 13.03, all plans maintained by the Employer are aggregated and treated as a single plan. In addition, any assignment or pledge of any portion of the Participant's interest in the Plan and any loan, pledge, or assignment with respect to any insurance contract purchased under the Plan will be treated as loan under this Section.

- 13.04 Limit on Amount and Number of Loans.** Unless elected otherwise under AA §B-5 and/or AA §B-6, or under a separate written loan policy, a Participant may not receive a Participant loan of less than \$1,000 nor may a Participant have more than one Participant loan outstanding at any time.

- (a) **Loan renegotiation.** Unless designated otherwise under AA §B-14, a Participant may be permitted to renegotiate a loan without violating the one outstanding loan requirement to the extent such renegotiated loan is a new loan (i.e., the renegotiated loan separately satisfies the reasonable interest rate requirement under Section 13.05, the adequate security requirement under Section 13.06, and the periodic repayment requirement under Section 13.07) and the renegotiated loan does not exceed the limitations under Section 13.03 above, treating both the replaced loan and the renegotiated loan as outstanding at the same time. However, if the term of the renegotiated loan does not end later than the original term of the replaced loan, the replaced loan may be ignored in applying the limitations under Section 13.03 above.
- (b) **Participant must be creditworthy.** The Plan Administrator may refuse to make a loan to any Participant who is determined to be not creditworthy. For this purpose, a Participant is not creditworthy if, based on the facts and circumstances, it is reasonable to believe that the Participant will not repay the loan. A Participant who has defaulted on a previous loan from the Plan and has not repaid such loan (with accrued interest) at the time of any subsequent loan will be treated as not creditworthy until such time as the Participant repays the defaulted loan (with accrued interest).

- 13.05 Reasonable Rate of Interest.** All Participant loans will be charged a reasonable rate of interest. Alternative methods for determining a reasonable rate of interest may be identified under AA §B-7 or under a separate written loan policy. The interest rate assumptions must be periodically reviewed to ensure the interest rate charged on Participant loans is reasonable.

If a Participant is in military service while he/she has an outstanding Participant loan, the applicable interest charged on such loan during the period while the Participant is in military service will not exceed 6% per year provided the Participant provides written notice and a copy of his/her call-up or extension orders to the Plan Administrator within 180 days following the Participant's termination or release from military service. For this purpose, military service is as defined in the Soldier's and Sailor's Civil Relief Act of 1940 as modified by the Servicemembers Civil Relief Act of 2003. The Participant may voluntarily waive this 6% interest limitation and the Plan Administrator may petition the court to retain the original interest rate if the ability to repay is not affected by the Participant's activation to military duty.

13.06 **Adequate Security.** All Participant loans must be adequately secured. The Participant's vested Account Balance shall be used as security for a Participant loan provided the outstanding balance of all Participant loans made to such Participant does not exceed 50% of the Participant's vested Account Balance, determined immediately after the origination of each loan. The Plan Administrator may require a Participant to provide additional collateral to receive a Participant loan if the Plan Administrator determines such additional collateral is required to protect the interests of Plan Participants. A separate loan policy or written modifications to this loan policy may prescribe alternative rules for obtaining adequate security.

13.07 **Periodic Repayment.** A Participant loan must provide for level amortization with payments to be made not less frequently than quarterly. A Participant loan must be payable within a period not exceeding five (5) years, unless the loan is for the purchase of the Participant's principal residence, in which case the loan may be payable within ten (10) years or such longer period that is commensurate with the repayment period permitted by commercial lenders for similar loans. Loan repayments must be made through payroll withholding, ACH and/or coupon payment.

(a) **Leave of absence.** A Participant with an outstanding Participant loan may suspend loan payments to the Plan for up to 12 months for any period during which the Participant's pay is insufficient to fully repay the required loan payments. Upon the Participant's return to employment (or after the end of the 12-month period, if earlier), the Participant's outstanding loan will be re-amortized over the remaining period of such loan to make up for the missed payments. The re-amortized loan may extend beyond the original loan term so long as the loan is paid in full by whichever of the following dates comes first:

- (1) the date which is five (5) years from the original date of the loan (or the end of the suspension, if sooner); or
- (2) the original loan repayment deadline (or the end of the suspension period, if later) plus the length of the suspension period.

Alternatively, upon a Participant's return to employment (or after the end of the 12-month period, if earlier), the Plan Administrator may allow the Participant's outstanding loan payments to resume at the same loan payment amount as of the time of the loan suspension, with a balloon payment of the remaining balance due by the earlier of (1) the date which is five (5) years from the original date of the loan (or the end of the suspension, if sooner), or (2) the original loan repayment deadline (or the end of the suspension period, if later) plus the length of the suspension period.

(b) **Military leave.** A Participant with an outstanding Participant loan also may suspend loan payments for any period such Participant is on military leave, in accordance with Code §414(u)(4). Upon the Participant's return from military leave (or the expiration of five years from the date the Participant began his/her military leave, if earlier), loan payments will recommence under the amortization schedule in effect prior to the Participant's military leave, without regard to the five-year maximum loan repayment period. Alternatively, the loan may be re-amortized to require a different level of loan payment, as long as the amount and frequency of such payments are not less than the amount and frequency under the amortization schedule in effect prior to the Participant's military leave.

13.08 **Designation of Accounts.** A Participant loan will be treated as a segregated investment on behalf of the individual Participant for whom the loan is made or may be treated as a general investment of the Plan. Unless designated otherwise under AA §B-9 or under a separate loan procedure, loan amounts may be taken from any available contribution source under the Plan. The Plan Administrator may determine the contribution sources from which a loan is taken or may follow directions of the Participant.

Each payment of principal and interest paid by a Participant on his/her Participant loan shall be credited to the same Participant Accounts and investment funds within such Accounts from which the loan was taken.

13.09 **Procedures for Loan Default.** Except as otherwise provided in the Investment Arrangement and in any loan agreement, and subject to applicable requirements in Code §72(p) and the regulations thereunder, the following loan default provisions will apply. A Participant will be considered to be in default with respect to a loan if any scheduled repayment with respect to such loan is not made by the end of the calendar quarter following the calendar quarter in which the missed payment was due. The Employer may apply a shorter cure period under AA §B-10.

If a Participant defaults on a Participant loan, the Plan may not offset the Participant's Account Balance until the Participant is otherwise entitled to an immediate distribution of the portion of the Account Balance which will be offset and such amount

being offset is available as security on the loan, pursuant to Section 13.06. For this purpose, a loan default is treated as an immediate distribution event to the extent the law does not prohibit an actual distribution of the type of contributions which would be offset as a result of the loan default). The Participant may repay the outstanding balance of a defaulted loan (including accrued interest through the date of repayment) at any time.

Pending the offset of a Participant's Account Balance following a defaulted loan, the following rules apply to the amount in default.

- (a) Interest continues to accrue on the amount in default until the time of the loan offset or, if earlier, the date the loan repayments are made current or the amount is satisfied with other collateral.
- (b) A subsequent offset of the amount in default is not reported as a taxable distribution, except to the extent the taxable portion of the default amount was not previously reported by the Plan as a taxable distribution.
- (c) The post-default accrued interest included in the loan offset is not reported as a taxable distribution at the time of the offset.

A separate loan policy or written modifications to this loan policy may modify the procedures for determining a loan default.

13.10 **Termination of Employment.**

- (a) **Offset of outstanding loan.** If permitted under the Investment Arrangement, the loan agreement and any loan policy and unless elected otherwise under AA §B-12 or if a Participant requests a Direct Rollover as allowed under Section 13.10(b), a Participant loan becomes due and payable in full immediately upon the Participant's termination of employment. Upon a Participant's termination, the Participant may repay the entire outstanding balance of the loan (including any accrued interest) within a reasonable period following termination of employment. If the Participant does not repay the entire outstanding loan balance, the Participant's vested Account Balance will be reduced by the remaining outstanding balance of the loan to the extent such Account Balance is available as security on the loan, pursuant to Section 13.06, and the remaining vested Account Balance will be distributed in accordance with the distribution provisions under Section 7. If the outstanding loan balance of a deceased Participant is not repaid, the outstanding loan balance shall be treated as a distribution to the Participant and shall reduce the death benefit amount payable to the Beneficiary under Section 7.07.
- (b) **Direct Rollover.** Unless elected otherwise under AA §B-13, upon termination of employment, a Participant may request a Direct Rollover of the loan note (provided the distribution is an Eligible Rollover Distribution as defined in Section 7.04(a)(1)) to another qualified plan which agrees to accept a Direct Rollover of the loan note. A Participant may not engage in a Direct Rollover of a loan to the extent the Participant has already received a deemed distribution with respect to such loan. (See the rules regarding deemed distributions upon a loan default under Section 13.09.)

- 13.11 **Mergers, Transfers or Direct Rollovers from another Plan/Change in Loan Record Keeper.** Except as otherwise provided in an Investment Arrangement and related loan agreement, and subject to applicable requirements in Code §72(p) and the regulations thereunder, any Participant loan transferred into the Plan as the result of a merger, consolidation, or plan to plan transfer, or rolled over to the Plan from another plan, shall be administered in accordance with the provisions of the note reflecting such loan, and shall remain outstanding until repaid in accordance with its terms, except that the Participant may be permitted to renegotiate the terms of the loan to the extent necessary to ensure the administration of such loan continues to satisfy the requirements of Code §72(p) and the regulations thereunder. In addition, if there is a change in the person or persons to whom the record keeping of Participant loans has been delegated, a loan shall continue to be administered in accordance with the provisions of the note reflecting such loan, and shall remain outstanding until repaid in accordance with its terms, except that the Participant may be permitted to renegotiate the terms of a loan to the extent necessary to ensure the administration of the loan after the change in the loan record keeper continues to satisfy the requirements of Code §72(p) and the regulations thereunder, regardless of any contrary election under AA §B-14.

- 13.12 **Amendment of Plan to Eliminate Participant Loans.** The Plan may be amended at any time to eliminate Participant loans on a prospective basis. However, the elimination of a Participant loan feature may not result in the acceleration of payment of any existing Participant loans, unless the terms of the Participant loan permit such acceleration.

SECTION 14
PLAN AMENDMENTS, TERMINATION, MERGERS AND TRANSFERS

14.01 **Plan Amendments.**

- (a) **Amendment by the Provider.** The Provider (as described in §4.08 of Revenue Procedure 2017-41 or its successor) may amend any part of the plan. However, for purposes of reliance on an Opinion Letter, the Provider will no longer have the authority to amend the plan on behalf of the Employer as of the date (1) the employer amends the plan to incorporate a type of plan described in §6.03 of Rev. Proc. 2017-41 that is not permitted under the Pre-approved Plan program, or (2) the Internal Revenue Service notifies the employer, in accordance with §8.06(3) of Rev. Proc. 2017-41, that the Plan is an individually designed plan due to the nature and extent of Employer amendments to the Plan.

For purposes of Provider amendments, the Mass Submitter shall be recognized as the agent of the Provider. If the Provider does not adopt the amendments made by the Mass Submitter, it will no longer be identical to or a minor modifier of the Mass Submitter plan.

The Provider will maintain, or have maintained on its behalf, a record of the Employers that have adopted the Plan, and the Provider will make reasonable and diligent efforts to ensure that adopting Employers have actually received and are aware of all Plan amendments and that such Employers adopt new documents when necessary.

- (b) **Amendment by the Employer.** The Employer shall have the right at any time to amend the Adoption Agreement in the following manner without affecting the Plan's status as a Pre-Approved Plan. (The ability to amend the Plan as authorized under this subsection (b) applies only to the Employer that executes the Employer Signature Page of the Adoption Agreement. Any amendment to the Plan by the Employer under this subsection (b) also applies to any other Employer that participates under the Plan as a Participating Employer.)

- (1) The Employer may change any optional selections under the Adoption Agreement.
- (2) The Employer may add overriding language to the Adoption Agreement when such language is necessary to satisfy Code §415 because of the required aggregation of multiple plans.
- (3) The Employer may change the Employer Information in Section 1 of the Adoption Agreement and/or the administrative selections under Appendix C of the Adoption Agreement by replacing the appropriate page(s) within the Adoption Agreement. Such amendment does not require re-execution of the Employer Signature Page of the Adoption Agreement and any such change will not affect the Employer's reliance on the Favorable IRS Letter.
- (4) The Employer may amend administrative provisions of the trust or custodial document, including the name of the Plan, Employer, Trustee or Custodian, Plan Administrator and other fiduciaries, the trust year, and the name of any pooled trust in which the Plan's trust will participate.
- (5) The Employer may add certain sample or model amendments published by the IRS which specifically provide that their adoption will not cause the Plan to be treated as an individually designed plan.
- (6) The Employer may add or change provisions permitted under the Plan and/or specify or change the effective date of a provision as permitted under the Plan.
- (7) The Employer may adopt any amendments that it deems necessary to satisfy the requirements for resolving qualification failures under the IRS' compliance resolution programs.

The Employer may amend the Plan at any time for any other reason. If such amendment is not deemed to be significant, the Plan will not lose its status as a Pre-Approved Plan. However, if the Employer modifies the language of the Plan or Adoption Agreement (other than the completion of optional selections (e.g., Describe lines), the Employer will not be able to rely on the Favorable IRS Letter issued with respect to the Plan and will need to submit the Plan to the IRS for a favorable determination letter to retain reliance. If an amendment to the Plan is deemed significant, such amendment could cause the Plan to lose its status as a Pre-Approved Plan and become an individually designed plan.

- (c) **Method of amendment.** An amendment to the Plan may be adopted as a modification to the Adoption Agreement and/or Basic Plan Document or as a separate snap-on amendment. An amendment to the Plan may be adopted as part of

a properly executed board resolution. Any such amendment must be executed by the board of directors or an authorized representative of the Employer.

- (d) **Effective date of Plan Amendments.** If the Plan is restated or amended, such restatement or amendment is generally effective as of the Effective Date of the restatement or amendment (as designated on the Employer Signature Page with respect to such amendment), except where the context indicates a reference to an earlier Effective Date. The Employer may designate special effective dates for individual provisions under the Plan where provided in the Adoption Agreement or under Appendix A of the Adoption Agreement.
- (1) **Retroactive Effective Date.** If the Plan is amended retroactively (e.g., to add language required to comply with IRS guidance or law), the provisions of this Plan generally override the provisions of any prior Plan. However, if the provisions of this Plan are different from the provisions of the Employer's prior plan and, after the retroactive Effective Date of this Plan, the Employer operated in compliance with the provisions of the prior plan, the provisions of such prior plan are incorporated into this Plan for purposes of determining whether the Employer operated the Plan in compliance with its terms, provided operation in compliance with the terms of the prior plan do not violate any qualification requirements under the Code, regulations, or other IRS guidance.
- (2) **Retroactive effect of certain provisions.** This Plan is designed to comply with the Code, regulations, and general guidance applicable to qualified retirement plans in effect as of the Effective Date of the Plan. Certain provisions of the Plan are retroactively effective as indicated in the specific provisions. If the Plan is being restated within the remedial amendment period for retroactive compliance, the special effective dates for such provisions will apply, even if such special effective dates precede the Effective Date of the restatement designated on the Employer Signature Page of the Adoption Agreement. If the Effective Date of this restatement or amendment is later than the applicable special effective date, such special effective dates will apply and any prior plan being replaced by this Plan will be considered to have been timely amended for the applicable provisions.
- (3) **Merged plans.** Except for retroactive application of the provisions under this subsection (d), if one or more qualified retirement plans have been merged into this Plan, the provisions of the merging plan(s) will remain in full force and effect until the Effective Date of the Plan merger(s), unless provided otherwise under Appendix A of the Adoption Agreement.

14.02 Plan Termination. The Employer may terminate this Plan at any time by delivering to the Trustee and Plan Administrator written notice of such termination.

- (a) **Full and immediate vesting.** Upon a full or partial termination of the Plan (or in the case of a Profit Sharing Plan, the complete discontinuance of contributions), all amounts credited to an affected Participant's Account become 100% vested, regardless of the Participant's vested percentage determined under Section 6.02. The Plan Administrator has discretion to determine whether a partial termination has occurred.
- (b) **Distribution upon Plan termination.** Upon the termination of the Plan, the Plan Administrator shall direct the distribution of Plan assets to Participants in accordance with the provisions under Section 7. For purposes of applying the provisions of this subsection (b), distribution may be delayed until the Employer receives a favorable determination letter from the IRS as to the qualified status of the Plan upon termination, provided the determination letter request is made within a reasonable period following the termination of the Plan. Until all Plan assets have been distributed from the Plan, the Employer must amend the Plan in order to comply with current laws and regulations and may take any other actions necessary to retain the qualified status of the Plan.
- (c) **Missing Participants.** Upon termination of the Plan, if any Participant cannot be located after a reasonable diligent search (as defined in Section 6.10(c)(1)), the Plan Administrator may make a direct rollover to an IRA selected by the Plan Administrator. For this purpose, the Plan Administrator will adopt procedures similar to the procedures required under Section 7.05 for making Automatic Rollovers in applying the provisions under this subsection (c). An Automatic Rollover under this subsection (c) may be made on behalf of any missing Participant, regardless of the value of his/her vested Account Balance under the Plan.
- (d) **Partial Termination.** In determining whether a Plan has experienced a partial termination, the Plan Administrator will apply the principals set forth under IRS Revenue Ruling 2007-43.

14.03 Merger or Consolidation. In the event the Plan is merged or consolidated with another plan, each Participant must be entitled to a benefit immediately after such merger or consolidation that is at least equal to the benefit the Participant was entitled to immediately before such merger or consolidation (had the Plan terminated).

If the Employer amends the Plan from one type of Defined Contribution Plan (e.g., a Money Purchase Plan) into another type of Defined Contribution Plan (e.g., a Profit Sharing Plan) that will not result in a partial termination or any other event that would require full vesting of some or all Plan Participants.

- 14.04** **Transfer of Assets.** Subject to the terms governing the applicable Investment Arrangement, the Plan Administrator may, but is not required to, permit plan-to-plan transfers to and from the Plan.

The Plan Administrator may, but is not required to, accept a transfer of assets from another qualified retirement plan on behalf of any Employee, even if such Employee is not eligible to receive other contributions under the Plan. If a transfer of assets is made on behalf of an Employee prior to the Employee's becoming a Participant, the Employee shall be treated as a Participant for all purposes with respect to such transferred amount. Any assets transferred to this Plan from another plan must be accompanied by written instructions designating the name of each Employee for whose benefit such amounts are being transferred, the current value of such assets, and the sources from which such amounts are derived. The Plan Administrator will deposit any transferred assets in the appropriate Participant's Transfer Account. The Transfer Account will contain any sub-Accounts necessary to separately track the sources of the transferred assets. Each sub-Account will be treated in the same manner as the corresponding Plan Account.

If the Plan is a Profit Sharing Plan or a Grandfathered 401(k) Arrangement and the Plan accepts a transfer of assets from a money purchase plan, the amounts transferred (and any gains attributable to such transferred amounts) continue to be subject to the distribution restrictions applicable to money purchase plan assets under the transferor plan. Such amounts may not be distributed for reasons other than death, disability, attainment of Normal Retirement Age, attainment of age 62, or termination of employment, regardless of any distribution provisions under this Plan that would otherwise permit a distribution prior to such events.

The Plan Administrator may refuse to accept a transfer of assets if the Plan Administrator reasonably believes the transfer (1) is not being made from a proper qualified plan; (2) could jeopardize the tax-exempt status of the Plan; or (3) could create adverse tax consequences for the Plan or the Employer. Prior to accepting a transfer of assets, the Plan Administrator may require evidence documenting that the transfer of assets meets the requirements of this Section. The Trustee will have no responsibility to determine whether the transfer of assets meets the requirements of this Section; to verify the correctness of the amount and type of assets being transferred to the Plan; or to perform a due diligence review with respect to such transfer.

- (a) **Trustee's right to refuse transfer.** If the assets to be transferred to the Plan under this Section 14.04 are not susceptible to proper valuation and identification or are of such a nature that their valuation is incompatible with other Plan assets, the Trustee may refuse to accept the transfer of all or any specific asset, or may condition acceptance of the assets on the sale or disposition of any specific asset.
- (b) **Transfer of Plan to unrelated Employer.** The Employer may not transfer sponsorship of the Plan to an unrelated employer if the transfer is not in connection with a transfer of business assets or operations from the Employer to the unrelated employer.

SECTION 15
MISCELLANEOUS

- 15.01 Exclusive Benefit.** Plan assets will not be used for, or diverted to, a purpose other than the exclusive benefit of Participants or their Beneficiaries.

No amendment may authorize or permit any portion of the assets held under the Plan to be used for or diverted to a purpose other than the exclusive benefit of Participants or their Beneficiaries, except to the extent such assets are used to pay taxes or administrative expenses of the Plan. An amendment also may not cause or permit any portion of the assets held under the Plan to revert to or become property of the Employer.

- 15.02 Return of Employer Contributions.** Upon written request by the Employer, the Trustee may return any Employer Contributions provided that the circumstances and the time frames described below are satisfied. The Trustee may request the Employer to provide additional information to ensure the amounts may be properly returned. Any amounts returned shall not include earnings, but must be reduced by any losses.

- (a) **Mistake of fact.** Any Employer Contributions made because of a mistake of fact must be returned to the Employer within one year of the contribution.
- (b) **Failure to initially qualify.** Employer Contributions to the Plan are made with the understanding, in the case of a new Plan, that the Plan satisfies the qualification requirements of Code §401(a) as of the Plan's Effective Date. In the event that the Internal Revenue Service determines that the Plan is not initially qualified under the Code, any Employer Contributions (and allocable earnings) made incident to that initial qualification must be returned to the Employer within one year after the date the initial qualification is denied, but only if the application for the qualification is made by the time prescribed by law for filing the employer's return for the taxable year in which the Plan is adopted, or such later date as the Secretary of the Treasury may prescribe.

- 15.03 Participants' Rights.** The adoption of this Plan by the Employer does not give any Participant, Beneficiary, or Employee a right to continued employment with the Employer and does not affect the Employer's right to discharge an Employee or Participant at any time. This Plan also does not create any legal or equitable rights in favor of any Participant, Beneficiary, or Employee against the Employer, Plan Administrator or Trustee. Unless the context indicates otherwise, any amendment to this Plan is not applicable to determine the benefits accrued (and the extent to which such benefits are vested) by a Participant or former Employee whose employment terminated before the effective date of such amendment, except where application of such amendment to the terminated Participant or former Employee is required by statute, regulation or other guidance of general applicability. Where the provisions of the Plan are ambiguous as to the application of an amendment to a terminated Participant or former Employee, the Plan Administrator has the authority to make a final determination on the proper interpretation of the Plan.

- 15.04 Military Service.** To the extent required under Code §414(u), an Employee who returns to employment with the Employer following a period of qualified military service will receive any contributions, benefits and service credit required under Code §414(u), provided the Employee satisfies all applicable requirements under the Code and regulations. In determining the amount of contributions under Code §414(u), Plan Compensation will be deemed to be the compensation the Employee would have received during the period while in military service based on the rate of pay the Employee would have received from the Employer but for the absence due to military leave. If the compensation the Employee would have received during the leave is not reasonably certain, Plan Compensation will be equal to the Employee's average compensation from the Employer during the twelve (12) month period immediately preceding the military leave, or, if shorter, the Employee's actual period of employment with the Employer.

- (a) **Death benefits under qualified military service.** In the case of a Participant who dies while performing qualified military service (as defined in Code §414(u)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as though the Participant resumed and then terminated employment on account of death.
- (b) **Benefit accruals.** If elected under AA §11-3, for benefit accrual purposes, the Plan will treat an individual who dies or becomes disabled (as defined under the terms of the Plan) while performing qualified military service (as defined in Code §414(u)) with respect to the Employer, as if the individual has resumed employment in accordance with the individual's reemployment rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA) on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability.
- (1) This subsection (b) shall apply only if all individuals performing qualified military service with respect to the Employer maintaining the Plan who die or became disabled as a result of performing qualified military service prior to reemployment by the employer are credited with service and benefits on reasonably equivalent terms.

- (2) The amount of employee contributions and the amount of elective deferrals of an individual treated as reemployed under this subsection (b) shall be determined on the basis of the individual's average actual employee contributions or elective deferrals for the lesser of:
- (i) the 12-month period of service with the Employer immediately prior to qualified military service; or
 - (ii) if service with the Employer is less than such 12-month period, the actual length of continuous service with the Employer.
- (c) **Plan distributions.** Notwithstanding the provisions regarding the treatment of Differential Pay and unless otherwise elected under AA §10-1(l), an individual may be treated as having been severed from employment during any period the individual is on active duty for a period of at least 30 days while performing service in the Uniformed Services for purposes of receiving a Plan distribution under Code §401(k)(2)(B)(i)(I). If an individual elects to receive a distribution while on military leave, the individual may not make Salary Deferrals or Employee After-Tax Employee Contributions under the Plan during the 6-month period beginning on the date of the distribution. However, a distribution under this provision that is also a Qualified Reservist Distribution is not subject to the 6-month suspension.
- (d) **Make-Up Contributions.** A Participant who is reemployed following a qualified military leave shall have the right to make up any Salary Deferrals or After-Tax Employee Contributions to which he/she would have been entitled but for the fact the Participant was on qualified military leave. To the extent a Participant returning from qualified military leave would have been required to make Employer Pick-Up Contributions, as described in Section 3.03, the Participant will be required to make such Employer Pick-Up Contributions upon his/her return to employment based on the amount that would have been contributed but for the fact the Participant was on qualified military leave. The Employer will also make any Employer Contributions and Matching Contributions the Participant would have earned during the period of qualified military leave had the Participant remained employed during such period. The Employer will only be required to make Matching Contributions if the reemployed Participant makes up the underlying contributions that were eligible for the Matching Contributions.

In determining the amount of Make-Up Contributions a Participant may make under this subsection (d), a Participant will be treated as earning Plan Compensation during the period the Participant was on qualified military leave equal to:

- (1) the rate of pay the Participant would have received from the Employer during such period had the Participant not been on qualified military leave; or
- (2) if the Plan Compensation the Participant would have received during such period was not reasonably certain, the Participant's average Plan Compensation during the 12-month period immediately preceding the qualified military leave (or the entire period of employment, if shorter).

If the Employer is required under this subsection (d) to make Employer Contributions for a reemployed Participant, the Employer must make such Employer Contributions not later than 90 days after the date of reemployment or the date the Employer Contributions are otherwise due for the year in which the military service was performed. For Salary Deferrals and After-Tax Employee Contributions, a Participant who is reemployed following a qualified military leave may make up such contributions during the period beginning on the date of reemployment and ending on the earlier of the date that is three times the length of the military service period or 5 years from the date of reemployment. Any required Matching Contributions must be made in the same manner as other Matching Contributions under the Plan following the Participant's contribution of the amounts eligible for the Matching Contributions.

Any make up contributions under this subsection (d) are subject to the Code §415 Limitation under Section 5.02 and the Elective Deferral Dollar Limitation under Section 5.03 for the year for which the make-up contribution would have been made had the Participant not been on qualified military leave.

- 15.05 Annuity Contract.** Any annuity contract distributed under the Plan must be nontransferable. In addition, the terms of any annuity contract purchased and distributed to a Participant, or to a Participant's Spouse, must comply with all requirements under the Code and regulations thereunder.
- 15.06 Use of IRS Compliance Programs.** Nothing in this Plan document should be construed to limit the availability of the IRS' voluntary compliance programs. An Employer may take whatever corrective actions are permitted under the IRS voluntary compliance programs, as is deemed appropriate by the Plan Administrator or Employer. If the Employer's Plan fails to attain or retain qualification, such Plan will no longer participate in this Volume Submitter Plan and will be considered an individually designed plan.

- 15.07 Governing Law.** The provisions of this Plan shall be construed, administered, and enforced in accordance with the provisions of applicable Federal Law and, to the extent applicable, the laws of the state in which the Trustee has its principal place of business. The foregoing provisions of this Section shall not preclude the Employer and the Trustee from agreeing to a different state law with respect to the construction, administration and enforcement of the Plan.
- 15.08 Waiver of Notice.** Any person entitled to a notice under the Plan may waive the right to receive such notice, to the extent such a waiver is not prohibited by law, regulation or other pronouncement.
- 15.09 Use of Electronic Media.** The Employer, Plan Administrator, Trustee and any other designated individual responsible for providing applicable notices or disclosures under the Plan, and any Participant or beneficiary making an election under the Plan may use telephonic or electronic media to satisfy any notice requirements required by this Plan. Any use of electronic medium under the Plan must comply with the requirements outlined in Treas. Reg. §1.401(a)-21 or other general guidance concerning the use of telephonic or electronic media. The Plan Administrator also may use telephonic or electronic media to conduct plan transactions such as enrolling participants, making (and changing) Salary Deferral Elections, electing (and changing) investment allocations, applying for Plan loans, and other transactions, to the extent permissible under regulations (or other generally applicable guidance).
- 15.10 Severability of Provisions.** In the event that any provision of this Plan shall be held to be illegal, invalid or unenforceable for any reason, the remaining provisions under the Plan shall be construed as if the illegal, invalid or unenforceable provisions had never been included in the Plan.
- 15.11 Binding Effect.** The Plan, and all actions and decisions made thereunder, shall be binding upon all applicable parties, and their heirs, executors, administrators, successors and assigns.

SECTION 16
PARTICIPATING EMPLOYERS

- 16.01 Participation by Participating Employers.** An Employer (other than the Employer that executes the Employer Signature Page of the Adoption Agreement) may elect to participate under this Plan by executing a Participating Employer Adoption Page under the Adoption Agreement. A Participating Employer (including a Related Employer defined in Section 1.83) may not contribute to this Plan unless it (or its authorized representative) executes the Participating Employer Adoption Page.
- 16.02 Participating Employer Adoption Page.**
- (a) **Application of Plan provisions.** By executing a Participating Employer Adoption Page, a Participating Employer adopts all the provisions of the Plan, including the elective choices made by the signatory Employer under the Adoption Agreement. The Participating Employer may elect under the Participating Employer Adoption Page to modify the elective provisions under the Adoption Agreement as they apply to the Participating Employer.
 - (b) **Plan amendments.** In addition, unless provided otherwise under the Participating Employer Adoption Page, a Participating Employer is bound by any amendments made to the Plan in accordance with Section 14.01.
 - (c) **Trustee designation.** The Participating Employer agrees to use the same Trustee as is designated on the Trust Declaration under the Agreement, except as provided in a separate trust agreement.
- 16.03 Compensation of Related Employers.** In applying the provisions of this Plan, Total Compensation (as defined in Section 1.94) includes amounts earned with a Related Employer, regardless of whether such Related Employer executes a Participating Employer Adoption Page. The Employer may elect under AA §5-3(h) to exclude amounts earned with a Related Employer that does not execute a Participating Employer Adoption Page for purposes of determining an Employee's Plan Compensation.
- 16.04 Allocation of Contributions and Forfeitures.** Unless selected otherwise under the Participating Employer Adoption Page, any contributions made by a Participating Employer (and any forfeitures relating to such contributions) will be allocated to all Participants employed by the Employer and Participating Employers in accordance with the provisions under this Plan. A Participating Employer may elect under the Participating Employer Adoption Page to allocate its contributions (and forfeitures relating to such contributions) only to the Participants employed by the Participating Employer making such contributions. If so elected, Employees of the Participating Employer will not share in an allocation of contributions (or forfeitures relating to such contributions) made by any other Participating Employer (except in such individual's capacity as an Employee of that other Participating Employer). Thus, for example, a Participating Employer may make a different discretionary contribution and allocate such contribution only to its Employees. Where contributions are allocated only to the Employees of a contributing Participating Employer, a separate accounting must be maintained of Employees' Account Balances attributable to the contributions of a particular Participating Employer. This separate accounting is necessary only for contributions that are not 100% vested, so that the allocation of forfeitures attributable to such contributions can be allocated for the benefit of the appropriate Employees.
- 16.05 Discontinuance of Participation by a Participating Employer.** A Participating Employer may discontinue its participation under the Plan at any time. To document a Participating Employer's cessation of participation, the following procedures should be followed:
- (a) the Participating Employer should adopt a resolution that formally terminates active participation in the Plan as of a specified date;
 - (b) the Employer that has executed the Employer Signature Page of the Adoption Agreement should re-execute such page, indicating an amendment by page substitution through the deletion of the Participating Employer Adoption Page executed by the withdrawing Participating Employer; and
 - (c) the withdrawing Participating Employer should provide any notices to its Employees that are required by law.
- Discontinuance of participation means that no further benefits accrue after the effective date of such discontinuance with respect to employment with the withdrawing Participating Employer. The portion of the Plan attributable to the withdrawing Participating Employer may continue as a separate plan, under which benefits may continue to accrue, through the adoption by the Participating Employer of a successor plan (which may be created through the execution of a separate Adoption Agreement by the Participating Employer) or by spin-off of the portion of the Plan attributable to such Participating Employer followed by a merger or transfer into another existing plan, as specified in a merger or transfer agreement.
- 16.06 Operational Rules for Related Employer Groups.** If an Employer has one or more Related Employers, the Employer and such Related Employer(s) constitute a Related Employer group. In such case, the following rules apply to the operation of the Plan.

- (a) If the term Employer is used in the context of administrative functions necessary to the operation, establishment, maintenance, or termination of the Plan, only the Employer executing the Employer Signature Page under the Adoption Agreement, and any Related Employer executing a Participating Employer Adoption Page, is treated as the Employer.
- (b) Hours of Service are determined by treating all members of the Related Employer group as the Employer.
- (c) The term Excluded Employee is determined by treating all members of the Related Employer group as the Employer, except as specifically provided in the Plan.
- (d) Compensation is determined by treating all members of the Related Employer group as the Employer, except as specifically provided in the Plan.
- (e) An Employee is not treated as terminated from employment if the Employee is employed by any member of the Related Employer group.
- (f) The Code §415 Limitation described in Section 5.02 is applied by treating all members of the Related Employer group as the Employer.

In all other contexts, the term Employer generally means a reference to all members of the Related Employer group, unless the context requires otherwise. If the terms of the Plan are ambiguous with respect to the treatment of the Related Employer group as the Employer, the Plan Administrator has the authority to make a final determination on the proper interpretation of the Plan.

16.07 Multiple Employer Plans. Regardless of any election under AA §2-6, if an Employer (other than a Related Employer) executes a Participating Employer Adoption Page under the Adoption Agreement, the Plan is treated as a Multiple Employer Plan. Treatment of the Plan as a Multiple Employer Plan will not affect reliance on the Favorable IRS Letter issued to the Provider or any determination letter issued on the Plan.

- (a) **Application of qualification rules to Multiple Employer Plans.** If the Plan is a Multiple Employer Plan, the following qualification rules apply, as applicable to a Governmental Plan.
 - (1) **Eligibility requirements.** If the Plan is a Multiple Employer Plan, the eligibility rules under the Plan are applied as if the Employees of all Employers participating in the Multiple Employer Plan are employed by a single Employer.
 - (2) **Vesting rules.** If the Plan is a Multiple Employer Plan, the vesting rules under the Plan are applied as if the Employees of all Employers participating in the Multiple Employer Plan are employed by a single Employer.
 - (3) **Code §415 Limit.** If the Employer is a Multiple Employer Plan, the Code §415 Limit under the Plan is applied as if the Employees of all Employers participating in the Multiple Employer Plan are employed by a single Employer. Thus, if a Participant receives contributions from more than one Employer within the Multiple Employer Plan, such contributions must be aggregated for purposes of applying the Code §415 Limit. For this purpose, Total Compensation from all Participating Employers may be considered in applying the Code §415 Limit.
 - (4) **Other rules applicable to Multiple Employer Plans.** To the extent not addressed in this Section 16.07, the rules under Code §413(c) and applicable regulations will apply to a Governmental Multiple Employer Plan.
- (b) **Definitions that apply to Multiple Employer Plans.**
 - (1) **Lead Employer.** The signatory Employer under the Adoption Agreement. See subsection (c)(2) below for rules regarding the ability of the Lead Employer to amend the Plan on behalf of Participating Employers.
 - (2) **Participating Employer.** An Employer which, with the consent of the Lead Employer, executes a Participating Employer Adoption Page. To the extent permitted by the Lead Employer, a Participating Employer may modify the selections made by the Lead Employer under the Adoption Agreement. Any modifications made by a Participating Employer may be described as an attachment to the Participating Employer Signature Page for that Participating Employer.
 - (3) **Professional Employer Organization (PEO).** An organization described in Rev. Proc. 2002-21 and any successor legislation or regulation. If the Lead Employer is a PEO, each Participating Employer is a Client Organization as defined in Rev. Proc. 2002-21. Any Employee on the PEO's payroll who receives amounts from the PEO for providing services pursuant to a service agreement between the PEO and the Client Organization shall be deemed to be the Employee of the Client Organization for whom the Employee performs services, and

not of the PEO. Any amounts paid by a PEO to an Employee of a Client Organization shall be treated as paid by the Client Organization for all purposes under the Plan.

- (c) **Special rules for Multiple Employer Plans.** The Lead Employer is the Plan Administrator under the Plan, unless specifically designated otherwise under AA §11-12 or under separate written procedures assigning such responsibilities to another party. The underlying Participating Employers are co-sponsors of the Multiple Employer Plan.
- (1) **Allocation of contributions.** Any contributions (and forfeitures relating to such contributions) made by a Participating Employer will be allocated only to the Participants employed by the Participating Employer making such contributions. By adopting the Plan, a Participating Employer agrees to make any contributions required under the Plan to maintain the qualified status of the Plan.
- (2) **Amendment of Plan document.** The Lead Employer reserves the right to amend the Plan on behalf of all Participating Employers. Each Employer signing a Participating Employer Signature Page shall be bound by the provisions in this Plan document and any selections made under the Adoption Agreement, except to the extent the Participating Employer makes a contrary election under the Adoption Agreement, as set forth under subsection (b)(2) above.
- (i) **Plan amendments.** The Lead Employer shall be responsible for ensuring the Plan is updated for any required amendments. Unless provided otherwise under the Participating Employer Signature Page, a Participating Employer is bound by any amendments made to the Plan by the Lead Employer.
- (ii) **Trustee designation.** The Participating Employer agrees to use the same Trustee as is designated on the Trust Declaration under the Lead Employer Adoption Agreement, except as provided in a separate trust agreement.
- (iii) **Plan termination.** The Lead Employer may terminate this Plan at any time by delivering to the Trustee and each Participating Employer a written notice of such termination.
- (iv) **Execution of Participating Employer Adoption Page.** The Employer that has executed the Employer Signature Page of the Adoption Agreement, or its designated representative, is authorized to sign the Participating Employer Adoption Page on behalf of a Participating Employer to adopt an amendment or subsequent Plan restatement, unless otherwise provided under the Participating Employer Adoption Page.
- (3) **Ability of Lead Employer to Remove Participating Employers.** The Lead Employer may remove any Participating Employer from the Plan if the Participating Employer refuses to correct a qualification defect under the Plan maintained by such Participating Employer. Upon removal from the Plan, the Participating Employer may continue to maintain its portion of the Plan as a single-Employer Plan. Upon removal of a Participating Employer, Employees of such terminated Participating Employer will cease to be eligible to accrue additional benefits under this Plan with respect to Plan Compensation earned on or after the date of termination.

The Lead Employer may develop reasonable administrative procedures outlining the procedures for removing a Participating Employer from the Plan. By adopting this Plan, each Participating Employer authorizes the Lead Employer to exercise the option to remove a Participating Employer from the Plan in accordance with such administrative procedures.

Upon removal of a Participating Employer, the terminated Participating Employer may elect to have the assets associated with Accounts of its Employees to be transferred to a separate Defined Contribution Plan maintained by the terminated Participating Employer consistent with the requirements under Code §414(l). If the Participating Employer does not establish a Defined Contribution Plan to accept the transfer of assets from this Plan, the Lead Employer may establish a new Defined Contribution Plan on behalf of the Participating Employer to which the assets attributable to the Employees of the terminating Participating Employer may be transferred consistent with the requirements under Code §414(l). Any new plan established by the Lead Employer will contain provisions consistent with the selections applicable to the Participating Employer under this Plan. The terminated Participating Employer will be responsible for designating the Trustee of the new Plan. If no such designation is made, the Trustee will be the highest ranking officer or representative of the Employer or such other financial institution designated by the Lead Employer to protect the interests of Plan Participants. Reasonable expenses associated with the establishment of the new plan may be charged to the Accounts of Participants of the terminated Participating Employer.

- (4) **Withdrawal from Plan.** Upon thirty (30) days written notice to the other party, either the Lead Employer or Participating Employer may voluntarily withdraw from the Plan. If a Participating Employer withdraws from the Plan, the Participating Employer may continue to maintain the Plan as a single-Employer Plan. Plan assets

attributable to the Employees of the Participating Employer will be transferred to the Participating Employer's Plan, consistent with the requirements of Code §414(l). No distributions will be permitted from the Plan solely on account of a Participating Employer's withdrawal from the Plan. The withdrawing Employer will bear all reasonable costs associated with the withdrawal and transfer of assets to a new plan. Employees of a withdrawing Employer will cease to be eligible to accrue additional benefits under this Plan with respect to Plan Compensation earned on or after the date of withdrawal. The withdrawal of a Participating Employer from the Plan is not considered a Plan termination which allows distributions to the Participants of the withdrawing Participating Employer.

- (5) **Indemnification of Lead Employer.** Each Participating Employer will indemnify and hold harmless the Plan Administrator, the Lead Employer and its subsidiaries; officers, directors, shareholders, employees, and agents of the Lead Employer; the Plan; the Trustees, Fiduciaries, Participants and Beneficiaries of the Plan, as well as their respective successors and assigns, against any cause of action, loss, liability, damage, cost, or expense of any nature whatsoever (including, but not limited to, attorney's fees and costs, whether or not suit is brought, as well as IRS plan disqualifications, other sanctions or compliance fees) arising out of, or relating to, the Participating Employer's noncompliance with any of the Plan's terms or requirements; any intentional or negligent act or omission the Participating Employer commits with regard to the Plan; and any omission or provision of incorrect information with regard to the Plan which causes the Plan to fail to satisfy the requirements of a tax-qualified plan.

APPENDIX A
ACTUARIAL FACTORS
(For use with age-based contribution formula)

Actuarial Factor Table. The following table sets forth Actuarial Factors based on a testing age of 65, an interest rate of 8.5% and an UP-1984 mortality table. The Actuarial Factors in this table must be modified if the Employer uses a testing age other than age 65 or selects a different interest rate or mortality table under the age-based contribution formula. To determine a Participant's Actuarial Factor, use the factor corresponding to the number of years to the Participant's testing age. The number of years to the testing age is determined by counting the number of years from the last day of the current plan year to the last day of the Plan Year in which the Participant reaches the testing age. If the Participant has reached the testing age as of the last day of the current Plan Year, the number of years is 0 for that year and all subsequent years.

Years to Testing Age	Actuarial Factor		Years to Testing Age	Actuarial Factor
0	0.07949		25	0.01034
1	0.07326		26	0.00953
2	0.06752		27	0.00878
3	0.06223		28	0.00810
4	0.05736		29	0.00746
5	0.05286		30	0.00688
6	0.04872		31	0.00634
7	0.04490		32	0.00584
8	0.04139		33	0.00538
9	0.03814		34	0.00496
10	0.03516		35	0.00457
11	0.03240		36	0.00422
12	0.02986		37	0.00389
13	0.02752		38	0.00358
14	0.02537		39	0.00330
15	0.02338		40	0.00304
16	0.02155		41	0.00280
17	0.01986		42	0.00258
18	0.01831		43	0.00238
19	0.01687		44	0.00219
20	0.01555		45	0.00202
21	0.01433		46	0.00186
22	0.01321		47	0.00172
23	0.01217		48	0.00158
24	0.01122		49	0.00146

**APPENDIX B
INTERIM AMENDMENT #1
FINAL REGULATIONS RELATING TO HARDSHIP DISTRIBUTIONS**

B-1.01 Change in Hardship Distribution requirements. The IRS has issued Final Regulations that amend the rules relating to Hardship distributions from the Plan. This Interim Amendment #1 (Interim Amendment) sets forth the provisions of the Final Regulations and their application to the Plan by amending Section 7.10(e) of the Plan and providing appropriate Elective Provisions under Interim Amendment - Hardship Distributions Elective Provisions in the Adoption Agreement (Elective Provisions). The Plan Administrator shall administer the provisions of this Interim Amendment, and its Elective Provisions, consistent with a good-faith interpretation of the requirements of the Final Regulations as set forth under Treas. Reg. §§1.401(k)-1, 1.401(k)-3 and 1.401(m)-3, as amended.

- (a) **Effective Dates.** Except as otherwise provided in this Interim Amendment, and its Elective Provisions, the Final Regulations and this Interim Amendment apply to Hardship distributions made on or after January 1, 2020. For Hardship distributions made before January 1, 2020, the rules applicable to Hardship distributions prior to the Final Regulations apply, unless the Employer elects earlier application as permitted under subsections (a) and (b) below.
- (1) **Options for earlier application.** If elected under the Elective Provisions, the provisions of this Interim Amendment may be applied to distributions made in Plan Years beginning after December 31, 2018. The Employer may elect to apply the prohibition on the suspension of Salary Deferrals and After-Tax Employee Contributions as of the first day of the first Plan Year beginning after December 31, 2018, even if the Hardship distribution was made in a prior year. In addition, the Employer may operationally apply the revised deemed immediate and heavy financial need expenses under Section 7.10(e)(1) of the Plan, as amended by this Interim Amendment, to distributions made on or after a date as early as January 1, 2018.
- (2) **Certain rules optional in 2019.** If, in accordance with the provisions of Section B-1.01(a)(1) of this Interim Amendment, the Employer applies certain Hardship distribution provisions to distributions made before January 1, 2020, then the Employer may disregard the rules relating to the employee representation, as described under Section 7.10(e)(3)(ii)(B) of the Plan, as amended by this Interim Amendment, and the rules prohibiting the suspension of contributions, as described under Section 7.10(e)(3)(iii) of the Plan, as amended by this Interim Amendment, to such distributions.
- (3) **2020 effective date for employee representations and suspension prohibition.** In any event, the rules relating to the employee representation, as described under Section 7.10(e)(3)(ii)(B) of the Plan, as amended by this Interim Amendment, and the rules prohibiting the suspension of contributions, as described under Section 7.10(e)(3)(iv) of the Plan, as amended by this Interim Amendment, are formally made effective for Hardship distributions made on or after January 1, 2020.

B-2.01 Amendment of Section 7.10(e) of the Plan. Section 7.10(e) of the Plan is deleted and replaced with the following:

- (e) **Hardship distribution.** The Employer may elect under AA §10-1 or AA §10-2 of the Profit Sharing/401(k) Plan Adoption Agreement or under Section HD-1 of the Elective Provisions to authorize an in-service distribution upon the occurrence of Hardship. A distribution is made on account of Hardship only if the distribution both is made on account of an immediate and heavy financial need and is necessary to satisfy the financial need.
- (1) **Deemed immediate and heavy financial need.** A distribution is deemed to be made on account of an immediate and heavy financial need of the Employee if the distribution satisfies one of the following needs:
- (i) Expenses incurred or necessary for medical care (as described in Code §213(d)) of the Participant, the Participant's Spouse or dependents (determined without regard to whether the expenses exceed 7.5% of adjusted gross income);
 - (ii) Costs directly related to the purchase (excluding mortgage payments) of a principal residence for the Participant;
 - (iii) Payment of tuition, related educational fees and room and board for up to the next 12 months of post-secondary education for the Participant, the Participant's Spouse, children or dependents;
 - (iv) Payments necessary to prevent the eviction of the Participant from, or a foreclosure on the mortgage of, the Participant's principal residence;
 - (v) Payments for funeral or burial expenses for the Participant's deceased parent, Spouse, child or dependent;
 - (vi) Expenses for the repair of damage to the Participant's principal residence that would qualify for the

casualty deduction under Code §165 (determined without regard to Code §165(h)(5) and whether the loss exceeds 10% of adjusted gross income);

- (vii) Expenses and losses (including loss of income) incurred by the Participant on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 100-707, provided that the Participant's principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster; or
- (viii) for any other event that the IRS recognizes as a deemed immediate and heavy financial need Hardship distribution event under ruling, notice or other guidance of general applicability.

For purposes of determining eligibility for a Hardship distribution under this subsection (1), a dependent is determined under Code §152. However, the determination of dependent for purposes of tuition and related educational fees under subsection (iii) above will be made without regard to Code §§152(b)(1), (b)(2), and (d)(1)(B) and the determination of dependent for purposes of funeral or burial expenses under subsection (v) above will be made without regard to Code §152(d)(1)(B).

A Participant must provide the Plan Administrator with a written request for a Hardship distribution. The Plan Administrator may require written documentation, as it deems necessary, to sufficiently document the existence of a proper Hardship event.

- (2) **Non-deemed immediate and heavy financial need.** The Employer may elect under in the Profit Sharing/401(k) Plan Adoption Agreement to permit Participants to take a Hardship distribution without satisfying one of the needs in subsection (1) above by setting forth nondiscriminatory and objective standards under AA §10-3(f).
- (3) **Distribution necessary to satisfy financial need.**
 - (i) **Distribution may not exceed amount of need.** A distribution is treated as necessary to satisfy an immediate and heavy financial need of an Employee only to the extent the amount of the distribution is not in excess of the amount required to satisfy the financial need (including any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution).
 - (ii) **No alternative means reasonably available.** A distribution is not treated as necessary to satisfy an immediate and heavy financial need of an employee unless each of the following requirements is satisfied:
 - (A) The Employee has obtained all other currently available distributions (including distributions of ESOP dividends under Code §404(k), but not Hardship distributions) under the Plan and all other plans of deferred compensation, whether qualified or nonqualified, maintained by the Employer;
 - (B) The Employee has provided to the Plan Administrator a representation in writing (including the use of an electronic medium as defined in Treas. Reg. §1.401(a)-21(e)(3)), or in such other form as may be prescribed by the IRS, that he or she has insufficient cash or other liquid assets reasonably available to satisfy the need; and
 - (C) The Plan Administrator does not have actual knowledge that is contrary to the representation.
 - (iii) **Additional conditions.** The Plan generally may provide for additional conditions to demonstrate that a distribution is necessary to satisfy an immediate and heavy financial need of an employee. For example, a plan may provide that, before a Hardship distribution may be made, an Employee must obtain all nontaxable loans (determined at the time a loan is made) available under the Plan and all other plans maintained by the Employer.
 - (iv) **No suspensions allowed for Hardship distributions made on or after January 1, 2020.** The Plan may not provide for a suspension of an Employee's Salary Deferrals or After-Tax Employee Contributions under any plan described in Code §§401(a) or 403(a), any Code §403(b) plan, or any eligible governmental plan described in Treas. Reg. §1.457-2(f) as a condition of obtaining a Hardship distribution for Hardship distributions made on or after January 1, 2020.
- (4) **Sources for Hardship distributions.** For Plan Years beginning after December 31, 2018 (or such later date specified under the AA §10-1 or under §HD-1(a) and/or (b) of Elective Provisions, the Employer may permit Hardship distributions from the vested portion of a Participant's Employer Contribution Account, Matching

Contribution Account, Pre-Tax Salary Deferral Account, Roth Deferral Account, Qualified Nonelective Employer Contribution (QNEC) Account, Qualified Matching Contribution (QMAC) Account, Safe Harbor Employer Contribution Account, Safe Harbor Matching Contribution Account, QACA Safe Harbor Contribution Account and QACA Safe Harbor Matching Contribution Account. The Hardship distribution may include earnings on these Accounts, regardless of when amounts were contributed or earned. The Employer may designate the Accounts (including earnings) from which a Participant may receive a Hardship distribution under §HD-1 of the Elective Provisions. The Plan Administrator may adopt distribution ordering rules consistent with the sources available for Hardship distributions under separate administrative procedures. This subsection (4) supersedes any contrary provisions under the Plan, including any provision that limits the sources for Hardship distribution.

- (5) **Availability to terminated Employees.** If a Hardship distribution is permitted under AA §10-1 or AA §10-2 or under §HD-1 of the Interim Amendment, a Participant may take such a Hardship distribution after termination of employment to the extent no other distribution is available from the Plan.
- (6) **Application of Hardship distributions rules with respect to primary beneficiaries.** If elected under AA §10-3(e) of the Profit Sharing/401(k) Plan, if the Plan otherwise permits Hardship distributions based on the deemed immediate and heavy needs under subsection 7.10(e)(1)(i) (medical expenses), (1)(iii) (educational expenses) or (1)(v) (funeral expenses) above, the existence of an immediate and heavy financial need may be determined with respect to a primary beneficiary under the Plan. For this purpose, a primary beneficiary is an individual who is named as a beneficiary under the Plan and has an unconditional right to all or a portion of a Participant's Account Balance upon the death of the Participant. Any Hardship distribution with respect to a primary beneficiary must satisfy all the other requirements applicable to Hardship distributions under Section 7.10(e) of the Plan, as amended by this Interim Amendment.

B-3.01 Relief for Victims of Certain Qualified Natural Disasters. Notwithstanding other provisions of the Plan, the Employer may operate the Plan to provide relief from certain qualification rules relating to Hardship distributions and loans for Participants who are victims of certain Qualified Natural Disasters, as set forth under applicable IRS or legislative guidance.

B-3.02 Qualified Natural Disasters. For purposes of this section, Qualified Natural Disasters, in addition to the Qualified Natural Disasters listed under the 2017 Pre-Approved Defined Contribution Plan Interim Amendment previously adopted by the Pre-Approved Plan Provider, include Hurricane Michael and Hurricane Florence, as provided under the preamble to the Final Regulations.

B-3.03 General Rules. If the Employer and the Plan Administrator make good-faith efforts to apply the Plan provisions in conformance with the relief provided under applicable guidance, the Plan will not be treated as failing to satisfy the requirements of the Code or regulations. In general, the following rules apply:

- (a) In order to make a loan or distribution (including a Hardship distribution), the Plan must provide for loans or distributions, as applicable.
- (b) Participants (victims) for whom the relief is available are determined under the appropriate IRS or legislative guidance.
- (c) The amount available for Hardship distribution is limited to the maximum amount that would be available for a Hardship distribution under the Plan. However, the relief provided applies to any Hardship distribution of the Participant and no post-distribution contribution restrictions apply.
- (d) To qualify for relief under this section, a Hardship distribution must be made on account of a Hardship resulting from the applicable Qualified Natural Disaster and within the time frame provided under the applicable guidance relating to the Qualified Natural Disaster.
- (e) The Plan will not be treated as failing to follow Plan procedural requirements for loans or distributions during the periods provided under guidance relating to the applicable Qualified Natural Disaster, which for Hurricane Michael and Hurricane Florence ended on March 15, 2019.

APPENDIX C
INTERIM AMENDMENT #2
CARES/SECURE ACTS

C-1.01 Application. To the extent that this Interim Amendment applies to a Plan, it supersedes any contrary provisions under the Plan, except as provided under IA §C-1.02. Unless the Employer wishes to override the pre-selected elections (“defaults”), if any, made by the Provider as elected under the Elective Provisions under Interim Amendment – CARES/SECURE Acts in the Adoption Agreement (“Elective Provisions”), no signature is required by the Employer to adopt this Interim Amendment. This Interim Amendment applies to the Employer and any Participating Employers of the Plan.

The Plan Administrator will interpret the provisions consistent with any current or future guidance related to the applicable provisions. A copy of this amendment will be provided to all adopting Employers and made a part of their Plans.

C-1.02 Prior Amendments. If the Employer previously amended the Plan to implement one or more of the provisions addressed by this Interim Amendment, such amendment(s) shall remain in effect and shall not be superseded, unless otherwise provided under the Elective Provisions. The Employer may use the Elective Provisions to memorialize prior amendments.

If a Provider previously adopted the Provider-level CARES/Disaster Interim Amendment, the provisions of such amendment are also incorporated into this CARES/SECURE Acts Interim Amendment.

C-2.01 Applicable Laws. This Interim Amendment includes provisions that are required or allowed under the following laws:

- (a) Bipartisan American Miners Act of 2019 (“Miners Act”)
- (b) Consolidated Appropriations Act, 2021 (“CAA”)
- (c) Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”)
- (d) COVID-Related Tax Relief Act of 2020 (“CRTRA”)
- (e) Setting Every Community Up for Retirement Enhancement Act of 2019 (“SECURE Act”)
- (f) Taxpayer Certainty and Disaster Tax Relief Act of 2019 (“Disaster Tax Relief Act of 2019”)
- (g) Taxpayer Certainty and Disaster Tax Relief Act of 2020 (“Disaster Tax Relief Act of 2020”)

C-2.02 Application to Cycle 3 Defined Contribution Plans. The Interim Amendment applies to the ASC Institute Cycle 3 Pre-Approved Governmental Defined Contribution Plan. Certain provisions of this Interim Amendment may not be applicable to all types of Plans or a specific adopting Employer.

C-3.01 Coronavirus Aid, Relief, and Economic Security Act. On March 27, 2020, the CARES Act became law. Provisions of the CARES Act may have affected certain Plan provisions. The provisions of the CARES Act were effective at various times, as reflected in the provisions under this section 3. The Plan Administrator administered the provisions of this section 3 consistent with a “good-faith” interpretation of the CARES Act. To the extent this section 3 applies to the Plan, the provisions of this section 3 supersede any inconsistent provisions of the Plan.

C-3.02 Coronavirus-Related Distributions and Loans from the Plan. This IA §C-3.02 incorporates CARES Act §2202 relating to special disaster-related rules for retirement plans. The provisions of this IA §C-3.02 apply only to the extent a distribution or loan was made to a qualified individual as provided under CARES Act §2202. If the Plan did not operationally apply the rules under this IA §C-3.02, such provisions do not apply to the Plan. The Plan Administrator documented through administrative procedures (including designating accounts from which Coronavirus-Related Distributions and loans could have been taken) or otherwise the manner in which the Plan operationally applied the rules under this IA §C-3.02. To the extent this IA §C-3.02 applies to the Plan, the provisions supersede any inconsistent provisions of the Plan or loan program. The Plan administered this IA §C-3.02 consistent with the guidance provided under IRS Notice 2020-50.

(a) **Coronavirus-Related Distributions.** As provided under CARES Act §2202(a), and as amended by CRTRA §280, the Plan (including a money purchase pension plan) could (but was not required to) make Coronavirus-Related Distributions, subject to the limits under IA §C-3.02(a)(4), without regard to certain distribution restrictions otherwise applicable under the Plan.

(1) **Definition of Coronavirus-Related Distribution.** The term Coronavirus-Related Distribution means a distribution from the Plan made:

- (i) on or after January 1, 2020, and before December 31, 2020,

- (ii) to an individual:
 - (A) who was diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (collectively referred to herein as “COVID-19”) by a test approved by the Centers for Disease Control and Prevention, including a test authorized under the Federal Food, Drug, and Cosmetic Act; or
 - (B) whose spouse or dependent (as defined in Code §152) was diagnosed with COVID-19 by such a test; and
 - (C) who experienced adverse financial consequences as a result of:
 - (I) the individual being quarantined, being furloughed or laid off or having work hours reduced due to COVID-19;
 - (II) the individual being unable to work due to lack of childcare due to COVID-19;
 - (III) closing or reducing hours of a business owned or operated by the individual due to COVID-19;
 - (IV) the individual having pay or self-employment income reduced due to COVID-19;
 - (V) the individual having a job offer rescinded or start date for a job delayed due to COVID-19;
 - (VI) the individual’s spouse or a member of the individual’s household (i.e., someone who shares the individual’s principal residence) being quarantined, being furloughed or laid off or having work hours reduced due to COVID-19, being unable to work due to lack of childcare due to COVID-19, having pay or self-employment income reduced due to COVID-19, or having a job offer rescinded or start date for a job delayed due to COVID-19; or
 - (VII) closing or reducing hours of a business owned or operated by the individual’s spouse or a member of the individual’s household due to COVID-19.
- (2) **Amounts not treated as Coronavirus-Related Distributions.** The following amounts were not treated as Coronavirus-Related Distributions:
 - (i) corrective distributions of Elective Deferrals and After-Tax Employee Contributions that were returned to the Employee (together with the income allocable thereto) in order to comply with the Code §415 limitations;
 - (ii) Excess Deferrals under Code §402(g);
 - (iii) Excess Contributions and Excess Aggregate Contributions;
 - (iv) loans that were treated as deemed distributions pursuant to Code §72(p);
 - (v) dividends paid on applicable employer securities under Code §404(k);
 - (vi) the costs of current life insurance protection;
 - (vii) prohibited allocations that were treated as deemed distributions pursuant to §409(p);
 - (viii) distributions that were permissible withdrawals from an Eligible Automatic Contribution Arrangement within the meaning of Code §414(w); and
 - (ix) distributions of premiums for accident or health insurance under Treas. Reg. §1.402(a)-1(e)(1)(i).
- (3) **Employee certification.** The Plan Administrator could have relied on an Employee’s certification that the Employee satisfied the conditions of IA §C-3.02(a)(1) in determining whether any distribution was a Coronavirus-Related Distribution unless the Plan Administrator had actual knowledge to the contrary. The Plan Administrator had no obligation to inquire into whether an individual had satisfied the conditions for a Coronavirus-Related Distribution.

- (4) **Limit on amount of Coronavirus-Related Distributions.** The aggregate amount of Coronavirus-Related Distributions received by an individual for any taxable year (from all plans maintained by the Employer and any member of a controlled group under Code §§414(b), (c), (m) or (o) which included the Employer) could not exceed \$100,000.
- (5) **Repayment of Coronavirus-Related Distribution.** A Participant who received a Coronavirus-Related Distribution from the Plan may, at any time during the three-year period beginning on the day after the receipt of such distribution, make one or more Rollover Contributions to an Eligible Retirement Plan (including this Plan, if the Participant is otherwise eligible to make Rollover Contributions) in an aggregate amount that does not exceed the amount of such Coronavirus-Related Distribution. In accepting a Rollover Contribution under this IA §C-3.02(a)(5), the Plan Administrator is entitled to the relief under Q&A-14 of Treas. Reg. §1.401(a)(31)-1. The Plan Administrator in accepting the Rollover Contribution must reasonably conclude that the recontribution is eligible for direct rollover treatment under CARES Act §2202(a)(3). The Plan Administrator may rely on an Employee's certification that the Employee satisfies the conditions for making such a Rollover Contribution unless the Plan Administrator has actual knowledge to the contrary.
- (6) **Exemption from certain transfer and withholding rules.** For purposes of the Direct Rollover rules of Code §401(a)(31), the notice requirements of Code §402(f) and withholding rules of Code §3405, a Coronavirus-Related Distribution was not treated as an Eligible Rollover Distribution.
- (b) **Special Loan Rules.** As provided under CARES Act §2202(b), the Plan Administrator was authorized (but not required) to revise the applicable loan requirements under the Plan to reflect (1) and/or (2) below. For purposes of this IA §C-3.02(b), a Qualified Individual means any individual who is described in IA §C-3.02(a)(1)(ii) above.
- (1) **Increased Participant loan limits.** Notwithstanding the Participant loan limitations under the Plan, for purposes of determining the permissible Participant loans for Qualified Individuals made during the 180-day period beginning on March 27, 2020, the loan limit under Code §72(p)(2)(A) could have been applied by substituting "\$100,000" for "\$50,000" and the adequate security requirement under Code §72(p)(2)(A)(ii) could have been applied using "the Participant's vested Account Balance" rather than "one-half (1/2) of the Participant's vested Account Balance."
- (2) **Delayed loan repayment date.** If a Qualified Individual had an outstanding Participant loan on or after March 27, 2020:
- (i) if the due date pursuant to Code §§72(p)(2)(B) or (C) for any repayment with respect to such loan occurred during the period beginning on March 27, 2020 and ending on December 31, 2020, such due date could have been delayed for one year;
 - (ii) any subsequent repayments with respect to such loan could have been appropriately adjusted to reflect the delay in the due date under IA §C-3.02(b)(2)(i) above and any interest accrued during such delay; and
 - (iii) in determining the five-year period and the term of the loan under Code §72(p)(2)(B) and (C), the one-year delay period described in IA §C-3.02(b)(2)(i) above could have been disregarded.

C-3.03 Required Minimum Distributions for 2020.

- (a) **Temporary waiver of required minimum distribution rules for 2020.** As provided under Code §401(a)(9)(I), added by CARES Act §2203 and effective as of January 1, 2020 (or such later date designated under the Elective Provisions), the applicable required minimum distribution rules of the Plan did not apply for the 2020 calendar year. A Participant or beneficiary who would have been required to receive a required minimum distribution for the 2020 calendar year (or a Participant with a Required Beginning Date of April 1, 2021 who would have received a required minimum distribution in 2021 for the 2020 calendar year) ("2020 RMD"), but for the enactment of Code §401(a)(9)(I), and who would have satisfied that requirement by receiving a distribution that is either (1) equal to the 2020 RMD, or (2) one or more payments (that include the 2020 RMD) in a series of substantially equal periodic payments made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancies) of the Participant and the Participant's Designated Beneficiary, or for a period of at least 10 years ("2020 Extended RMD"), may have elected whether to receive the 2020 RMD or the 2020 Extended RMD. If a Participant did not specifically elect to take the 2020 RMD or 2020 Extended RMD from the Plan, such distribution was not made for the 2020 calendar year. The Employer may modify this default rule under the Elective Provisions, provided such modification satisfies the requirements under Code §401(a)(9)(I) and any applicable IRS guidance.

In addition, solely for purposes of applying the Direct Rollover provisions of the Plan, certain additional distributions in 2020, as elected by the Employer under the Elective Provisions, were treated as Eligible Rollover Distributions. If no election is made by the Employer in the Elective Provisions, the Plan offered a Direct Rollover only for distributions that were Eligible Rollover Distributions in the absence of Code §401(a)(9)(I).

If all or any portion of a distribution made during 2020 was treated as an Eligible Rollover Distribution, but would not have been treated as such if the applicable required minimum distribution requirements of the Plan had applied during 2020, such distribution could not be treated as an Eligible Rollover Distribution for purposes of the Direct Rollover rules under Code §401(a)(31), Code §402(f) and Code §3405(c).

- (b) **Special rules regarding the temporary waiver of required minimum distribution rules for 2020.** In applying the provisions of the applicable section of the Plan for the 2020 calendar year, the following special rules apply:
- (1) The Required Beginning Date with respect to any individual shall be determined without regard to this IA §C-3.03 for purposes of applying Section 8.12 of the Plan (Section 8 of the Governmental Plan; Section 6.10 of the Owners-Only Plan) for calendar years after 2020;
 - (2) If Code §401(a)(9)(B)(ii) applies, the five-year period described in such provision was determined without regard to the 2020 calendar year;
 - (3) If the Plan permitted a Participant or beneficiary to elect whether the 5-year rule or the life expectancy rule applied in determining required minimum distributions and the election period ended in the 2020 calendar year, the Plan Administrator could have extended the election deadline to the end of 2021;
 - (4) The Plan Administrator and Participants could have applied the transitional relief and special rules under Code §401(a)(9)(I) and IRS Notice 2020-51 relating to the temporary waiver of required minimum distributions for 2020 in any reasonable and consistent manner; and
 - (5) The Employer may describe any special rules that were applicable to the temporary waiver of the required minimum distribution rules for 2020 under the Elective Provisions, provided such special rules are consistent with CARES Act §2203, Code §401(a)(9)(I) and IRS Notice 2020-51.

C-4.01 Consolidated Appropriations Act, 2021. On December 27, 2020, the Disaster Tax Relief Act of 2020 and the CRTRA, which were enacted as part of the Consolidated Appropriations Act, 2021, became law. Provisions of the Disaster Tax Relief Act of 2020 and CRTRA may have affected certain Plan provisions. The provisions of the Disaster Tax Relief Act of 2020 and CRTRA are effective as reflected in the provisions under this section 4. The Plan Administrator administered the provisions of this section 4 consistent with a “good-faith” interpretation of the Disaster Tax Relief Act of 2020 and CRTRA. To the extent this section 4 applies to the Plan, these provisions supersede any inconsistent provisions of the Plan.

C-4.02 Special Disaster-Related Rules. This IA §C-4.02 incorporates the provisions of the Disaster Tax Relief Act of 2020 §302 relating to special disaster-related rules for retirement plans. The provisions of this IA §C-4.02 apply only to the extent a distribution or loan was made to a qualified individual as provided under the Disaster Tax Relief Act of 2020 §302. If the Plan did not operationally apply the rules under this IA §C-4.02, such provisions do not apply to the Plan. The Plan Administrator documented through administrative procedures (including designating accounts from which special disaster-related distributions and loans could have been taken) or otherwise the manner in which the Plan operationally applied the rules under this IA §C-4.02. To the extent this IA §C-4.02 applies to the Plan, these provisions supersede any inconsistent provisions of the Plan or loan program.

- (a) **Eligibility for Qualified Disaster Distribution.** If administratively permitted by the Plan Administrator, a Participant could have taken a Qualified Disaster Distribution without regard to any distribution restrictions otherwise applicable under the Plan.
- (1) **Definitions.**
- (i) **Qualified Disaster Distribution.** A Qualified Disaster Distribution (as defined under the Disaster Tax Relief Act of 2020 §302(a)(4)(A)) is a distribution from the Plan made:
 - (A) on or after the first day of the Incident Period of a Qualified Disaster and before June 25, 2021; and
 - (B) to an individual whose principal place of abode at any time during the Incident Period of such Qualified Disaster was located in the Qualified Disaster Area with respect to such Qualified Disaster and who had sustained an economic loss by reason of such Qualified Disaster.

- (ii) **Qualified Disaster Area.** A Qualified Disaster Area is any area with respect to which a major disaster was declared, during the period that began on January 1, 2020, and ended on February 25, 2021, by the President under Robert T. Stafford Disaster Relief and Emergency Assistance Act §401 if the Incident Period of the disaster with respect to which such declaration was made began on or after December 28, 2019, and ended on or before December 27, 2020. Such term did not include any area with respect to which such a major disaster had been so declared only by reason of COVID-19.
- (iii) **Qualified Disaster.** A Qualified Disaster is, with respect to any Qualified Disaster Area, the disaster by reason of which a major disaster was declared with respect to such area.
- (iv) **Incident Period.** An Incident Period is, with respect to any Qualified Disaster, the period specified by the Federal Emergency Management Agency as the period during which such disaster occurred (except that such period shall not be treated as ending after January 26, 2021).
- (2) **Limit on amount of Qualified Disaster Distributions.** The aggregate amount of Qualified Disaster Distributions received by an individual for any taxable year (from all plans maintained by the Employer and any member of a controlled group which included the Employer) could not have exceeded the excess (if any) of \$100,000, over the aggregate amounts treated as Qualified Disaster Distributions received by such individual for all prior taxable years.
- (3) **Qualified Disaster Distributions treated as meeting certain Plan distribution requirements.** A Qualified Disaster Distribution is treated as meeting the requirements of Code §401(k)(2)(B)(i) and, in the case of a money purchase pension plan, a Qualified Disaster Distribution which was an in-service withdrawal is treated as meeting the distribution rules under Code §401(a).
- (b) **Repayment of Qualified Disaster Distribution.** As provided under the Disaster Tax Relief Act of 2020 §302(a)(3), a Participant who received a Qualified Disaster Distribution from the Plan or another Eligible Retirement Plan (as defined in Code §402(c)(8)(B)) may, at any time during the three-year period beginning on the day after the receipt of such distribution, make one or more Rollover Contributions to the Plan in an aggregate amount that does not exceed the amount of such Qualified Disaster Distribution. This IA §C-4.02(b) only applies if the Plan permits Rollover Contributions.
- (c) **Recontributions of Withdrawals for Home Purchases.** As provided under the Disaster Tax Relief Act of 2020 §302(b), a Participant who received a Qualified Disaster Distribution may make one or more Rollover Contributions to the Plan during the applicable period in an aggregate amount not to exceed the amount of such Qualified Disaster Distribution. For this purpose, a Qualified Disaster Distribution is any Hardship Distribution which was to be used to purchase or construct a principal residence in a Qualified Disaster Area, but which was not so used on account of the Qualified Disaster with respect to such area, and which was received during the period beginning on the date which is 180 days before the first day of the Incident Period of such Qualified Disaster and ending on the date which is 30 days after the last day of such Incident Period. This IA §C-4.02(c) only applies if the Plan permits Rollover Contributions.
- (d) **Special Loan Rules.** As provided under the Disaster Tax Relief Act of 2020 §302(c), the Plan Administrator could (but was not required to) revise the applicable loan requirements under the Plan to reflect IA §C-4.02(d)(1) and §C-4.02(d)(2).
- (1) **Increased Participant loan limits.** Notwithstanding the Participant loan limitations under the Plan, for purposes of determining the permissible Participant loans for a Qualified Individual during the 180-day period beginning on December 27, 2020, the loan limit under Code §72(p)(2)(A) could have been applied by substituting “\$100,000” for “\$50,000” and the adequate security requirement under Code §72(p)(2)(A)(ii) could have been applied using “the Participant’s vested Account Balance” rather than “one-half (½) of the Participant’s vested Account Balance.” A Qualified Individual for this purpose was any Participant whose principal place of abode at any time during the Incident Period of any Qualified Disaster was located in the Qualified Disaster Area with respect to such Qualified Disaster, and who had sustained an economic loss by reason of such Qualified Disaster.
- (2) **Delayed loan repayment date.** If a Qualified Individual (as defined in IA §C-4.02(d)(1) above) had an outstanding Participant loan on or after the first day of the Incident Period of a Qualified Disaster and ending on the date which is 180 days after the last day of the Incident Period:
 - (i) the due date for repayment of the Participant loan could have been delayed for one year;
 - (ii) any subsequent repayments with respect to such loan could have been appropriately adjusted to reflect the delay in the due date under IA §C-4.02(d)(2)(i) and any interest accruing during such delay; and

- (iii) in determining the five-year period and the term of the loan under Code §72(p)(2)(B) and (C), the one-year delay period described in IA §C-4.02(d)(2)(i) could have been disregarded.

C-4.03 Temporary Rule Preventing Partial Plan Termination. Under the Disaster Tax Relief Act of 2020 §209, the Plan was not be treated as having a partial termination (within the meaning of Code §411(d)(3)) during any Plan Year which included the period that began on March 13, 2020, and ended on March 31, 2021, if the number of active Participants covered by the Plan on March 31, 2021 was at least 80% of the number of active Participants covered by the Plan on March 13, 2020. This IA §C-4.03 does not apply to Governmental Plans or non-electing church plans, which are exempt from the requirements of Code §411. In applying this temporary rule, the following special rules apply:

- (a) A reasonable, good-faith interpretation of the term “active participant covered by the plan,” applied in a consistent manner, was used when determining the number of active participants covered by a plan on March 13, 2020 and on March 31, 2021.
- (b) If any part of the Plan Year fell within the period that began on March 13, 2020, and ended on March 31, 2021, then the temporary rules preventing partial plan termination applied to any partial plan termination determination for that entire plan year. For example, if the Plan had a calendar year Plan Year, the 80% partial termination test under the temporary rule applied to both the January 1 to December 31, 2020 Plan Year and the January 1 to December 31, 2021 Plan Year, because both Plan Years included a part of the statutory determination period of March 13, 2020 to March 31, 2021.
- (c) The number of active participants covered by the Plan who were counted on March 31, 2021, included all individuals who were active Participants covered by the Plan on that date, regardless of whether those same individuals were active Participants covered by the Plan on March 13, 2020.
- (d) The Plan Administrator could reasonably interpret the application of this IA §C-4.03 to the Plan.

C-4.04 Coronavirus-Related Distributions in Money Purchase Pension Plans and Money Purchase Pension Assets. Under CRTRA §280, a Coronavirus-Related Distribution as described in IA §C-3.02, if made from a money purchase pension plan or related assets, and which is an in-service withdrawal, is treated as meeting the distribution rules under Code §401(a). If the Plan Administrator allowed Coronavirus-Related Distributions, the rules under IA §C-3.02 apply.

C-5.01 SECURE Act, Miners Act and Disaster Tax Relief Act of 2019. On December 20, 2019, the Further Consolidated Appropriations Act, 2020, which includes the SECURE Act, the Miners Act and the Disaster Tax Relief Act of 2019 became law. The provisions of these three Acts are effective at various times, as reflected in the provisions under this section 5. The Plan Administrator shall administer the provisions of this section 5 consistent with a “good-faith” interpretation of these laws.

C-5.02 Modification of Required Minimum Distribution Rules.

- (a) **Increase in age for Required Beginning Date for mandatory distributions.** As provided under Code §401(a)(9)(C)(i)(I) as amended by SECURE Act §114, effective for distributions required to be made after December 31, 2019, with respect to Participants who attain age 70½ after such date, all references to “age 70½” under the applicable required minimum distribution provisions of the Plan are replaced with “age 72.” For purposes of determining required minimum distributions for calendar years beginning on or after January 1, 2022 (or such later date as specified in applicable regulations or guidance), the Plan Administrator must apply the provisions of this IA §C-5.02(a) consistent with proposed Treas. Reg §§1.401(a)(9)-1 through 1.401(a)(9)-9 issued on February 24, 2022 (or subsequent applicable final regulations).
- (b) **Modifications of required minimum distribution rules for Designated Beneficiaries.** As provided under Code §401(a)(9)(H) as amended by SECURE Act §401, effective for distributions with respect to Participants who die after December 31, 2019 (or such later effective date applicable to the Plan), the required minimum distribution rules of the Plan must be administered consistent with the following rules as provided under SECURE Act §401. (See IA §C-5.02(b)(1)(v) for effective date rules applicable to plans maintained pursuant to a collective bargaining agreement and for Governmental Plans.) For purposes of determining required minimum distributions for calendar years beginning on or after January 1, 2022 (or such later date as specified in applicable final regulations or guidance), the Plan Administrator must apply the provisions of this IA §C-5.02(b) consistent with proposed Treas. Reg §§1.401(a)(9)-1 through 1.401(a)(9)-9 issued on February 24, 2022 (or subsequent applicable final regulations or guidance).
- (1) **10-year rule.** As provided under Code §401(a)(9)(H)(i), if a Participant dies before the distribution of the Participant’s entire vested Account Balance (regardless of whether the Participant dies before, on or after beginning required minimum distributions under the Plan), the entire vested Account Balance of the Participant will be distributed by the end of the calendar year that includes the 10th anniversary of the date of the Participant’s death. This is referred to as the “10-year rule.”

- (i) **Exception to 10-year rule for Eligible Designated Beneficiaries.** As provided under Code §401(a)(9)(H)(ii) and Code §401(a)(9)(B)(iii), if any portion of the Participant's interest is payable to an Eligible Designated Beneficiary, such portion may be distributed (in accordance with applicable regulations) over the life of such Eligible Designated Beneficiary (or over a period not extending beyond the life expectancy of such Eligible Designated Beneficiary), provided such distribution begins not later than one year after the date of the Participant's death (except as provided under Code §401(a)(9)(B)(iv) relating to a surviving spouse) or such later date as the Secretary of Treasury may prescribe by regulations. This is referred to as the "life expectancy rule." If the conditions of this exception are not satisfied, the 10-year rule under IA §C-5.02(b)(1) applies.
- (ii) **Elective provisions for Eligible Designated Beneficiaries.** Unless the Employer elects otherwise under the Elective Provisions, required minimum distributions under the Plan to an Eligible Designated Beneficiary when the Participant dies prior to the Required Beginning Date shall be made by applying the pre-SECURE Act elections under the Cycle 3 plan document (including the default election if the Employer made no actual elections in the Cycle 3 plan document), except that the 10-year rule under IA §C-3.02(b)(1) shall be substituted for the pre-SECURE Act 5-year rule as appropriate. For example, if the pre-SECURE Act Plan allowed the Participant or Designated Beneficiary to elect between the life expectancy rule and the 5-year rule prior to the SECURE Act effective date, then the Plan allows the Eligible Designated Beneficiary to elect between the life expectancy rule and the 10-year rule on or after the SECURE Act effective date.
- Alternatively, the Employer may elect under the Elective Provisions to (1) apply the life expectancy rule, (2) apply the 10-year rule (including a fixed number of years than less than 10), or (3) allow the Participant or the Eligible Designated Beneficiary to elect whether the 10-year rule or the life expectancy rule applies. If the Participant or Eligible Designated Beneficiary is allowed to elect whether the life expectancy rule or the 10-year rule applies and such Participant or Eligible Designated Beneficiary does not timely make such an election, then the Employer must elect under the Elective Provisions whether the life expectancy rule or the 10-year rule applies.
- (A) **Timing of election.** Any Participant or Eligible Designated Beneficiary election permitted under this IA §C-5.02(b)(1)(ii) must be made no later than the end of the earlier of the calendar year by which distributions must be made in order to satisfy the 10-year rule and the calendar year in which distributions would be required to begin in order to satisfy the requirements of the life expectancy rule or, if applicable, by the time of the permitted delay if the surviving Spouse is the sole beneficiary as provided under Code §401(a)(9)(B)(iv).
- (B) **Irrevocable election.** If a Participant or Eligible Designated Beneficiary elects under this IA §C-5.02(b)(1)(ii) to apply either the 10-year rule or the life expectancy rule, then, as of the last date the election may be made, the election is irrevocable with respect to the Eligible Designated Beneficiary (and all subsequent Designated Beneficiaries) and applies to all subsequent calendar years.
- (iii) **Rules upon death of an Eligible Designated Beneficiary.** Generally, if an Eligible Designated Beneficiary dies before the Participant's entire vested Account Balance is distributed, the exception under IA §C-5.02(b)(1)(i) above shall not apply to any beneficiary of such Eligible Designated Beneficiary and the remainder of such portion shall be distributed by the end of the 10th calendar year following the calendar year of the death of such Eligible Designated Beneficiary.
- (iv) **Special rule in case of certain trusts for disabled or chronically ill Eligible Designated Beneficiary.** The Plan may apply the special rules for certain "applicable multi-beneficiary trusts" as described under Code §§401(a)(9)(H)(iv) and (v), as added by SECURE Act §401.
- (v) **Special effective date rules.**
- (A) **Collective bargaining agreements.** In the case of a Plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more Employers that were ratified before December 20, 2019, the amendments to Code §§401(a)(9)(E) and (H) and under this IA §C-5.02(b) apply to distributions with respect to Employees who die in calendar years beginning after December 31, 2021, or if earlier, the later of: (1) the date on which the last of the collective bargaining agreements terminated (without regard to any extension of the agreement to which the parties agree) on or after December 20, 2019, or (2) December 31, 2019.

- (B) **Governmental Plans.** In the case of a Governmental Plan, the amendments to Code §§401(a)(9)(E) and (H) and this IA §C-5.02(b) apply to distributions with respect to Employees who die after December 31, 2021.

(2) **Definitions for purposes of this IA §C-5.02(b).**

- (i) **Designated Beneficiary.** The term Designated Beneficiary means any individual designated as a beneficiary by the Participant or under the terms of the Plan.
- (ii) **Eligible Designated Beneficiary.** The term Eligible Designated Beneficiary means, with respect to any Participant, any Designated Beneficiary who is:
- (A) the surviving Spouse of the Participant;
- (B) subject to IA §C-5.02(b)(2)(iii) below, a child of the Participant who has not reached age 21;
- (C) disabled (within the meaning of Code §72(m)(7));
- (D) a chronically ill individual (within the meaning of Code §7702B(c)(2), except that the requirements of Code §7702B(c)(2)(A)(i) thereof shall only be treated as met if there is a certification that, as of such date, the period of inability described in such subparagraph with respect to the individual is an indefinite one which is reasonably expected to be lengthy in nature);
- (E) an individual not described in any of the preceding subclauses who is not more than 10 years younger than the Participant; or
- (F) a Designated Beneficiary of a Participant if the Participant died before the effective date of Code §401(a)(9)(H) described in Prop. Treas. Reg. §1.401(a)(9)-1(b)(2)(i) and (ii), whichever applies to the Plan (or as provided under applicable final regulations).

The determination of whether a Designated Beneficiary is an Eligible Designated Beneficiary shall be made as of the date of death of the Participant.

- (iii) **Special rules for children.** An individual described in IA §C-5.02(b)(2)(ii)(B) above shall cease to be an Eligible Designated Beneficiary as of the date the individual reaches age 21 and any remainder of the portion of the individual's interest to which Code §401(a)(9)(H)(ii) applies shall be distributed under the 10-year rule.

C-5.03 Prohibition from Making Loans Through Credit Cards. As provided under SECURE Act §108, effective for Participant loans made after December 20, 2019, a Plan may not make any Participant loan through any credit card or any other similar arrangement.

C-5.04 Special Disaster-Related Distributions and Loans. This IA §C-5.04 incorporates the provisions of the Disaster Tax Relief Act of 2019 §202 relating to special disaster-related rules for retirement plans. The provisions of this IA §C-5.04 apply only to the extent a distribution or loan was made to a qualified individual as provided under the Disaster Tax Relief Act of 2019 §202. If the Plan did not operationally apply the rules under this IA §C-5.04, such provisions do not apply to the Plan. The Plan Administrator documented through administrative procedures (including designating accounts from which special disaster-related distributions and loans could have been taken) or otherwise the manner in which the Plan operationally applied the rules under this IA §C-5.04. To the extent this IA §C-5.04 applies to the Plan, these provisions supersede any inconsistent provisions of the Plan or loan program.

- (a) **Eligibility for a Qualified Disaster Distribution.** If administratively permitted by the Plan Administrator, a Participant could have taken a Qualified Disaster Distribution without regard to any distribution restrictions otherwise applicable under the Plan.

(1) **Definitions.**

- (i) **Qualified Disaster Distribution.** A Qualified Disaster Distribution (as defined under the Disaster Tax Relief Act of 2019 §202(a)(4)(A)) is a distribution from the Plan made:
- (A) on or after the first day of the Incident Period of a Qualified Disaster and before June 17, 2020; and

- (B) to an individual whose principal place of abode at any time during the Incident Period of such Qualified Disaster was located in the Qualified Disaster Area with respect to such Qualified Disaster and who had sustained an economic loss by reason of such Qualified Disaster.
- (ii) **Qualified Disaster Area.** A Qualified Disaster Area is any area with respect to which a major disaster was declared, during the period that began on January 1, 2018, and ended on February 18, 2020, by the President under Robert T. Stafford Disaster Relief and Emergency Assistance Act §401 if the Incident Period of the disaster with respect to which such declaration was made began on or before December 20, 2019. Such term did not include the California wildfire disaster (as defined in §20101 of subdivision 2 of division B of the Bipartisan Budget Act of 2018).
- (iii) **Qualified Disaster.** A Qualified Disaster is, with respect to any Qualified Disaster Area, the disaster by reason for which a major disaster was declared with respect to such area.
- (iv) **Incident Period.** An Incident Period is, with respect to any Qualified Disaster, the period specified by the Federal Emergency Management Agency as the period during which such disaster occurred (except that such period shall not be treated as ending after January 19, 2020).
- (2) **Limit on amount of Qualified Disaster Distributions.** The aggregate amount of Qualified Disaster Distributions received by an individual for any taxable year (from all plans maintained by the Employer and any member of a controlled group which included the Employer) could not have exceeded the excess (if any) of \$100,000, over the aggregate amounts treated as Qualified Disaster Distributions received by such individual for all prior taxable years. This limitation was applied separately with respect to distributions made due to each Qualified Disaster.
- (3) **Qualified Disaster Distributions treated as meeting certain Plan distribution requirements.** A Qualified Disaster Distribution under the Plan is treated as meeting the requirements of Code §401(k)(2)(B)(i).
- (b) **Repayment of a Qualified Disaster Distribution.** As provided under the Disaster Tax Relief Act of 2019 §202(a)(3), a Participant who received a Qualified Disaster Distribution from the Plan or another Eligible Retirement Plan (as defined in Code §402(c)(8)(B)) may, at any time during the three-year period beginning on the day after the receipt of such distribution, make one or more Rollover Contributions to the Plan in an aggregate amount that does not exceed the amount of such Qualified Disaster Distribution. This IA §C-5.04(b) only applies if the Plan permits Rollover Contributions.
- (c) **Recontributions of Withdrawals for Home Purchases.** As provided under the Disaster Tax Relief Act of 2019 §202(b), a Participant who received a Qualified Disaster Distribution may make one or more Rollover Contributions to the Plan during the applicable period in an aggregate amount not to exceed the amount of such Qualified Disaster Distribution. For this purpose, a Qualified Disaster Distribution is any Hardship Distribution which (1) was to be used to purchase or construct a principal residence in a Qualified Disaster Area, but was not so used on account of the Qualified Disaster with respect to such area, and (2) was received during the period beginning on the date which is 180 days before the first day of the Incident Period of such Qualified Disaster and ending on the date which is 30 days after the last day of such Incident Period. This IA §C-5.04(c) only applies if the Plan permits Rollover Contributions.
- (d) **Special Loan Rules.** As provided under the Disaster Tax Relief Act of 2019 §202(c), the Plan Administrator could (but was not required to) revise the applicable loan requirements under the Plan to reflect IA §C-5.04(d)(1) and/or IA §C-5.04(d)(2).
- (1) **Increased Participant loan limits.** Notwithstanding the Participant loan limitations under the Plan, for purposes of determining the permissible Participant loans for a Qualified Individual during the 180-day period beginning on December 20, 2019, the loan limit under Code §72(p)(2)(A) could have been applied by substituting “\$100,000” for “\$50,000” and the adequate security requirement under Code §72(p)(2)(A)(ii) could have been applied using “the Participant’s vested Account Balance” rather than “one-half (½) of the Participant’s vested Account Balance.” A Qualified Individual for this purpose was any Participant whose principal place of abode at any time during the Incident Period of any Qualified Disaster was located in the Qualified Disaster Area with respect to such Qualified Disaster, and who had sustained an economic loss by reason of such Qualified Disaster.
- (2) **Delayed loan repayment date.** If a Qualified Individual (as defined in IA §C-5.04(d)(1)) had an outstanding Participant loan on or after the first day of the Incident Period of a Qualified Disaster and that ended on the date which was 180 days after the last day of the Incident Period:
- (i) the due date for repayment of the Participant loan could have been delayed for one year;

- (ii) any subsequent repayments with respect to such loan could have been appropriately adjusted to reflect the delay in the due date under IA §C-5.04(d)(2)(i) and any interest accruing during such delay; and
- (iii) in determining the five-year period and the term of the loan under Code §§72(p)(2)(B) and (C), the one-year delay period described in IA §C-5.04(d)(2)(i) could have been disregarded.

C-5.05 Elimination of Notice Requirement for Nonelective Safe Harbor 401(k) Plans. As provided under SECURE Act §103(a) and consistent with IRS Notice 2020-86, effective for Plan Years beginning after December 31, 2019, the annual safe harbor notice requirements of the Plan do not apply to a Safe Harbor 401(k) Plan that satisfies the requirements of Code §401(k)(12) by providing Traditional Safe Harbor Employer Contributions (as defined under Section 1.144 of the Plan) or the requirements of Code §401(k)(13) by providing QACA Safe Harbor Employer Contributions (as defined under Section 1.109). However, a Safe Harbor 401(k) Plan must provide each Eligible Employee with an effective opportunity to make or change an election to make Salary Deferrals at least once each Plan Year.

- (a) **Special rules applicable to the elimination of the notice requirement if the Plan provides for Traditional Safe Harbor Employer Contributions.** If the Plan provides for Traditional Safe Harbor Employer Contributions, the following special rules apply:
 - (1) If the Plan intends to satisfy the deemed compliance with the ACP test rules under Section 6.04(i) of the Plan and Code §401(m)(11)(A), the Plan must continue to satisfy the annual notice requirements under Section 6.04(a)(4) of the Plan. However, if the Plan does not intend to satisfy the deemed compliance with the ACP test rules (and thus performs the ACP test), then the annual notice requirements under Section 6.04(a)(4) of the Plan do not apply.
 - (2) All other applicable notice requirements under the Plan continue to apply;
 - (3) The notice requirements under Treas. Reg. §§1.401(k)-3(g)(1)(ii)(A)(2) and 1.401(m)-3(h)(1)(ii)(A)(2) relating to the possible mid-year reduction or suspension of Traditional Safe Harbor Employer Contributions continue to apply;
 - (4) If the Plan adopts an amendment to reduce or suspend Traditional Safe Harbor Employer Contributions during a Plan Year and later readopts an amendment to provide the Traditional Safe Harbor Employer Contributions for the entirety of such Plan Year, the Plan is not required to satisfy the ADP test or the ACP test (as applicable) for the Plan Year and is not subject to the top-heavy rules under Code §416 for such Plan Year; and
 - (5) The contingent and supplemental notice requirements under the retroactive plans amendment requirements of Code §401(k)(12)(F) and as discussed under Section 6.04(a)(4)(iii) do not apply, unless the Plan intends to qualify as a safe harbor design as set forth under Code §401(m)(11) (i.e., deemed compliance with the ACP test).
- (b) **Special rules applicable to the elimination of the notice requirement if the Plan provides for QACA Safe Harbor Employer Contributions.** If the Plan provides for QACA Safe Harbor Employer Contributions, the following special rules apply:
 - (1) Even if the Plan intends to satisfy the deemed compliance with the ACP test rules under Section 6.04(i) of the Plan and Code §401(m)(11)(A), the Plan is not required to satisfy the annual notice requirements under Section 6.04(b)(5) of the Plan. If the Plan does not intend to satisfy the deemed compliance with the ACP test rules (and thus performs the ACP test), then the annual notice requirements under Section 6.04(a)(4) of the Plan do not apply.
 - (2) All other applicable notice requirements under the Plan continue to apply.
 - (3) The notice requirements under Treas. Reg. §§1.401(k)-3(g)(1)(ii)(A)(2) and 1.401(m)-3(h)(1)(ii)(A)(2) relating to the possible mid-year reduction or suspension of QACA Safe Harbor Employer Contributions continue to apply.
 - (4) If the Plan adopts an amendment to reduce or suspend QACA Safe Harbor Employer Contributions during a Plan Year and later readopts an amendment to provide the QACA Safe Harbor Employer Contributions for the entirety of such Plan Year, the Plan is not required to satisfy the ADP test or the ACP test (as applicable) for the Plan Year and is not subject to the top-heavy rules under Code §416 for such Plan Year.
 - (5) The contingent and supplemental notice requirements under the retroactive plans amendment rules of Treas. Reg. §1.401(k)-3(f) do not apply.

C-5.06 Delay in Adopting Provisions for Nonelective Safe Harbor 401(k) Plan as Provided under SECURE Act §§103(b) and (c).

- (a) **Amendment into a 3% nonelective Safe Harbor 401(k) Plan.** Effective for Plan Years beginning after December 31, 2019, an Employer may amend the Plan at any time before the 30th day before the close of the Plan Year to satisfy the requirements of a Safe Harbor 401(k) Plan by making a Traditional Safe Harbor Employer Contribution of at least 3% of Plan Compensation or a QACA Safe Harbor Employer Contribution of at least 3% of Plan Compensation, as applicable. The Employer may designate the percentage of Plan Compensation and the Plan Year for which the Plan is intended to be a Safe Harbor 401(k) Plan under the Elective Provisions.
- (b) **Amendment into a 4% nonelective Safe Harbor 401(k) Plan.** Effective for Plan Years beginning after December 31, 2019, an Employer may amend the Plan to satisfy the requirements of a Safe Harbor 401(k) Plan by making Traditional Safe Harbor Employer Contributions or QACA Safe Harbor Employer Contributions, as applicable, after the 30th day before the close of the Plan Year if (1) the Plan is amended to provide for a Traditional Safe Harbor Employer Contribution of at least 4% of Plan Compensation or a QACA Safe Harbor Employer Contribution of at least 4% of Plan Compensation, as applicable for all Eligible Employees for that Plan Year and (2) the Plan is amended no later than the last day for distributing Excess Contributions for the Plan Year. The Employer may designate the percentage of Plan Compensation and the Plan Year for which the Plan is intended to be a Safe Harbor 401(k) Plan under the Elective Provisions.

C-5.07 Portability of Lifetime Income Options. Effective for Plan Years beginning after December 31, 2019 and as provided under Code §401(a)(38), the Plan may allow a Qualified Distribution of a Lifetime Income Investment and a distribution of a Lifetime Income Investment in the form of a Qualified Plan Distribution Annuity Contract, provided such distribution is made within the 90-day period ending on the date when the Lifetime Income Investment is no longer authorized to be held as an investment option under the Plan. The Plan Administrator may administratively apply the rules of Code §401(a)(38) to any applicable Plan investment meeting the definition of a Lifetime Income Investment. The Plan Administrator will separately document the manner of application of rules under this IA §C-5.07 and apply the rules in a consistent and nondiscriminatory manner.

(a) **Definitions.**

- (1) **Qualified Distribution.** A Qualified Distribution is a direct trustee-to-trustee transfer to another Eligible Retirement Plan.
- (2) **Lifetime Income Investment.** A Lifetime Income Investment is an investment option designed to provide an Employee with election rights that (1) are not uniformly available with respect to other investment options under the Plan; and (2) are rights to a Lifetime Income Feature available through a contract or other arrangement offered under the Plan, as defined under Code §401(a)(38)(B)(ii). The Plan Administrator will determine whether an investment option under the Plan is a Lifetime Income Investment.
- (3) **Lifetime Income Feature.** A Lifetime Income Feature is (1) a feature that guarantees a minimum level of income annually (or more frequently) for at least the remainder of the life of the Employee or the joint lives of the Employee and the Employee's Designated Beneficiary, or (2) an annuity payable on behalf of the Employee under which payments are made in substantially equal periodic payments (not less frequently than annually) over the life of the Employee or the joint lives of the Employee and the Employee's Designated Beneficiary, as defined under Code §401(a)(38)(B)(iii).
- (4) **Qualified Plan Distribution Annuity Contract.** A Qualified Plan Distribution Annuity Contract is an annuity contract purchased for a Participant and distributed to the Participant by the Plan, as defined under Code §401(a)(38)(B)(iv).

- (b) **Restrictions on in-service distributions.** Effective no earlier than for Plan Years beginning after December 31, 2019, to the extent that the Plan Administrator applies the rules under subparagraph (a) above, the Plan does not violate the in-service distribution restrictions relating to Salary Deferrals, QNECs, QMACs, and Traditional Safe Harbor/QACA Safe Harbor Contributions described under the applicable section of the Plan.

C-5.08 Qualified Birth or Adoption Distributions ("QBADs"). As provided for under SECURE Act §113, effective no earlier than for Plan Years beginning after December 31, 2019, if elected under the Elective Provisions, the permissible distribution events may include QBADs. The Employer may restrict in a nondiscriminatory manner the availability of QBADs to terminated Participants or certain active Participants under the Elective Provisions. If the Plan is a money purchase pension plan, a Participant may not receive a QBAD prior to the earlier of the attainment of Normal Retirement Age or age 59½. If the Plan holds assets transferred from a money purchase pension plan, a Participant may not receive a QBAD with respect to such assets prior to the earlier of the attainment of Normal Retirement Age or age 59½. The Plan Administrator may use the guidance provided under IRS Notice 2020-68 in applying the rules under this IA §C-5.08.

(a) **Definitions.**

- (1) **Qualified Birth or Adoption Distribution (“QBAD”).** A QBAD (as defined under Code §72(t)(2)(H)(iii)(I)) is a distribution from the Plan to a Participant made during the one-year period beginning on the date on which a child of the Participant is born or on which the legal adoption by the individual of an Eligible Adoptee is finalized.
- (2) **Eligible Adoptee.** An Eligible Adoptee (as defined under Code §72(t)(2)(H)(iii)(II)) is any individual (other than a child of the Participant’s spouse) who has not attained age 18 or is physically or mentally incapable of self-support. The determination of whether an individual is physically or mentally incapable of self-support is made in the same manner as the determination of whether an individual is disabled under Code §72(m)(7), which defines when an individual is disabled for purposes of the exception to the 10% additional tax under Code §72(t)(2)(A)(iii).

- (b) **\$5,000 limitation.** The Plan is not treated as violating any Code requirement merely because it treats a distribution (that would otherwise be a QBAD) to an individual as a QBAD, provided the aggregate amount of such distributions to that Participant from all plans maintained by the Employer does not exceed \$5,000.

- (1) Each parent may receive a QBAD of up to \$5,000 with respect to the same child or Eligible Adoptee.
- (2) An individual is permitted to receive a QBAD with respect to the birth of more than one child or the adoption of more than one Eligible Adoptee if the distributions are made during the one-year period following the date on which the children are born or the legal adoption for the Eligible Adoptees is finalized.

- (c) **Recontributions to applicable Eligible Retirement Plans.** Any portion of a QBAD may, at any time after the date on which the distribution was received, be recontributed to an applicable Eligible Retirement Plan to which an Eligible Rollover Distribution can be made. If the Employer adds the ability for Plan Participants to receive QBADs to the Plan, a Participant who has received a QBAD may recontribute, up to the amount that was distributed from the Plan to the Participant, provided the Participant otherwise is eligible to make Rollover Contributions to the Plan at the time the Participant wishes to recontribute the QBAD. In the case of a recontribution made with respect to a QBAD from an applicable Eligible Retirement Plan other than an IRA, an individual is treated as having received the distribution as an Eligible Rollover Distribution (as defined in Code §402(c)(4)) and as having transferred the amount to an applicable Eligible Retirement Plan in a direct trustee-to-trustee transfer within 60 days of the distribution.

- (d) **Other applicable rules.** The following rules apply to QBADs:

- (1) A distribution to an individual will not be treated as a QBAD with respect to any child or Eligible Adoptee unless the individual includes the name, age, and the Taxpayer Identification Number (TIN) of the child or Eligible Adoptee on the individual’s tax return;
- (2) A QBAD is includible in gross income, but it is not subject to the 10% additional tax under Code §72(t)(1);
- (3) In making a determination whether an individual is eligible for a QBAD, the Employer or Plan Administrator is permitted to rely on reasonable representations from the individual, unless the Employer or Plan Administrator has actual knowledge to the contrary; and
- (4) A QBAD is not treated as an Eligible Rollover Distribution for purposes of the direct rollover rules of Code §401(a)(31), the notice requirement under Code §402(f), and the mandatory withholding rules under Code §3405.

C-5.09 Increase of Cap for QACA Safe Harbor 401(k) Plan. As provided for under SECURE Act §102, effective for Plan Years beginning after December 31, 2019 and as elected under the Elective Provisions, the Employer may increase the limitation on the default rates under a QACA Safe Harbor 401(k) Plan up to 15% after the initial period that a Participant’s deemed election applies. The automatic deferral percentage in a QACA Safe Harbor 401(k) Plan may not exceed 10% during the initial period. The initial period begins when the Employee first begins making automatic deferrals under the QACA Safe Harbor 401(k) Plan and ends on the last day of the following Plan Year, unless otherwise indicated in the Adoption Agreement.

C-5.10 Including Difficulty of Care Payments in Total Compensation. Effective for Plan Years beginning after December 31, 2015, as provided under Code §415(c)(8) the following paragraph (f) is added to the definition of Total Compensation in Section 1.142 of the Plan (Section 1.94 of the Governmental Plan):

- “(f) **Special rules for difficulty of care payments.** In the case of a Participant who for a taxable year excludes from gross income under Code §131 a qualified foster care payment which is a difficulty of care payment, the Participant’s Total

Compensation shall be increased by the amount of the excludable difficulty of care payments made by the Employer. Any contribution that is allowable due to such increase shall be treated as an After-Tax Employee Contribution and shall not cause the Plan to be treated as failing applicable plan qualification requirements under Code §401(a).”

C-5.11 In-service Distributions for Money Purchase Pension Plans and Transferred Pension Assets. Effective for Plan Years beginning after December 31, 2019, if the Plan is a money purchase pension plan, the Employer may allow in-service distributions from the Plan upon the attainment of age 59½, if elected under the Elective Provisions. If the Plan holds assets transferred from a money purchase plan, the Employer may allow in-service distributions of amounts attributable to such transferred assets upon the attainment of age 59½ as provided for under Miners Act §104.

C-5.12 Participation of Long-Term Part-Time Employees in 401(k) Plan. As provided for under SECURE Act §112, effective for Plan Years beginning after December 31, 2020 (except that 12-month periods beginning before January 1, 2021 shall not be taken into account for purposes of determining an Employee’s eligibility to participate under Code §401(k)(2)(D)(ii)), a cash or deferred arrangement may not require as a condition of participation in the arrangement, an Employee to complete a period of service with the Employer that extends beyond the close of the earlier of: (i) the period permitted under Code §410(a)(1) (disregarding Code §410(a)(1)(B)(i)); or (ii) subject to Code §401(k)(15), the first period of three consecutive 12-month periods (i.e., Eligibility Computation Periods) during each of which the Employee has completed at least 500 Hours of Service. Employees who must participate in the Plan under this IA §C-5.12 are referred to as “Long-Term Part-Time (“LTPT”) Employees.”

(a) **Special rules.** The following special rules for determining participation of LTPT Employees under the requirements under this IA §C-5.12 apply:

- (1) **Age requirement must be met.** The participation requirement under this IA §C-5.12 does not apply to an Employee unless the Employee has attained age 21 by the close of the three consecutive 12-month periods;
- (2) **Nondiscrimination rules.** In the case of LTPT Employees who are eligible to participate in the arrangement solely by reason of Code §401(k)(2)(D)(ii), notwithstanding the requirements of Code §401(a)(4), an Employer shall not be required to make Employer Contributions or Matching Contributions on behalf of such Employees even if such contributions are made on behalf of other Employees eligible to participate in the arrangement. In addition, an Employer may elect to exclude such LTPT Employees from the application of the requirements of Code §401(a)(4), Code §401(k)(3), Code §401(k)(12), Code §401(k)(13), Code §401(m)(2), and Code §410(b);
- (3) **Top-heavy rules.** An Employer may elect to exclude all LTPT Employees who are eligible to participate in the Plan solely by reason of Code §401(k)(2)(D)(ii) from the application of the vesting and benefit requirements under the top-heavy rules of Code §§416(b) and (c);
- (4) **Vesting.** For purposes of determining whether a LTPT Employee who is eligible to participate in the Plan solely by reason of Code §401(k)(2)(D)(ii) has a nonforfeitable right to Employer Contributions or Matching Contributions (if the Plan provides such LTPT Employees with Employer Contributions or Matching Contributions), each 12-month period (i.e., Vesting Computation Period) for which the Employee has at least 500 Hours of Service shall be treated as a Year of Service, and Code §411(a)(6) shall be applied by substituting ‘at least 500 Hours of Service’ for ‘more than 500 hours of service’ in Code §411(a)(6)(A). Subject to guidance by the Internal Revenue Service, all Years of Service with the Employer must be taken into account in determining an Employee’s vesting rights under the Plan, including periods before January 1, 2021;
- (5) **Employees who become full-time Employees.** The special rules under subparagraphs (2) and (3) above shall cease to apply to any LTPT Employee as of the first Plan Year beginning after the Plan Year in which the Employee meets the requirements of Code §410(a)(1)(A)(ii) without regard to Code §401(k)(2)(D)(ii);
- (6) **Exception for Collectively Bargained Employees.** The rules under this IA §C-5.12 do not apply to Collectively Bargained Employees as described in Code §410(b)(3); and
- (7) **Time of participation.** The rules of Code §410(a)(4) relating to the timing of entry into the Plan apply to an Employee eligible to participate in the Plan solely by reason of Code §401(k)(2)(D)(ii). In no event will a LTPT Employee’s entry into the Plan exceed the maximum delay in participation specified in Code §410(a)(4).

(b) **IRS guidance.** To the extent that the IRS issues guidance with respect to the requirements of this IA §C-5.12, the Employer or Plan Administrator may administer the Plan consistent with such guidance. Until such guidance is issued, the Plan Administrator may apply the requirements of this IA §C-5.12 consistent with a “good-faith” interpretation of SECURE Act §112.

C-5.13 Plan Adopted by Filing Due Date. As provided for under SECURE Act §201, effective for Plans adopted for taxable years beginning after December 31, 2019, if the Employer adopts the Plan after the close of a taxable year but before the time

prescribed by law for filing the return of the Employer for the taxable year (including extensions thereof), the Employer may elect to treat the Plan as having been adopted as of the last day of the taxable year.

C-5.14 Multiple Employer Plans – Application of Qualification Requirements. As provided under SECURE Act §101 and Code §413(e)(1), a defined contribution Multiple Employer Plan, except as provided under Code §413(e)(2) as reflected in IA §C-5.14(a) below, that (A) is maintained by Employers (including Participating Employers), which have a common interest other than having adopted the Plan or, in the case of a Plan not described in (A), has a Pooled Plan Provider (as defined in Code §413(e)(3)) then the Plan shall not be treated as failing to meet the requirements under Code §401(a) applicable to the Plan, merely because one or more Participating Employers of Employees covered by the Plan fail to take such actions as are required of such Participating Employers for the Plan to meet such requirements.

- (a) **Limitations.** In applying this IA §C-5.14, in the case of any Participating Employer in the Plan failing to take the actions required of such Participating Employer for the Plan to meet the requirements under §401(a) applicable to the Plan:
- (1) the assets of the Plan attributable to Employees of such Participating Employer (or beneficiaries of such Employees) will be transferred to a plan maintained only by such Participating Employer (or its successor), to an Eligible Retirement Plan for each individual whose account is transferred, or to any other arrangement that the Secretary of the Treasury determines is appropriate, unless the Secretary of the Treasury determines it is in the best interests of the Employees of such Employer (and the beneficiaries of such Employees) to retain the assets in the Plan; and
 - (2) such Participating Employer (and not the Plan with respect to which the failure occurred or any other Participating Employer in such Plan) shall, except to the extent provided by the Secretary of the Treasury, be liable for any liabilities with respect to such Plan attributable to Employees of such Participating Employer (or beneficiaries of such Employees).
- (b) **“Good faith” interpretation.** The Lead Employer (or Pooled Plan Provider) and Plan Administrator may apply a “good-faith” interpretation of the rules under this IA §C-5.14. In determining a good-faith interpretation, the Lead Employer (or Pooled Plan Provider) and Plan Administrator may use Proposed Regulation §1.413-2 issued on March 28, 2022 as a guide for such interpretation. Additionally, the Lead Employer (or Pooled Plan Provider) may add clarifying provisions under Elective Provisions CS-9 Special Provisions or in a separate addendum to the Plan relating to this IA §C-5.14. The Employer and Plan Administrator also may develop separate written administrative procedures relating to this IA §C-5.14.

Nationwide Financial Services, Inc.
NONSTANDARDIZED GOVERNMENTAL MONEY PURCHASE PLAN
ADOPTION AGREEMENT #002

By executing this Nonstandardized Governmental Money Purchase Plan Adoption Agreement (the "Adoption Agreement" or "AA"), the undersigned Employer agrees to establish or continue a Governmental Money Purchase Plan for its Employees. The Governmental Money Purchase Plan adopted by the Employer consists of the Governmental Defined Contribution Pre-Approved Plan Basic Plan Document #03 (the "BPD") and the elections made under this Adoption Agreement (collectively referred to as the "Plan"). An Employer may jointly co-sponsor the Plan by signing a Participating Employer Adoption Page, which is attached to this Adoption Agreement. **This Plan is effective as of the Effective Date identified on the Signature Page of this Adoption Agreement.**

SECTION 1
EMPLOYER INFORMATION

1-1 EMPLOYER INFORMATION.

Name: Lansing Board of Water and Light

Address: P.O. Box 13007

Lansing, Michigan, 48901

Telephone: (517) 702-6287

1-2 EMPLOYER IDENTIFICATION NUMBER (EIN). 38-6005774

1-3 FORM OF BUSINESS.

☐ State or political subdivision of a State

☐ State agency or instrumentality

☐ Indian Tribal Government

☒ Describe other Employer qualified to adopt a Governmental Plan: Municipally-owned public utility

1-4 EMPLOYER'S TAX YEAR END. The Employer's tax year ends June 30th

1-5 RELATED EMPLOYERS. Is the Employer part of a group of Related Employers (as defined in Section 1.83 of the Plan)?

☐ Yes

☒ No

If yes, Related Employers may be listed below. A Related Employer must execute a Participating Employer Adoption Page for Employees of that Related Employer to participate in this Plan.

[Note: This AA §1-5 is for informational purposes and Employers need not list Related Employers. The failure to identify all Related Employers will not jeopardize the qualified status of the Plan.]

SECTION 2
PLAN INFORMATION

2-1 PLAN NAME. Lansing Board of Water and Light Defined Contribution Plan and Trust 2

Original Effective Date: January 1, 1988

Restatement Effective Date: January 1, 2025

2-2 PLAN NUMBER. 001

2-3 TYPE OF PLAN. This Plan is a Money Purchase Defined Contribution Plan.

☐ The Plan is intended to be a FICA Replacement Plan (as defined under Section 4.03 of the Plan).

[Note: Elections under this AA must be consistent with the requirements of a FICA Replacement Plan as described under Section 4.03 of the Plan.]

2-4 **PLAN YEAR.**

- ☒ (a) Calendar year.
- ☐ (b) The 12-consecutive month period ending on _____ each year.
- ☐ (c) The Plan has a Short Plan Year running from ____ to ____.

2-5 **FROZEN PLAN.** Check this AA §2-5 if the Plan is a frozen Plan to which no contributions will be made.

- ☐ This Plan is a frozen Plan effective _____. (See Section 3.02(b)(6) of the Plan.)

[Note: As a frozen Plan, the Employer will not make any contributions with respect to Plan Compensation earned after such date and no Participant will be permitted to make any contributions to the Plan after such date. In addition, no Employee will become a Participant after the date the Plan is frozen.]

2-6 **MULTIPLE EMPLOYER PLAN.** Is this Plan a Multiple Employer Plan as defined in Section 16.07 of the Plan? (See Section 16.07 of the Plan for special rules applicable to Multiple Employer Plans.)

- ☐ Yes
- ☒ No

2-7 **PLAN ADMINISTRATOR.**

- ☒ (a) The Employer identified in AA §1-1.

- ☐ (b) Name: _____
- Address: _____
- Telephone: _____

2-8 **DEFINITION OF DISABLED.** An individual is considered Disabled for purposes of applying the provisions of this Plan if:

- ☐ (a) The individual is covered by the Employer's disability insurance plan and is determined to be disabled under such plan.
- ☒ (b) The individual is determined to be disabled by the Social Security Administration under Section 223(d) of the Social Security Act for purposes of determining eligibility for Social Security benefits.
- ☒ (c) The Plan Administrator determines an individual is unable to engage in any substantial gainful activity by reason of a 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 shall be supported by medical evidence. The Plan Administrator may establish reasonable procedures for determining whether a Participant is Disabled.

[Note: An Employer may elect any or all of (a), (b) and (c) above. If more than one of (a), (b) and (c) is selected, the hierarchy for determining whether an individual is considered Disabled is (a), then (b) and then (c), unless described otherwise under separate administrative procedures or under subsection (d) below.]

- ☐ (d) Alternative definition of Disabled: _____

[Note: Any alternative definition described above will apply uniformly to all Participants under the Plan and will be applied in a nondiscretionary manner. The Employer may describe different definitions of Disabled for different purposes under the plan.]

SECTION 3
ELIGIBLE EMPLOYEES

3-1 **ELIGIBLE EMPLOYEES.** In addition to the Employees identified in Section 2.02 of the Plan, the following Employees are excluded from participation under the Plan. See Sections 2.02(d) and (e) of the Plan for rules regarding the effect on Plan participation if an Employee changes between an eligible and ineligible class of employment.

- ☐ (a) No exclusions
- ☐ (b) Collectively Bargained Employees
- ☐ (c) Non-resident aliens who receive no compensation from the Employer which constitutes U.S. source income

- ☐ (d) Leased Employees
- ☐ (e) Employees paid on an hourly basis
- ☐ (f) Employees paid on a salaried basis
- ☐ (g) Employees in an elected or appointed position
- ☐ (h) Part-Time Employees (as defined in Section 1.71 of the Plan)
- ☐ (i) Seasonal Employees (as defined in Section 1.89 of the Plan)
- ☐ (j) Temporary Employees (as defined in Section 1.93 of the Plan)
- ☐ (k) Employees eligible for another qualified plan sponsored by the Employer or a Related Employer

Specify name of other qualified plan (optional): _____

- ☒ (l) Other: Any Employee who does not serve as the Corporate Secretary on July 1, 2020 and any other Employee who on or after July 1, 2020 has not entered into a written agreement with the Employer pursuant to which the Employee participates in this Plan

[Note: The elections under this AA §3-1 apply to any Pick-Up Contributions and any After-Tax Employee Contributions authorized under AA §6-6, unless elected otherwise under subsection (l) above. The exclusions inserted may not result in a specifically named individual or a finite group (such as employees hired before a certain date) being the only employee or employees participating under the plan in violation of the permanency requirements or Treas. Reg. §1.401-1(b)(2). It is permissible to limit participation under the plan to an employee or employees of a specifically named position or positions.]

SECTION 4 MINIMUM AGE AND SERVICE REQUIREMENTS

4-1 ELIGIBILITY REQUIREMENTS – MINIMUM AGE AND SERVICE. An Eligible Employee (as defined in AA §3-1) who satisfies the minimum age and service conditions under this AA §4-1 will be eligible to participate under the Plan as of his/her Entry Date (as defined in AA §4-2 below).

- (a) **Service Requirement.** An Eligible Employee must complete the following minimum service requirements to participate in the Plan.
 - ☒ (1) There is no minimum service requirement for participation in the Plan.
 - ☐ (2) ____ Year(s) of Service (as defined in Section 2.03(a)(1) of the Plan and AA §4-3).
 - ☐ (3) The completion of at least ____ Hours of Service during the first ____ months of employment (or the first ____ days of employment) or the completion of a Year of Service (as defined in AA §4-3), if earlier.
 - ☐ (i) An Employee who completes the required Hours of Service satisfies eligibility at the end of the designated period, regardless if the Employee actually works for the entire period.
 - ☐ (ii) An Employee who completes the required Hours of Service must also be employed continuously during the designated period of employment. See Section 2.03(a)(2) of the Plan for rules regarding the application of this subsection (ii).
 - ☐ (4) The completion of ____ Hours of Service during an Eligibility Computation Period. *[Note: An Employee satisfies the service requirement immediately upon completion of the designated Hours of Service rather than at the end of the Eligibility Computation Period.]*
 - ☐ (5) Full-time Employees are eligible to participate as set forth in subsection (i) below. Employees who are “part-time” Employees must complete a Year of Service (as defined in AA §4-3). For this purpose, a full-time Employee is any Employee not defined in subsection (ii) below.
 - (i) Full-time Employees must complete the following minimum service requirements to participate in the Plan:
 - ☐ (A) There is no minimum service requirement for participation in the Plan.
 - ☐ (B) The completion of at least ____ Hours of Service during the first ____ months of employment or the completion of a Year of Service (as defined in AA §4-3), if earlier.
 - ☐ (C) Under the Elapsed Time method as defined in AA §4-3(c) below.
 - ☐ (D) Describe: _____

[**Note:** Any conditions provided under this subsection (D) must be definitely determinable.]

- (ii) Part-time Employees must complete a Year of Service (as defined in AA §4-3).

☐ (A) For this purpose, a part-time Employee is any Employee (including a temporary or seasonal Employee) whose normal work schedule is less than:

☐ (I) ____ hours per week.

☐ (II) ____ hours per month.

☐ (III) ____ hours per year.

☐ (B) Describe part-time Employees for this purpose: _____

[**Note:** A part-time employee must be described as an individual who works less than a specified number of hours (no greater than 40) during a standard work week.]

☐ (6) Under the Elapsed Time method as defined in AA §4-3(c) below.

☐ (7) Describe eligibility conditions: _____

- (b) **Minimum Age Requirement.** An Eligible Employee (as defined in AA §3-1) must have attained the following age to participate under the Plan.

☒ (1) There is no minimum age for Plan eligibility.

☐ (2) Age 21.

☐ (3) Age 20½.

☐ (4) Age ____.

☐ (c) **Special eligibility rules.** The following special eligibility rules apply with respect to the Plan: _____

[**Note:** The elections under this AA §4-1 apply to any Pick-Up Contributions and any After-Tax Employee Contributions authorized under AA §6-6, unless elected otherwise under subsection (c) above. Subsection (c) may be used to apply the eligibility conditions selected under this AA §4-1 separately with respect to different Employee groups or different contribution formulas under the Plan. Any special eligibility rules must be definitely determinable.]

- 4-2 **ENTRY DATE.** An Eligible Employee (as defined in AA §3-1) who satisfies the minimum age and service requirements in AA §4-1 shall be eligible to participate in the Plan as of his/her Entry Date. For this purpose, the Entry Date is the following date.

☐ (a) **Immediate.** The date the minimum age and service requirements are satisfied (or date of hire, if no minimum age and service requirements apply).

☐ (b) **Semi-annual.** The first day of the 1st and 7th month of the Plan Year.

☐ (c) **Quarterly.** The first day of the 1st, 4th, 7th and 10th month of the Plan Year.

☐ (d) **Monthly.** The first day of each calendar month.

☒ (e) **Payroll period.** The first day of the payroll period.

☐ (f) **The first day of the Plan Year.**

☐ (g) **Describe Entry Date:** _____

[**Note:** Any Entry Date under this subsection (g) must be within the dates described under (a) – (f).]

An Eligible Employee's Entry Date (as defined above) is determined based on when the Employee satisfies the minimum age and service requirements in AA §4-1. For this purpose, an Employee's Entry Date is the Entry Date:

☐ (h) **next following** satisfaction of the minimum age and service requirements.

☒ (i) **coinciding with or next following** satisfaction of the minimum age and service requirements.

☐ (j) **nearest** the satisfaction of the minimum age and service requirements.

☐ (k) **preceding** the satisfaction of the minimum age and service requirements.

This section may be used to describe any special rules for determining Entry Dates under the Plan. For example, if different Entry Date provisions apply for different groups of Employees, such different Entry Date provisions may be described below.

☐ (l) **Describe** any special rules that apply with respect to the Entry Dates under this AA §4-2: _____

[**Note:** The elections under this AA §4-2 apply to any Pick-Up Contributions and any After-Tax Employee Contributions selected under AA §6-6, unless elected otherwise under subsection (l) above. Any special rules under subsection (l) must be definitely determinable.]

4-3 **DEFAULT ELIGIBILITY RULES.** In applying the minimum age and service requirements under AA §4-1 above, the following default rules apply:

- **Year of Service.** An Employee earns a Year of Service for eligibility purposes upon completing 1,000 Hours of Service during an Eligibility Computation Period. Hours of Service are calculated based on actual hours worked during the Eligibility Computation Period. (See Section 1.57 of the Plan for the definition of Hours of Service.)
- **Eligibility Computation Period.** If one Year of Service is required for eligibility, the Plan will determine subsequent Eligibility Computation Periods on the basis of Plan Years. (See Section 2.03(a)(3)(i) of the Plan.) If more than one Year of Service is required for eligibility, the Plan will determine subsequent Eligibility Computation Periods on the basis of Anniversary Years. (See Section 2.03(a)(3)(ii) of the Plan.)

To override the default eligibility rules, complete the applicable sections of this AA §4-3. **If this AA §4-3 is not completed, the default eligibility rules apply.**

- ☐ (a) **Year of Service.** Instead of 1,000 Hours of Service, an Employee earns a Year of Service upon the completion of ____ Hours of Service during an Eligibility Computation Period.
- ☐ (b) **Eligibility Computation Period (ECP).** The Plan will use Anniversary Years, unless more than one Year of Service is required under AA §4-1(a), in which case the Plan will shift to Plan Years if the Employee does not earn a Year of Service during the first Eligibility Computation Period. (See Section 2.03(a)(3)(ii) of the Plan.)
- ☐ (c) **Elapsed Time method.** Eligibility service will be determined under the Elapsed Time method. An Eligible Employee (as defined in AA §3-1) must complete a ____ period of service to participate in the Plan. (See Section 2.03(a)(6) of the Plan.)

[**Note:** Under the Elapsed Time method, service will be measured from the Employee's employment commencement date (or reemployment commencement date, if applicable) without regard to the Eligibility Computation Period designated in Section 2.03(a)(3) of the Plan.]

- ☐ (d) **Equivalency Method.** For purposes of determining an Employee's Hours of Service for eligibility, the Plan will use the Equivalency Method (as defined in Section 2.03(a)(5) of the Plan). The Equivalency Method will apply to:

- ☐ (1) All Employees.
- ☐ (2) Only Employees for whom the Employer does not maintain hourly records. For Employees for whom the Employer maintains hourly records, eligibility will be determined based on actual hours worked.

Hours of Service for eligibility will be determined under the following Equivalency Method.

- ☐ (3) **Monthly.** 190 Hours of Service for each month worked.
- ☐ (4) **Weekly.** 45 Hours of Service for each week worked.
- ☐ (5) **Daily.** 10 Hours of Service for each day worked.
- ☐ (6) **Semi-monthly.** 95 Hours of Service for each semi-monthly period worked.
- ☐ (7) **Describe Equivalency Method:** _____

- ☐ (e) **Special eligibility provisions:** _____

[**Note:** The elections under this AA §4-3 apply to any Pick-Up Contributions and any After-Tax Employee Contributions selected under AA §6-6, unless elected otherwise under subsection (e) above. Any special rules under subsection (e) must be definitely determinable.]

4-4 **EFFECTIVE DATE OF MINIMUM AGE AND SERVICE REQUIREMENTS.** The minimum age and/or service requirements under AA §4-1 apply to all Employees under the Plan. An Employee will participate as of his/her Entry Date, taking into account all service with the Employer, including service earned prior to the Effective Date.

To allow Employees employed on a specified date to enter the Plan without regard to the minimum age and/or service conditions, complete this AA §4-4.

- ☐ An Eligible Employee who is employed by the Employer on the following designated date will enter the Plan on the designated date without regard to minimum age and/or service requirements (as designated below):
- ☐ (a) the Effective Date of this Plan (as designated in subsection (a) or (b) of the Employer Signature Page, as applicable).

☐ (b) the date the Plan is executed by the Employer (as indicated on the Employer Signature Page).

☐ (c) _____ [insert date no earlier than the Effective Date of this Plan]

An Eligible Employee who is employed on the designated date will enter the Plan on the designated date without regard to the minimum age and service requirements under AA §4-1. If both minimum age and service conditions are not waived, select subsection (d) or (e) below to designate which condition is waived under this AA §4-4.

☐ (d) This AA §4-4 only applies to the minimum service condition.

☐ (e) This AA §4-4 only applies to the minimum age condition.

The provisions of this AA §4-4 apply to all Eligible Employees employed on the designated date unless designated otherwise under subsection (f) or (g) below.

☐ (f) The provisions of this AA §4-4 apply to the following group of Employees employed on the designated date: _____

☐ (g) Describe special rules: _____

[Note: An Employee who is employed as of the designated date described in this AA §4-4 will enter the Plan as of such date unless a different Entry Date is designated under subsection (g) above. Any special rules under subsection (g) above must be definitely determinable.]

4-5 **SERVICE WITH PREDECESSOR EMPLOYER.** Service with the following Predecessor Employers will be counted for purposes of determining eligibility, vesting and allocation conditions under this Plan, unless designated otherwise under subsection (a) or (b) below. (See Sections 2.06, 3.07(b) and 6.07 of the Plan.)

☐ (a) The Plan will count service with the following Predecessor Employers:

	Name of Predecessor Employer	Eligibility	Vesting	Allocation Conditions
<input type="checkbox"/> (1)	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ (b) Describe any special provisions applicable to Predecessor Employer service: _____

4-6 **BREAKS IN SERVICE.** Generally, an Employee will be credited with all service earned with the Employer, including service earned prior to a Break in Service. To disregard service earned prior to a Break in Service for eligibility purposes, complete this AA §4-6. (See Section 2.07 of the Plan.)

☐ (a) If an Employee incurs at least one Break in Service, the Plan will disregard all service earned prior to such Break in Service for purposes of determining eligibility to participate.

☐ (b) If an Employee incurs at least _____ Breaks in Service, the Plan will disregard all service earned prior to such Break in Service for purposes of determining eligibility to participate. [Enter "0" if prior service will be disregarded for all rehired Employees.]

☐ (c) The Nonvested Participant Break in Service rule applies to all Employees, including Employees who have not terminated employment.

☐ (d) Describe: _____

SECTION 5 COMPENSATION DEFINITIONS

5-1 **TOTAL COMPENSATION.** Total Compensation is based on the definition set forth under this AA §5-1. See Section 1.94 of the Plan for a specific definition of the various types of Total Compensation.

☒ (a) W-2 Wages

☐ (b) Code §415 Compensation

☐ (c) Wages under Code §3401(a)

[Note: For purposes of determining Total Compensation, each definition includes Elective Deferrals, as defined in Section 1.36 of the Plan, pre-tax contributions to a Code §125 cafeteria plan or a Code §457 plan, and qualified transportation fringes under Code §132(f)(4).]

5-2 **POST-SEVERANCE COMPENSATION.** Total Compensation includes post-severance compensation, to the extent provided in Section 1.94(b) of the Plan.

- ☒ (a) **Exclusion of post-severance compensation from Total Compensation.** The following amounts paid after a Participant's severance of employment are excluded from Total Compensation.
- ☒ (1) **Unused leave payments.** Payment for unused accrued bona fide sick, vacation, or other leave, but only if the Employee would have been able to use the leave if employment had continued.
- ☒ (2) **Deferred compensation.** Payments received by an Employee pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the Employee at the same time if the Employee had continued in employment and only to the extent that the payment is includible in the Employee's gross income.

[Note: Plan Compensation (as defined in Section 1.75 of the Plan) includes any post-severance compensation amounts that are includible in Total Compensation. The Employer may elect to exclude all compensation paid after severance of employment from the definition of Plan Compensation under AA §5-3(j) below or may elect to exclude specific types of post-severance compensation from Plan Compensation under AA §5-3(l) below.]

- ☐ (b) **Continuation payments for disabled Participants.** If this subsection (b) is not elected, Total Compensation does not include continuation payments for disabled Participants. If this subsection (b) is elected, Total Compensation shall include post-severance compensation paid to a Participant who is permanently and totally disabled, as provided in Section 1.94(c) of the Plan.

5-3 **PLAN COMPENSATION.** Plan Compensation is **Total Compensation** (as defined in AA §5-1 above) with the following exclusions described below.

- ☐ (a) No exclusions.
- ☐ (b) Elective Deferrals (as defined in Section 1.36 of the Plan), pre-tax contributions to a cafeteria plan or a Code §457 plan, and qualified transportation fringes under Code §132(f)(4) are excluded.
- ☐ (c) All fringe benefits (cash and noncash), reimbursements or other expense allowances, moving expenses, deferred compensation, and welfare benefits are excluded.
- ☐ (d) Compensation above \$___ is excluded.
- ☒ (e) Amounts received as a bonus are excluded.
- ☐ (f) Amounts received as commissions are excluded.
- ☒ (g) Overtime payments are excluded.
- ☐ (h) Amounts received for services performed for a non-signatory Related Employer are excluded. (See Section 2.02(c) of the Plan.)

[Note: If this subsection (h) is not elected, amounts received for services performed for a non-signatory Related Employer are INCLUDED in Plan Compensation.]

- ☐ (i) "Deemed §125 compensation" as defined in Section 1.94(d) of the Plan.
- ☒ (j) Amounts received after termination of employment are excluded. (See Section 1.94(b) of the Plan.)
- ☐ (k) Differential Pay (as defined in Section 1.94(e) of the Plan).
- ☒ (l) Describe adjustments to Plan Compensation: Compensation shall exclude the following categories of pay: payouts or lump sums, non-work related time, premium pay, and other excluded types of pay as determined by the current BWL wage type inclusion chart

[Note: Any modification under subsection (l) above must be definitely determinable and preclude Employer discretion. The elections under this AA §5-3 apply to any Pick-Up Contributions and any After-Tax Employee Contributions selected under AA §6-6, unless elected otherwise under subsection (l).]

5-4 **PERIOD FOR DETERMINING COMPENSATION.**

- (a) **Compensation Period.** Plan Compensation will be determined on the basis of the following period(s). *[Note: If a period other than the Plan Year applies, any reference to the Plan Year as it refers to Plan Compensation will be deemed to be a reference to the period designated under this AA §5-4.]*
- ☒ (1) The Plan Year.
- ☐ (2) The calendar year ending in the Plan Year.

- ☐ (3) The Employer's fiscal tax year ending in the Plan Year.
- ☐ (4) The 12-month period ending on ____ which ends during the Plan Year.
- (b) **Compensation while a Participant.** Unless provided otherwise under this subsection (b), in determining Plan Compensation, only compensation earned while an individual is a Participant under the Plan will be taken into account.
- To count compensation for the entire Plan Year, including compensation earned while an individual is not a Participant, check below. (See Section 1.75(b) of the Plan.)
- ☒ All compensation earned during the Plan Year will be taken into account, including compensation earned while an individual is not a Participant.
- (c) **Few weeks rule.** The few weeks rule (as described in Section 5.02(c)(7)(i) of the Plan) will not apply unless designated otherwise under this subsection (c).
- ☐ Amounts earned but not paid during a Limitation Year solely because of the timing of pay periods and pay dates shall be included in Total Compensation for the Limitation Year, provided the amounts are paid during the first few weeks of the next Limitation Year, the amounts are included on a uniform and consistent basis with respect to all similarly situated Employees, and no amounts are included in more than one Limitation Year.

SECTION 6 EMPLOYER AND EMPLOYEE CONTRIBUTIONS

- 6-1 **EMPLOYER / EMPLOYEE CONTRIBUTIONS.** The Employer will contribute to the Plan each Plan Year the amount determined under the Employer Contribution formula designated in AA §6-2 below. If so elected under AA §6-6, the Employer also may authorize Employees to make After-Tax Employee Contributions and/or Employer Pick-Up Contributions under the Plan.
- 6-2 **EMPLOYER CONTRIBUTION FORMULA.** For the period designated in AA §6-4 below, the Employer will make the following Employer Contributions on behalf of Participants who satisfy the allocation conditions designated in AA §6-5 below.
- ☐ (a) **Fixed contribution.**
- ☐ (1) **Fixed percentage.** ____ % of each Participant's Plan Compensation.
- ☐ (2) **Fixed dollar.** \$ ____ for each Participant.
- ☒ (b) **Contributions under Collective Bargaining Agreement, employment contract or equivalent arrangement.** The Employer will make an Employer Contribution based on a Collective Bargaining Agreement, employment agreement or equivalent arrangement as follows: See Addendum 1
- [Note: Insert the appropriate contribution formula (and allocation formula, if applicable) from the Collective Bargaining Agreement, employment agreement or equivalent arrangement. The formula must be definitely determinable as required under Treas. Reg. §1.401-1.]*
- ☐ (c) **Permitted disparity contribution.**
- ☐ (1) **Individual method.** The Employer will contribute:
- ☐ (i) ____% of each Participant's Plan Compensation plus
- ☐ (ii) ____% of each Participant's Excess Compensation.
- [Note: The percentage of Excess Compensation may not exceed the Maximum Disparity Rate. See Section 3.02(b)(2)(i)(C) of the Plan.]*
- ☐ (2) **Group method.** The Employer will contribute ____% (not more than 25%) of total Plan Compensation of all Participants who satisfy the allocation conditions under AA §6-5 below. The Employer Contribution will be allocated under the two-step method (as defined in Section 3.02(a)(1)(i)(B)(I) of the Plan).
- ☐ (3) **Modification of permitted disparity rules.**
- ☐ (i) **Integration Level.** For purposes of determining the permitted disparity contribution under subsection (1) or (2) above, instead of the Taxable Wage Base (as defined in Section 1.92 of the Plan), the Integration Level is:
- ☐ (A) ____% of the Taxable Wage Base, increased (but not above the Taxable Wage Base) to the next higher:

- ☐ (I) N/A ☐ (II) \$1
☐ (III) \$100 ☐ (IV) \$1,000

☐ (B) \$____ (not to exceed the Taxable Wage Base)

☐ (C) 20% of the Taxable Wage Base

[Note: See Section 3.02(b)(2)(i)(C) of the Plan for rules regarding the Maximum Disparity Rate that may be used where an Integration Level other than the Taxable Wage Base is selected.]

- ☐ (d) **Contribution for designated Employee groups.** The Employer will make an Employer Contribution to the Participants in the following designated groups. The amount to be contributed with respect to a designated Employee group will be determined under subsection (2) below.

- (1) **Designated Employee groups.** A separate Employer Contribution will be made to the following Employee groups:

[Note: The Employee groups designated above must be clearly defined in a manner that will not violate the definite allocation formula requirement of Treas. Reg. §1.401-1(b)(1)(i).]

- (2) **Employer Contribution percentages.**

- (3) **Special rules – More than one Employee group.** Unless designated otherwise under subsection (i), if a Participant is in more than one allocation group described in subsection (1) above during the Plan Year, the Participant will receive an Employer Contribution based on the Participant's status on the last day of the Plan Year. (See Section 3.02(b)(3) of the Plan.)

- ☐ (i) **Determined separately for each Employee group.** If a Participant is in more than one allocation group during the Plan Year, the Participant's share of the Employer Contribution will be based on the Participant's status for the part of the year the Participant is in each allocation group.

- ☐ (ii) **Describe:** _____

[Note: The language under this subsection (ii) may only describe the amount of the Employer Contribution a Participant will receive when such Participant is in more than one allocation group. Any language under this subsection (ii) must be definitely determinable.]

- ☐ (e) **Age-based contribution.** The Employer will contribute ____% of each Participant's adjusted Plan Compensation. For this purpose, a Participant's adjusted Plan Compensation is determined by multiplying the Participant's Plan Compensation by an Actuarial Factor (as described in Section 1.03 of the Plan).

A Participant's Actuarial Factor is determined based on a specified interest rate and mortality table. Unless designated otherwise under subsection (1) or (2) below, the Plan will use an applicable interest rate of 8.5% and a UP-1984 mortality table.

- ☐ (1) **Applicable interest rate.** Instead of 8.5%, the Plan will use an interest rate of ____% (must be between 7.5% and 8.5%) in determining a Participant's Actuarial Factor.

- ☐ (2) **Applicable mortality table.** Instead of the UP-1984 mortality table, the Plan will use the following mortality table in determining a Participant's Actuarial Factor: _____

- ☐ (3) **Describe special rules applicable to age-based allocation:** _____

[Note: See Appendix A of the Plan for sample Actuarial Factors based on an 8.5% applicable interest rate and the UP-1984 mortality table. If an interest rate or mortality table other than 8.5% or UP-1984 is selected, appropriate Actuarial Factors must be calculated. Subsection (3) must provide for a definitely determinable allocation method.]

- ☐ (f) **Service-based contribution.** The Employer will make the following contribution based on units of service designated under subsections (3) – (5) below.

- ☐ (1) **Fixed percentage.** ____% of Plan Compensation paid for each period of service designated below.

☐ (2) **Fixed dollar.** \$ ____ for each period of service designated below.

The service-based contribution will be based on the following periods of service:

☐ (3) Each Hour of Service

☐ (4) Each week of employment

☐ (5) Describe period: _____

The service-based contribution is subject to the following rules.

☐ (6) Describe any special provisions that apply to service-based contribution: _____

[Note: Subsection (6) may only be used to describe a definite allocation formula. Any period described in subsection (5) must apply uniformly to all Participants.]

6-3 **SPECIAL RULES.** No special rules apply with respect to Employer Contributions under the Plan, except to the extent designated under this AA §6-3.

☐ (a) **Limit on Employer Contributions.** The Employer Contribution elected in AA §6-2 may not exceed:

☐ (1) ____% of Plan Compensation

☐ (2) \$ ____

☐ (b) **Offset of Employer Contribution.**

☐ (1) A Participant's contribution of Employer Contributions under AA §6-2 above is reduced by contributions under _____ *[insert name of plan(s)]*. (See Section 3.02(b) of the Plan.)

☐ (2) In applying the offset under this subsection (b), the following rules apply: _____

☐ (c) **Special rules:** _____

[Note: Any special rules under this subsection (c) must be definitely determinable.]

6-4 **PERIOD FOR DETERMINING EMPLOYER/EMPLOYEE CONTRIBUTION.** Unless designated otherwise in this AA §6-4, in determining the amount of the Employer/Employee Contributions to be allocated under this AA §6, the contribution will be based on Plan Compensation earned during the Plan Year.

Alternatively, instead of the Plan Year, the Employer/Employee Contributions will be determined based on Plan Compensation earned during the following period: *[Note: The Plan Year must be used if the permitted disparity contribution formula is selected under AA §6-2(c) above.]*

☐ (a) Plan Year quarter

☐ (b) calendar month

☒ (c) payroll period

☐ (d) Other: _____

[Note: Although Employer Contributions are determined on the basis of Plan Compensation earned during the period designated under this AA §6-4, this does not require the Employer to actually make contributions on the basis of such period. Employer Contributions may be contributed to Participants at any time within the contribution period permitted under Treas. Reg. §1.415-6, regardless of the period selected under this AA §6-4.]

6-5 **ALLOCATION CONDITIONS.** A Participant must satisfy any allocation conditions designated under this AA §6-5 to receive an allocation of Employer Contributions under the Plan. *[Note: No allocation conditions apply to After-Tax Employee Contributions or Employer Pick-Up Contributions under AA §6-6.]*

☒ (a) **No allocation conditions** apply with respect to Employer Contributions under the Plan.

☐ (b) **Employment condition.** An Employee must be employed with the Employer on the last day of the Plan Year.

☐ (c) **Minimum service condition.** An Employee must be credited with at least:

☐ (1) ____ Hours of Service during the Plan Year.

☐ (i) Hours of Service are determined using actual Hours of Service.

☐ (ii) Hours of Service are determined using the following Equivalency Method (as defined under Section 2.03(a)(5) of the Plan):

☐ (A) Monthly

☐ (B) Weekly

☐ (C) Daily

☐ (D) Semi-monthly

☐ (E) Describe: _____

[Note: Any description under this subsection (E) must be definitely determinable.]

☐ (2) _____ consecutive days of employment with the Employer during the Plan Year.

☐ (d) **Exceptions.**

☐ (1) The above allocation condition(s) will **not** apply if the Employee, during the Plan Year:

☐ (i) dies.

☐ (ii) terminates employment due to becoming Disabled.

☐ (iii) becomes Disabled.

☐ (iv) terminates employment after attaining Normal Retirement Age.

[Note: This waiver of allocation conditions applies only once during the Participant's employment with the Employer. The Employer may modify this rule in subsection (e) below.]

☐ (v) terminates employment after attaining Early Retirement Age.

[Note: This waiver of allocation conditions applies only once during the Participant's employment with the Employer. The Employer may modify this rule in subsection (e) below.]

☐ (vi) is on an authorized leave of absence from the Employer.

☐ (2) The exceptions selected under subsection (1) above will apply even if an Employee has not terminated employment at the time of the selected event(s).

☐ (3) The exceptions selected under subsection (1) above do not apply to:

☐ (i) an employment condition under subsection (b) above.

☐ (ii) a minimum service condition under subsection (c) above.

☐ (e) **Describe** any special rules governing the allocation conditions under the Plan: _____

[Note: Any special rules under this subsection (e) must be definitely determinable.]

6-6 **AFTER-TAX EMPLOYEE CONTRIBUTIONS AND EMPLOYER PICK-UP CONTRIBUTIONS.**

☐ (a) **Voluntary After-Tax Employee Contributions.** If permitted under this subsection (a), a Participant may contribute any amount as Voluntary After-Tax Employee Contributions up to the Code §415 Limitation (as defined in Section 5.02 of the Plan), except as limited under this subsection (a).

☐ (1) **Limits on Voluntary After-Tax Employee Contributions.** If this subsection (1) is checked, the following limits apply to Voluntary After-Tax Employee Contributions:

☐ (i) **Maximum limit.** A Participant may make Voluntary After-Tax Employee Contributions up to

☐ (A) _____% of Plan Compensation

☐ (B) \$_____

for the following period:

☐ (C) the entire Plan Year.

☐ (D) the portion of the Plan Year during which the Employee is eligible to participate.

☐ (E) each separate payroll period during which the Employee is eligible to participate.

- ☐ (ii) **Minimum limit.** The amount of Voluntary After-Tax Employee Contributions a Participant may make for any payroll period may not be less than:
- ☐ (A) _____% of Plan Compensation.
- ☐ (B) \$_____.
- (2) **Change or revocation of Voluntary After-Tax Employee Contributions.** In addition to the Participant's Entry Date under the Plan, a Participant's election to change or resume an after-tax election will be effective as set forth under the After-Tax Employee Contributions election form or other written procedures adopted by the Plan Administrator. A Participant must be permitted to change or revoke an after-tax election at least once per year. Unless the After-Tax Contributions election form or other written procedures adopted by the Plan Administrator provide otherwise, a Participant may revoke an after-tax election (on a prospective basis) at any time. Unless designated otherwise in a Participants after-tax election form, a Participant's affirmative election to make an After-Tax Employee Contribution will cease upon termination of employment and the Participant will need to make a new election upon rehire.
- ☐ (3) **Other limits or special rules relating to Voluntary After-Tax Employee Contributions:** _____
- [*Note: Any limits described under this subsection (3) must be consistent with the provisions of Section 3.04 of the Plan.*]
- ☐ (b) **Mandatory After-Tax Employee Contributions.** If this subsection (b) is checked, Employees are required to make Mandatory After-Tax Employee Contributions in order to participate under the Plan.
- ☐ (1) **Amount of Mandatory After-Tax Employee Contributions.** Employees are required to contribute the following amount in order to participate in the Plan:
- ☐ (i) _____% of each Employee's Total Compensation.
- ☐ (ii) \$_____ for each Participant.
- ☐ (iii) Describe rate or amount: _____
- ☐ (2) **Special rules applicable to Mandatory After-Tax Employee Contributions:** _____
- ☐ (c) **Employer Pick-Up Contributions.** Each Participant will be required to make a Pick-up Contribution to the Plan equal to the amount specified under this subsection (c). Any amounts contributed pursuant to this subsection (c) will be picked up by the Employer pursuant to Code §414(h) and will be treated as Employer Contributions under the Plan. Such contributions and earnings thereon will be 100% vested at all times. (See Section 3.03 of the Plan.)
- ☐ (1) The following amounts will be contributed to the Plan as an Employer Pick-Up Contribution:
- ☐ (i) _____% of Plan Compensation.
- ☐ (ii) \$_____ per pay period.
- ☐ (iii) Any amount from _____% to _____% of Plan Compensation, as designated by the Employee.
- [*Note: This subsection (iii) may only be selected if the Employee designates the amount as a one-time irrevocable election.*]
- ☐ (2) Elect this subsection (2) if an Employee may make a one-time irrevocable election not to make Employer Pick-Up Contributions under the Plan.
- ☐ (3) **Special rules applicable to Employer Pick-Up Contributions:** _____
- [*Note: Any Employer Pick-Up Contributions made under this subsection (c) must satisfy the requirements of Section 3.03 of the Plan. See AA §11-4 for an Employee's ability to elect out of making Employer Pick-Up Contributions.*]

SECTION 7
RETIREMENT AGES

7-1 **NORMAL RETIREMENT AGE.** Normal Retirement Age under the Plan is:

- ☒ (a) Age 55 (not to exceed 65).
- ☐ (b) The later of age ____ (not to exceed 65) or the ____ (not to exceed 5th) anniversary of:
- ☐ (1) the Employee's participation commencement date (as defined in Section 1.68 of the Plan).
- ☐ (2) the Employee's employment commencement date.
- ☐ (c) Describe Normal Retirement Age: _____

[Note: The Normal Retirement Age must be reasonably representative of the typical retirement age for the industry in which the Plan Participants work. A Normal Retirement Age of at least age 62 is deemed to be reasonable while a Normal Retirement Age under age 55 is presumed not to satisfy this requirement unless facts and circumstances show otherwise. Whether a Normal Retirement Age between 55 and 62 satisfies this requirement depends on the facts and circumstances. A Governmental Plan must comply with the final Normal Retirement Age regulations under Treas. Reg. §1.401(a)-1, as amended, effective for Annuity Starting Dates occurring in Plan Years beginning on or after the later of the two dates described in IRS Notice 2012-29. The Employer may use AA §7-1(c), for example, to describe a reasonable Normal Retirement Age that is between age 55 and 62 that takes into account service as well as age.]

7-2 **EARLY RETIREMENT AGE.** Unless designated otherwise under this AA §7-2, there is no Early Retirement Age under the Plan.

- ☐ (a) A Participant reaches Early Retirement Age if he/she is still employed after attainment of each of the following:
- ☐ (1) Attainment of age ____
- ☐ (2) The ____ anniversary of the date the Employee commenced participation in the Plan, and/or
- ☐ (3) The completion of ____ Years of Service, determined as follows:
- ☐ (i) Same as for eligibility.
- ☐ (ii) Same as for vesting.
- ☐ (b) Describe. _____

SECTION 8
VESTING AND FORFEITURES

8-1 **VESTING OF EMPLOYER CONTRIBUTIONS.** The Employer Contributions authorized under AA §6-2 will vest in accordance with the vesting schedule designated under AA §8-2.

8-2 **VESTING SCHEDULE.** The vesting schedule under the Plan is as follows. See Section 6.02 of the Plan for a description of the various vesting schedules under this AA §8-2.

- ☒ (a) **Vesting schedule:**
- ☒ (1) Full and immediate vesting
- ☐ (2) Three-year cliff vesting schedule
- ☐ (3) Six-year graded vesting schedule
- ☐ (4) Modified vesting schedule

- ____ % immediately on Plan participation
- ____ % after 1 Year of Service
- ____ % after 2 Years of Service
- ____ % after 3 Years of Service
- ____ % after 4 Years of Service
- ____ % after 5 Years of Service
- ____ % after 6 Years of Service
- ____ % after 7 Years of Service
- ____ % after 8 Years of Service
- ____ % after 9 Years of Service
- 100% after 10 Years of Service

☐ (5) Other vesting schedule: _____

[Note: If a modified vesting schedule is selected under this subsection (a), the vested schedule must satisfy the pre-ERISA Code vesting requirements.]

☐ (b) Special provisions applicable to vesting schedule: _____

[Note: This subsection (b) may be used to apply a different vesting schedule for different contribution formulas or different Employee groups under the Plan. Any special provision must satisfy the pre-ERISA Code vesting requirements.]

8-3 **VESTING SERVICE.** In applying the vesting schedules under this AA §8, all service with the Employer counts for vesting purposes, unless designated otherwise under this AA §8-3.

- ☐ (a) Service before the original Effective Date of this Plan (or a Predecessor Plan) is excluded.
- ☐ (b) Service completed before the Employee's ____ birthday is excluded.
- ☐ (c) Describe vesting service exclusions: _____

[Note: See Section 6.07 of the Plan and AA §4-5 for rules regarding the crediting of service with Predecessor Employers for purposes of vesting under the Plan.]

8-4 **VESTING UPON DEATH, DISABILITY OR EARLY RETIREMENT AGE.** An Employee's vesting percentage increases to 100% if, while employed with the Employer, the Employee

- ☐ (a) dies
- ☐ (b) terminates employment due to becoming Disabled
- ☐ (c) becomes Disabled
- ☐ (d) reaches Early Retirement Age
- ☒ (e) Not applicable. No increase in vesting applies.

8-5 **DEFAULT VESTING RULES.** In applying the vesting requirements under this AA §8, the following default rules apply. *[Note: No election should be made under this AA §8-5 if full and immediate vesting is selected under AA §8-2.]*

- **Year of Service.** An Employee earns a Year of Service for vesting purposes upon completing 1,000 Hours of Service during a Vesting Computation Period. Hours of Service are calculated based on actual hours worked during the Vesting Computation Period. (See Section 1.57 of the Plan for the definition of Hours of Service.)
- **Vesting Computation Period.** The Vesting Computation Period is the Plan Year.

To override the default vesting rules, complete the applicable sections of this AA §8-5. If this AA §8-5 is not completed, the default vesting rules apply.

- ☐ (a) **Year of Service.** Instead of 1,000 Hours of Service, an Employee earns a Year of Service upon the completion of ____ Hours of Service during a Vesting Computation Period.

- ☐ (b) **Vesting Computation Period.** Instead of the Plan Year, the Vesting Computation Period is:
- ☐ (1) The 12-month period beginning with the Employee's Employment Commencement Date and, for subsequent Vesting Computation Periods, the 12-month period beginning with the anniversary of the Employee's Employment Commencement Date.
- ☐ (2) Describe: _____
- [Note: Any Vesting Computation Period described in this subsection (2) must be a 12-consecutive month period and must apply uniformly to all Participants.]*
- ☐ (c) **Elapsed Time Method.** Instead of determining vesting service based on actual Hours of Service, vesting service will be determined under the Elapsed Time Method. If this subsection (c) is checked, service will be measured from the Employee's Employment Commencement Date (or Reemployment Commencement Date, if applicable) without regard to the Vesting Computation Period designated in Section 6.05 of the Plan. (See Section 6.04(b) of the Plan.)
- ☐ (d) **Equivalency Method.** For purposes of determining an Employee's Hours of Service for vesting, the Plan will use the Equivalency Method (as defined in Section 6.04(a)(2) of the Plan). The Equivalency Method will apply to:
- ☐ (1) All Employees.
- ☐ (2) Only to Employees for whom the Employer does not maintain hourly records. For Employees for whom the Employer maintains hourly records, vesting will be determined based on actual hours worked.
- Hours of Service for vesting will be determined under the following Equivalency Method.
- ☐ (3) **Monthly.** 190 Hours of Service for each month worked.
- ☐ (4) **Weekly.** 45 Hours of Service for each week worked.
- ☐ (5) **Daily.** 10 Hours of Service for each day worked.
- ☐ (6) **Semi-monthly.** 95 Hours of Service for each semi-monthly period.
- ☐ (7) **Describe Equivalency Method:** _____
- [Note: Any description of an Equivalency Method under this subsection (7) must be definitely determinable.]*
- ☒ (e) **Special rules:** Service credit for vesting does not apply since all Participants are immediately 100% vested _____
- [Note: Any special rules under this subsection (e) must be definitely determinable.]*

8-6 **BREAKS IN SERVICE.** Generally, an Employee will be credited with all service earned with the Employer, including service earned prior to a Break in Service. To disregard service earned prior to a Break in Service for vesting purposes, complete this AA §8-6. (See Section 6.08 of the Plan.)

- ☐ (a) If an Employee incurs at least one Break in Service, the Plan will disregard all service earned prior to such Break in Service for purposes of determining vesting under the Plan.
- ☐ (b) If an Employee incurs at least _____ consecutive Breaks in Service, the Plan will disregard all service earned prior to such consecutive Breaks in Service for purposes of determining vesting under the Plan. *[Enter "0" if prior service will be disregarded for all rehired Employees.]*
- ☐ (c) The Nonvested Participant Break in Service rule applies to all Employees, including Employees who have not terminated employment.
- ☐ (d) Describe any special rules for applying the vesting Break in Service rules: _____
- [Note: Any special rules under this subsection (d) must be definitely determinable.]*

8-7 **ALLOCATION OF FORFEITURES.**

The Employer may decide in its discretion how to treat forfeitures under the Plan. Alternatively, the Employer may designate under this AA §8-7 how forfeitures occurring during a Plan Year will be treated. (See Section 6.11 of the Plan.)

- ☒ (a) N/A. All contributions are 100% vested. [Do not complete the rest of this AA §8-7.]
- ☐ (b) Reallocated as additional Employer Contributions.
- ☐ (c) Used to reduce Employer Contributions.

For purposes of subsection (b) or (c) above, forfeitures will be applied:

- ☐ (d) for the Plan Year in which the forfeiture occurs.
- ☐ (e) for the Plan Year following the Plan Year in which the forfeitures occur.

Prior to applying forfeitures under subsection (b) or (c) above.

- ☐ (f) Forfeitures will be used to pay Plan expenses. (See Section 6.11(d) of the Plan.)
- ☐ (g) Forfeitures will not be used to pay Plan expenses.

In determining the amount of forfeitures to be allocated under subsection (b) above, the same allocation conditions apply as under AA §6-5, unless designated otherwise below.

- ☐ (h) Forfeitures are not subject any allocation conditions.
- ☐ (i) Forfeitures are subject to a last day of employment allocation condition.
- ☐ (j) Forfeitures are subject to a ____ Hours of Service minimum service requirement.

In determining the treatment of forfeitures under this AA §8-7, the following special rules apply:

- ☐ (k) Describe: _____

8-8 SPECIAL RULES REGARDING CASH-OUT DISTRIBUTIONS.

- (a) **Additional allocations.** If a terminated Participant receives a complete distribution of his/her vested Account Balance while still entitled to an additional allocation, the Cash-Out Distribution forfeiture provisions do not apply until the Participant receives a distribution of the additional amounts to be allocated. (See Section 6.10(a)(1) of the Plan.)

To modify the default Cash-Out Distribution forfeiture rules, complete this AA §8-8(a).

- ☐ The Cash-Out Distribution forfeiture provisions will apply if a terminated Participant takes a complete distribution, regardless of any additional allocations during the Plan Year.

- (b) **Timing of forfeitures.** A Participant who receives a Cash-Out Distribution (as defined in Section 6.10(a) of the Plan) is treated as having an immediate forfeiture of his/her nonvested Account Balance.

To modify the forfeiture timing rules to delay the occurrence of a forfeiture upon a Cash-Out Distribution, complete this AA §8-8(b).

- ☐ A forfeiture will occur upon the completion of ____ consecutive Breaks in Service (as defined in Section 6.08 of the Plan).

- (c) **Repayment of Cash-Out Distribution.** Unless elected otherwise under this AA §8-8(c), if a Participant receives a Cash-Out Distribution that results in a forfeiture, and the Participant resumes employment covered under the Plan, such Participant may repay to the Plan the amount received as a Cash-Out Distribution.

- ☐ If a Participant receives a Cash-Out Distribution that results in a forfeiture, and the Participant resumes employment covered under the Plan, such Participant may NOT repay to the Plan the amount received as a Cash-Out Distribution and the provisions of Section 6.10(a)(2) do not apply.

8-9 SPECIAL RULE FOR FORFEITURE UPON DEATH OF A PARTICIPANT. Unless elected below, no vested benefits are forfeited upon the death of a Participant.

To modify this default forfeiture rule, check to box below.

- ☐ The Plan will forfeit benefits (including vested benefits) upon the death of a Participant, if not precluded by law. In no event may the Plan forfeit any amounts attributable to After-Tax Employee Contributions under the Plan or if the Plan has commenced distributions prior to the Participant's death.

SECTION 9
DISTRIBUTION PROVISIONS – TERMINATION OF EMPLOYMENT

9-1 AVAILABLE FORMS OF DISTRIBUTION.

Lump sum distribution. A Participant may take a distribution of his/her entire vested Account Balance in a single lump sum upon termination of employment. In addition, the Plan Administrator may permit a Participant to take partial distributions or installment distributions solely to the extent necessary to satisfy the required minimum distribution rules under Section 8 of the Plan.

Additional distribution options. To provide for additional distribution options, check the applicable distribution forms under this AA §9-1.

- ☒ (a) **Installment distributions.** A Participant may take a distribution over a specified period not to exceed the life or life expectancy of the Participant (and a designated beneficiary).
- ☐ (b) **Partial lump sum.** A Participant may take a distribution of less than the entire vested Account Balance upon termination of employment.
- ☐ Minimum distribution amount. A Participant may not take a partial lump sum distribution of less than \$_____.
- ☐ (c) **Annuity distributions.** A Participant may elect to have the Plan Administrator use the Participant's vested Account Balance to purchase an annuity as described in Section 7.01 of the Plan.
- ☒ (d) **Describe distribution options:** Any other sequence as requested by the Participant

[Note: Any distribution option described in this subsection (d) may not be subject to the discretion of the Employer or Plan Administrator.]

9-2 PARTICIPANT AND SPOUSAL CONSENT.

- ☐ (a) **Involuntary Cash-Out Distribution.** A Participant who terminates employment with a vested Account Balance of \$5,000 or less will receive an Involuntary Cash-Out Distribution, unless elected otherwise under this AA §9-2. If a Participant's vested Account Balance exceeds \$5,000, the Participant generally must consent to a distribution from the Plan, except to the extent provided otherwise under this AA §9-2. See Section 7.03 of the Plan for additional rules regarding the Participant consent requirements under the Plan.
- ☐ (1) **No Involuntary Cash-Out Distributions.** The Plan does not provide for Involuntary Cash-Out Distributions. A terminated Participant must consent to any distribution from the Plan. (See Section 14.02(b) of the Plan for special rules upon Plan termination.)
- ☐ (2) **Involuntary Cash-Out Distribution threshold.** A terminated Participant will receive an Involuntary Cash-Out Distribution only if the Participant's vested Account Balance is less than or equal to \$_____.
- ☐ (3) **Application of Automatic Rollover rules.** The Automatic Rollover rules described in Section 7.05 of the Plan do not apply to any Involuntary Cash-Out Distribution below \$1,000, unless elected otherwise under this subsection (3). If this subsection (3) is checked, the Automatic Rollover provisions apply to all Involuntary Cash-Out Distributions (including those below \$1,000).
- ☐ (4) **Distribution upon attainment of stated age.** Participant consent will not be required with respect to distributions made upon attainment of Normal Retirement Age (or age 62, if later), regardless of the value of the Participant's vested Account Balance.
- ☐ (5) **Treatment of Rollover Contributions.** Unless elected otherwise under this subsection (5), Rollover Contributions will be excluded in determining whether a Participant's vested Account Balance exceeds the Involuntary Cash-Out threshold for purposes of applying the distribution rules under this AA §9 and the Automatic Rollover provisions under Section 7.05 of the Plan. To include Rollover Contributions in determining whether a Participant's vested Account Balance exceeds the Involuntary Cash-Out threshold, check this subsection (5).
- ☐ (b) **Spousal consent.** Spousal consent is not required for a Participant to receive a distribution or name an alternate beneficiary, unless designated otherwise under this subsection (b). See Section 9.02 of the Plan for rules regarding Spousal consent under the Plan.
- ☐ (1) **Distribution consent.** A Participant's Spouse must consent to any distribution or loan, provided the Participant's vested Account Balance exceeds \$_____.

- ☐ (2) **Beneficiary consent.** A Participant's Spouse must consent to naming someone other than the Spouse as beneficiary under the Plan.
- ☐ (c) **Describe** any special rules affecting Participant or Spousal consent: _____
- [*Note: Any special rules under this subsection (c) must be definitely determinable.*]

9-3 **TIMING OF DISTRIBUTIONS UPON TERMINATION OF EMPLOYMENT.**

- (a) **Distribution of vested Account Balances exceeding \$5,000.** A Participant who terminates employment with a vested Account Balance exceeding \$5,000 may receive a distribution of his/her vested Account Balance in any form permitted under AA §9-1 within a reasonable period following:
- ☒ (1) the date the Participant terminates employment.
- ☐ (2) the last day of the Plan Year during which the Participant terminates employment.
- ☐ (3) the first Valuation Date following the Participant's termination of employment.
- ☐ (4) the end of the calendar quarter following the date the Participant terminates employment.
- ☐ (5) attainment of Normal Retirement Age, death or becoming Disabled.
- ☐ (6) Describe: _____
- [*Note: Any special rules under this subsection (6) must be definitely determinable.*]
- (b) **Distribution of vested Account Balances not exceeding \$5,000.** A Participant who terminates employment with a vested Account Balance that does not exceed \$5,000 will receive a **lump sum** distribution of his/her vested Account Balance within a reasonable period following:
- ☒ (1) the date the Participant terminates employment.
- ☐ (2) the last day of the Plan Year during which the Participant terminates employment.
- ☐ (3) the first Valuation Date following the Participant's termination of employment.
- ☐ (4) the end of the calendar quarter following the date the Participant terminates employment.
- ☐ (5) Describe: _____
- [*Note: Any special rules under this subsection (5) must be definitely determinable.*]
- ☐ (c) **Alternate Cash-Out distribution threshold.** Instead of a vested Account Balance Cash-Out threshold of \$5,000, for purposes of applying the Cash-Out distribution provisions under this AA §9-3, the threshold for distributions upon termination of employment will be based on a vested Account Balance of \$ ____.
- ☐ (d) **Describe additional distribution options:** _____
- [*Note: Any additional distribution option described in this subsection (d) may not be subject to the discretion of the Employer or Plan Administrator.*]

9-4 **DISTRIBUTION UPON DISABILITY.** Unless designated otherwise under this AA §9-4, a Participant who terminates employment on account of becoming Disabled may receive a distribution of his/her vested Account Balance in the same manner as a regular distribution upon termination.

- ☐ (a) **Immediate distribution upon termination of employment.** Distribution will be made as soon as reasonable following the date the Participant terminates employment on account of becoming Disabled.
- ☐ (b) **Following year distribution upon termination of employment.** Distribution will be made as soon as reasonable following the last day of the Plan Year during which the Participant terminates on account of becoming Disabled.
- ☐ (c) **Describe:** _____
- [*Note: Any distribution event described in this subsection (c) will apply uniformly to all Participants under the Plan and may not be subject to the discretion of the Employer or Plan Administrator.*]

9-5 **DETERMINATION OF BENEFICIARY.**

- (a) **Default beneficiaries.** Under Section 7.07(c) of the Plan, to the extent a Beneficiary has not been named by the Participant (subject to the spousal consent rules) and is not designated under the terms of the Investment Arrangement(s) to receive all or any portion of the deceased Participant's death benefit, such amount shall be distributed to the Participant's surviving Spouse (if the Participant was married at the time of death) who shall be

considered the designated Beneficiary. If the Participant does not have a surviving Spouse at the time of death, distribution will be made to the Participant's surviving children (including legally adopted children, but not including step-children), as designated Beneficiaries, in equal shares. If the Participant has no surviving children, distribution will be made to the Participant's estate.

☒ If this subsection (a) is checked, the default beneficiaries under Section 7.07(c) of the Plan are modified as follows:

☐ (1) The Plan adopts the default beneficiary rules under Section 7.07(c) of the Plan, except, if the Participant does not have a surviving Spouse at the time of death, distribution will be made to the Participant's children (including legally adopted children, but not including step-children), as designated Beneficiaries, **per stirpes**.

☒ (2) Describe other modifications to the default beneficiaries under Section 7.07(c) of the Plan: 1.) Surviving Spouse 2.) Participant's Estate

[Note: The description of the modifications to the default beneficiaries must be sufficiently clear for the Plan Administrator to determine the beneficiaries and the method of distribution of the Participant's death benefit.]

(b) **One-year marriage rule.** For purposes of determining whether an individual is considered the surviving Spouse of the Participant, the determination is based on the marital status as of the date of the Participant's death, unless designated otherwise under this subsection (b).

☐ If this subsection (b) is checked, in order to be considered the surviving Spouse, the Participant and surviving Spouse must have been married for the entire one-year period ending on the date of the Participant's death. If the Participant and surviving Spouse are not married for at least one year as of the date of the Participant's death, the Spouse will not be treated as the surviving Spouse for purposes of applying the distribution provisions of the Plan. (See Section 9.03 of the Plan.)

(c) **Divorce of Spouse.** Unless elected otherwise under this subsection (c), if a Participant designates his/her Spouse as Beneficiary and subsequent to such Beneficiary designation, the Participant and Spouse are divorced, the designation of the Spouse as Beneficiary under the Plan is automatically rescinded as set forth under Section 7.07(c)(6) of the Plan.

☐ If this subsection (c) is checked, a Beneficiary designation will not be rescinded upon divorce of the Participant and Spouse.

[Note: Section 7.07(c)(6) of the Plan and this subsection (c) will be subject to the provisions of a Beneficiary designation entered into by the Participant. Thus, if a Beneficiary designation specifically overrides the election under this subsection (c), the provisions of the Beneficiary designation will control. See Section 7.07(c)(6) of the Plan.]

SECTION 10

IN-SERVICE DISTRIBUTIONS AND REQUIRED MINIMUM DISTRIBUTIONS

10-1 **AVAILABILITY OF IN-SERVICE DISTRIBUTIONS.** A Participant may withdraw all or any portion of his/her vested Account Balance, to the extent designated, upon the occurrence of the event(s) selected under this AA §10-1.

☐ (a) No in-service distributions are permitted.

☐ (b) Attainment of age ____ [may not be earlier than age 62].

☒ (c) Attainment of Normal Retirement Age.

10-2 **APPLICATION TO OTHER CONTRIBUTION SOURCES.** If the Plan allows for Rollover Contributions under AA §C-2 or After-Tax Employee Contributions under AA §6-6, unless elected otherwise under this AA §10-2, a Participant may take an in-service distribution from his/her Rollover Account and After-Tax Employee Contribution Account at any time. Employer Pick-Up Contributions will not be eligible for in-service distribution.

Alternatively, if this AA §10-2 is completed, the following in-service distribution provisions apply for Rollover Contributions, After-Tax Employee Contributions and/or Employer Pick-Up Contributions:

Rollover	After-Tax	Pick-Up	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(a) No in-service distributions are permitted.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(b) Attainment of age ____ (Not greater than age 70½).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(c) Attainment of Normal Retirement Age.

Rollover	After-Tax	Pick-Up	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(d) Attainment of Early Retirement Age.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(e) Describe: _____

10-3 **SPECIAL DISTRIBUTION RULES.** No special distribution rules apply, unless specifically provided under this AA §10-3.

- ☐ (a) In-service distributions will only be permitted if the Participant is 100% vested in the amounts being withdrawn.
- ☐ (b) A Participant may take no more than ____ in-service distribution(s) in a Plan Year.
- ☐ (c) A Participant may not take an in-service distribution of less than \$ ____.
- ☐ (d) A Participant may not take an in-service distribution of more than \$ ____.
- ☐ (e) Other distribution rules: _____

10-4 **REQUIRED MINIMUM DISTRIBUTIONS.**

- (a) **Required distributions after death.** If a Participant dies before distributions begin and there is a Designated Beneficiary, the Participant or Beneficiary may elect on an individual basis whether the 5-year rule (as described in Section 8.06(a) of the Plan) or the life expectancy method described under Sections 8.02 of the Plan apply. See Section 8.06(b) of the Plan for rules regarding the timing of an election authorized under this AA §10-4.

Alternatively, if selected under this subsection (a), any death distributions to a Designated Beneficiary will be made only under either the 5-year rule or the life expectancy method, as elected below:

- ☐ (1) The five-year rule under Section 8.06(a) of the Plan applies (instead of the life expectancy method). Thus, the entire death benefit must be distributed by the end of the fifth year following the year of the Participant's death. Death distributions to a Designated Beneficiary may not be made under the life expectancy method.
- ☐ (2) The life expectancy method under Sections 8.02 and 8.04 of the Plan (and not the 5-year rule).
- ☐ (b) **Describe any special rules applicable to required minimum distributions:** _____

[Note: Any special rule under this subsection (b) must satisfy the requirements of Code §401(a)(9). This subsection (b) may be used to override the default provision under Section 8.06(b) of the Plan. For example, the Employer may designate the life expectancy rules as the default rather than the five-year rule when a Participant or Beneficiary fails to make an election.]

SECTION 11 MISCELLANEOUS PROVISIONS

11-1 **PLAN VALUATION.** The Plan is valued **annually**, as of the last day of the Plan Year.

- ☒ (a) **Additional valuation dates.** In addition, the Plan will be valued on the following dates:

- ☒ (1) **Daily.** The Plan is valued at the end of each business day during which the New York Stock Exchange is open.
- ☐ (2) **Monthly.** The Plan is valued at the end of each month of the Plan Year.
- ☐ (3) **Quarterly.** The Plan is valued at the end of each Plan Year quarter.
- ☐ (4) **Describe:** _____

[Note: The Employer may elect operationally to perform interim valuations, regardless of any selection in this subsection (a).]

- ☐ (b) **Special rules.** The following special rules apply in determining the amount of income or loss allocated to Participants' Accounts: _____

- 11-2 **SPECIAL RULES FOR APPLYING THE CODE §415 LIMITATION.** The provisions under Section 5.02 of the Plan apply for purposes of determining the Code §415 Limitation.

Complete this AA §11-2 to override the default provisions that apply in determining the Code §415 Limitation under Section 5.02 of the Plan.

- ☐ (a) **Limitation Year.** Instead of the Plan Year, the Limitation Year is the 12-month period ending _____.

[Note: If the Plan has a short Plan Year for the first year of establishment, the Limitation Year is deemed to be the 12-month period ending on the last day of the short Plan Year.]

- ☐ (b) **Imputed compensation.** For purposes of applying the Code §415 Limitation, Total Compensation includes imputed compensation for a Participant who terminates employment on account of becoming disabled as described under Section 5.02(c)(7)(ii) of the Plan.

- ☐ (c) **Special rules:** _____

[Note: Any special rules under this subsection (c) must be consistent with the requirements of Code §415.]

- 11-3 **MILITARY SERVICE PROVISIONS -- BENEFIT ACCRUALS.** The benefit accrual provisions under Section 15.04 of the Plan do not apply. To apply the benefit accrual provisions under Section 15.04 of the Plan, check the box below.

- ☐ **Eligibility for Plan benefits.** Check this box if the Plan will provide the benefits described in Section 15.04 of the Plan. If this box is checked, an individual who dies or becomes disabled in qualified military service will be treated as reemployed for purposes of determining entitlement to benefits under the Plan.

- 11-4 **ELECTION NOT TO PARTICIPATE. (See Section 2.08 of the Plan.)** All Participants share in any allocation under this Plan and no Employee may waive out of Plan participation.

To allow Employees to make a one-time irrevocable waiver, check below.

- ☐ An Employee may make a one-time irrevocable election not to participate under the Plan.

- 11-5 **TREATMENT OF CERTAIN BENEFITS.** The protected benefits rules under Code §411(d)(6) do not apply to the Plan. However, the Employer may describe below (or in a separate addendum attached to this Adoption Agreement) the treatment of certain benefits following events such as plan merger or consolidation, transfer of assets or similar events.

Describe treatment of benefits: _____

[Note: If the benefit described here in the Plan or a plan being merged into the Plan is not either (i) available as a provision through the Pre-Approved Plan or (ii) the subject of a prior determination, advisory, or opinion letter, the Employer cannot rely on the Pre-Approved Plan Provider's opinion letter for qualification with respect to such benefit. If the benefit described here in the Plan or a plan being merged into the Plan is not permitted in a pre-approved plan, as described in Section 6.03 of Revenue Procedure 2017-41, such provision must be discontinued no later than the date the Employer adopts this Pre-Approved Plan or, in the case of a merger, the merger date.]

- 11-6 **SPECIAL RULES FOR MULTIPLE EMPLOYER PLANS.** If the Plan is a Multiple Employer Plan (as designated under AA §2-6), the rules applicable to Multiple Employer Plans under Section 16.07 of the Plan apply.

- ☐ The following special rules apply with respect to Multiple Employer Plans: _____

[Note: Any special rules under this AA §11-6 must satisfy the nondiscrimination requirements under Code §401(a)(4) and must satisfy the rules applicable to Multiple Employer Plans under Code §413(c).]

APPENDIX A
SPECIAL EFFECTIVE DATES

[Note: This Appendix A may be used to memorialize prior Plan provisions that pertain to sources that no longer accept new contributions under the Plan.]

- ☐ A-1 **Eligible Employees.** The definition of Eligible Employee under AA §3 is effective as follows:

- ☐ A-2 **Minimum age and service conditions.** The minimum age and service conditions and Entry Date provisions specified in AA §4 are effective as follows:

- ☐ A-3 **Compensation definitions.** The compensation definitions under AA §5 are effective as follows:

- ☐ A-4 **Employer Contributions.** The Employer Contribution provisions under AA §6 are effective as follows:

- ☐ A-5 **After-Tax Employee and Pick-Up Contributions.** The provisions of the Plan addressing Employee After-Tax Contributions and Pick-Up Contribution provisions under AA §6-6 of the Plan are effective as follows:

- ☐ A-6 **Retirement ages.** The retirement age provisions under AA §7 are effective as follows:

- ☐ A-7 **Vesting and forfeiture rules.** The rules regarding vesting and forfeitures under AA §8 are effective as follows:

- ☐ A-8 **Distribution provisions.** The distribution provisions under AA §9 are effective as follows:

- ☐ A-9 **In-service distributions and Required Minimum Distributions.** The provisions regarding in-service distribution and Required Minimum Distributions under AA §10 are effective as follows:

- ☐ A-10 **Miscellaneous provisions.** The provisions under AA §11 are effective as follows:

- ☐ A-11 **Special effective date provisions for merged plans.** If any qualified retirement plans have been merged into this Plan, the provisions of Section 14.03 of the Plan apply as follows:

- ☐ A-12 **Other special effective dates:**

- ☐ A-13 **Special effective dates for restated pre-approved plans:** Use this A-13 to memorialize plan operational changes that have occurred after the general effective date of the plan and the actual plan restatement adoption date. Adopting employers may use the above Special Effective Date options (A-1 through A-12) to memorialize these changes or they may use this A-13. If the adopting employer uses this A-13, the changes will be part of the Plan, but will not be reflected in the SPD or plan summary:

APPENDIX B
LOAN POLICY

Use this Appendix B to identify elections dealing with the administration of Participant loans. These elections may be changed without amending this Adoption Agreement by substituting an updated Appendix B with new elections. Any modifications to this Appendix B, or any modifications to a separate loan policy describing the loan provisions selected under the Plan, will not affect an Employer's reliance on the IRS Favorable Letter. All loans are subject to any internal limitations imposed by the Investment Arrangement or the service provider or platform.

B-1 Are **PARTICIPANT LOANS** permitted? (See Section 13 of the Plan.)

- ☐ (a) Yes
☒ (b) No

B-2 **LOAN PROCEDURES.**

- ☐ (a) Loans will be provided under the default loan procedures set forth in Section 13 of the Plan, unless modified under this Appendix B.
☐ (b) Loans will be provided under a separate written loan policy.

[Note: If this subsection (b) is checked, do not complete the rest of this Appendix B.]

B-3 **AVAILABILITY OF LOANS.** Participant loans are available to all active Participants and Beneficiaries. Participant loans are not available to a former Employee or Beneficiary (including an Alternate Payee under a QDRO). To override this default provision, check subsections (a), (b) and/or (c) below:

- ☐ (a) A former Employee or Beneficiary (including an Alternate Payee) who has a vested Account Balance may request a loan from the Plan.
☐ (b) A "limited participant" as defined in Section 3.05 of the Plan may not request a loan from the Plan.
☐ (c) An officer or director of the Employer, as defined for purposes of the Sarbanes-Oxley Act, may **not** request a loan from the Plan.
☐ (d) Describe limitations on receiving loans under the Plan: _____

[Note: Any limitation under subsection (d) must be definitely determinable and not provide any Employer discretion.]

B-4 **LOAN LIMITS.** The default loan policy under Section 13.03 of the Plan allows Participants to take a loan provided all outstanding loans do not exceed 50% of the Participant's vested Account Balance. To override the default loan policy to allow loans up to \$10,000, even if greater than 50% of the Participant's vested Account Balance, check this AA §B-4.

- ☐ A Participant may take a loan equal to the greater of \$10,000 or 50% of the Participant's vested Account Balance.

[Note: If this AA §B-4 is checked, the Participant may be required to provide adequate security as required under Section 13.06 of the Plan.]

B-5 **NUMBER OF LOANS.** The default loan policy under Section 13.04 of the Plan restricts Participants to one loan outstanding at any time. To override the default loan policy and permit Participants to have more than one loan outstanding at any time, complete subsection (a) or (b) below.

- ☐ (a) A Participant may have ____ loans outstanding at any time.
☐ (b) There are no restrictions on the number of loans a Participant may have outstanding at any time.

B-6 **LOAN AMOUNT.** The default loan policy under Section 13.04 of the Plan provides that a Participant may not receive a loan of less than \$1,000. To modify the minimum loan amount or to add a maximum loan amount, complete this AA §B-6.

- ☐ (a) There is no minimum loan amount.
☐ (b) The minimum loan amount is \$_____.
☐ (c) The maximum loan amount is \$_____.

- B-7 **INTEREST RATE.** The default loan policy under Section 13.05 of the Plan provides for an interest rate commensurate with the interest rates charged by local commercial banks for similar loans. To override the default loan policy and provide a specific interest rate to be charged on Participant loans, complete this AA §B-7.
- ☐ (a) The prime interest rate plus ____ percentage point(s).
- ☐ (b) The interest rate is determined in accordance with the terms of the Investment Arrangement, service provider procedures, or other loan policy document adopted by the Plan Administrator.
- ☐ (b) Describe: _____
- [*Note: Any interest rate described in this AA §B-7 must be reasonable and must apply uniformly to all Participants.*]
- B-8 **PURPOSE OF LOAN.** The default loan policy under Section 13.02 of the Plan provides that a Participant may receive a Participant loan for any purpose. To modify the default loan policy to restrict the availability of Participant loans to hardship events, check this AA §B-8.
- ☐ (a) A Participant may only receive a Participant loan upon the demonstration of a hardship event, as described in Section 7.10(c)(1)(i) of the Plan.
- ☐ (b) A Participant may only receive a Participant loan under the following circumstances: _____
- B-9 **APPLICATION OF LOAN LIMITS.** If Participant loans are not available from all contribution sources, the limitations under Code §72(p) and the adequate security requirements of the Department of Labor regulations will be applied by taking into account the Participant's entire Account Balance. To override this provision, complete this AA §B-9.
- ☐ The loan limits and adequate security requirements will be applied by taking into account only those contribution Accounts which are available for Participant loans.
- B-10 **CURE PERIOD.** The Plan provides that a Participant incurs a loan default if a Participant does not repay a missed payment by the end of the calendar quarter following the calendar quarter in which the missed payment was due. To override this default provision to apply a shorter cure period, complete this AA §B-10.
- ☐ (a) The cure period for determining when a Participant loan is treated as in default will be ____ days (cannot exceed 90) following the end of the month in which the loan payment is missed.
- ☐ (b) The cure period for determining when a Participant loan is treated as in default will be the greater of ____ days (cannot exceed 90) following the end of the month in which the loan payment is missed or the last day of the second calendar quarter following the calendar quarter in which the missed payment was due.
- ☐ (c) The cure period for determining when a loan is treated as in default will be ____ days (cannot exceed 90) following the first missed loan payment.
- B-11 **PERIODIC REPAYMENT – PRINCIPAL RESIDENCE.** If a Participant loan is for the purchase of a Participant's primary residence, the loan repayment period for the purchase of a principal residence may not exceed ten (10) years. To override this default provision, complete this AA §B-11.
- ☐ (a) The Plan does not permit loan payments to exceed five (5) years, even for the purchase of a principal residence.
- ☐ (b) The loan repayment period for the purchase of a principal residence may not exceed ____ years (may not exceed 30).
- ☐ (c) Loans for the purchase of a Participant's primary residence may be payable over any reasonable period commensurate with the period permitted by commercial lenders for similar loans.
- B-12 **TERMINATION OF EMPLOYMENT.** Section 13.10(a) of the Plan provides that a Participant loan becomes due and payable in full upon the Participant's termination of employment. To override this default provision, complete this AA §B-12.
- ☐ A Participant loan will not become due and payable in full upon the Participant's termination of employment.
- B-13 **DIRECT ROLLOVER OF A LOAN NOTE.** Section 13.10(b) of the Plan provides that upon termination of employment a Participant may request the Direct Rollover of a loan note. To override this default provision, complete this AA §B-13.
- ☐ A Participant may **not** request the Direct Rollover of the loan note upon termination of employment.
- B-14 **LOAN RENEGOTIATION.** The default loan policy provides that a Participant may renegotiate a loan, provided the renegotiated loan separately satisfies the reasonable interest rate requirement, the adequate security requirement, the periodic repayment requirement and the loan limitations under the Plan. The Employer may restrict the availability of renegotiations to prescribed purposes provided the ability to renegotiate a Participant loan is available on a non-discriminatory basis. To override the default loan policy and restrict the ability of a Participant to renegotiate a loan, complete this AA §B-14.

- ☐ (a) A Participant may **not** renegotiate the terms of a loan.
- ☐ (b) The following special provisions apply with respect to renegotiated loans: _____

B-15 MODIFICATIONS TO DEFAULT LOAN PROVISIONS.

- ☐ The following special rules will apply with respect to Participant loans under the Plan: _____

[Note: Any provision under this AA §B-15 must satisfy the requirements under Code §72(p) and the regulations thereunder and will control over any inconsistent provisions of the Plan dealing with the administration of Participant loans.]

APPENDIX C
ADMINISTRATIVE ELECTIONS

Use this Appendix C to identify certain elections dealing with the administration of the Plan. These elections may be changed without amending this Adoption Agreement by substituting an updated Appendix C with new elections. The provisions selected under this Appendix C do not create qualification issues and any changes to the provisions under this Appendix C will not affect the Employer's reliance on the IRS Favorable Letter.

C-1 DIRECTION OF INVESTMENTS. Are Participants permitted to **direct investments**? (See Section 10.07 of the Plan.)

☐ (a) No

☒ (b) Yes, but subject to the following restrictions:

☒ (1) No restrictions apply

☐ (2) Only for Accounts that are 100% vested

☐ (3) Specify Accounts: _____

☐ (4) Describe any special rules that apply for purposes of direction of investments: _____

[Note: This subsection (4) may be used to describe special investment provisions for specific types of investments or for specific Accounts, such as the Rollover Contribution Account.]

C-2 ROLLOVER CONTRIBUTIONS. Does the Plan accept **Rollover Contributions**? (See Section 3.05 of the Plan.)

☐ (a) No

☒ (b) Yes

☒ (1) If this subsection (1) is checked, an Employee may make a Rollover Contribution to the Plan prior to becoming a Participant in the Plan.

☐ (2) Check this subsection (2) if the Plan will accept Rollover Contributions from former Employees with an Account Balance under the Plan.

☐ (3) Describe any special rules for accepting Rollover Contributions: _____

[Note: The Employer may designate in this subsection (3), or in separate written procedures, the extent to which it will accept rollovers from designated plan types. For example, the Employer may decide not to accept rollovers from certain designated plans (e.g., 403(b) plans, §457 plans or IRAs). Any special rollover procedures will apply uniformly to all Participants under the Plan.]

C-3 LIFE INSURANCE. Are **life insurance** investments permitted? (See Section 10.08 of the Plan.)

☒ (a) No

☐ (b) Yes

C-4 QDRO PROCEDURES. Although the requirements of Code §414(p) do not apply to the Plan, the Employer may elect to apply the procedures set forth under Section 11.05 of the Plan (which are patterned after the rules under Code §414(p)) by electing subsection (a) below or may elect not to apply the procedures set forth under Section 11.05 of the Plan and instead, describe the Plan's procedures for addressing domestic relations orders below or in separate administrative procedures.

☐ (a) The Employer elects to have the requirements of Section 11.05 of the Plan apply to its Plan.

☒ (b) The requirements of Section 11.05 of the Plan do not apply to the Plan. The procedures for addressing the receipt of domestic relations orders are either set forth below or in separate administrative procedures.

Describe domestic relations procedures: _____

EMPLOYER SIGNATURE PAGE

PURPOSE OF EXECUTION. This Signature Page is being executed to effect:

- ☐ (a) The adoption of a **new plan**, effective [insert Effective Date of Plan]. [**Note:** Date can be no earlier than the first day of the Plan Year in which the Plan is adopted.]
- ☐ (b) The **restatement** of an existing plan in order to comply with the requirements for Cycle 3 Pre-Approved Plans, pursuant to Rev. Proc. 2017-41.
- (1) Effective date of restatement: _____. [**Note:** Date can be no earlier than the first day of the Plan Year in which the restatement is adopted.]
- (2) Name of plan(s) being restated: _____
- (3) The original effective date of the plan(s) being restated: _____
- ☒ (c) An **amendment or restatement** of the Plan (other than to comply with the requirements for Cycle 3 Pre-Approved Plans under Rev. Proc. 2017-41). If this Plan is being amended, a snap-on amendment may be used to designate the modifications to the Plan or the updated pages of the Adoption Agreement may be substituted for the original pages in the Adoption Agreement. All prior Employer Signature Pages should be retained as part of this Adoption Agreement.
- (1) Effective Date(s) of amendment/restatement: 1-1-2025
- (2) Name of plan being amended/restated: Lansing Board of Water and Light Defined Contribution Plan and Trust 2
- (3) The original effective date of the plan being amended/restated: 1-1-1988
- (4) If Plan is being amended, identify the Adoption Agreement section(s) being amended: _____

PRE-APPROVED PLAN PROVIDER INFORMATION. The Pre-Approved Plan Provider (or authorized representative) will inform the Employer of any amendments made to the Plan and will notify the Employer if it discontinues or abandons the Plan. To be eligible to receive such notification, the Employer agrees to notify the Pre-Approved Plan Provider (or authorized representative) of any change in address. The Employer may direct inquiries regarding the Plan or the effect of the IRS Opinion Letter to the Pre-Approved Plan Provider (or authorized representative) at the following location:

Name of Pre-Approved Plan Provider (or authorized representative): Nationwide Financial Services, Inc.

Address: 10 W. Nationwide Blvd, Columbus, OH 43215

Telephone number: 1-877-496-1630

IMPORTANT INFORMATION ABOUT THIS PRE-APPROVED PLAN. A failure to properly complete the elections in this Adoption Agreement or to operate the Plan in accordance with applicable law may result in disqualification of the Plan. The Employer may rely on the Favorable IRS Letter issued by the Internal Revenue Service to the Pre-Approved Plan Provider as evidence that the Plan is qualified under Code §401(a), to the extent provided in Rev. Proc. 2017-41. The Employer may not rely on the Favorable IRS Letter in certain circumstances or with respect to certain qualification requirements, which are specified in the Favorable IRS Letter issued with respect to the Plan and in Rev. Proc. 2017-41. In order to obtain reliance in such circumstances or with respect to such qualification requirements, the Employer may need to apply to the Internal Revenue Service for a determination letter.

By executing this Adoption Agreement, the Employer intends to adopt the provisions as set forth in this Adoption Agreement and the related Plan document. By signing this Adoption Agreement, the individual below represents that he/she has the authority to execute this Plan document on behalf of the Employer. This Adoption Agreement may only be used in conjunction with Basic Plan Document #03. The Employer understands that the Pre-Approved Plan Provider has no responsibility or liability regarding the suitability of the Plan for the Employer's needs or the options elected under this Adoption Agreement. It is recommended that the Employer consult with legal counsel before executing this Adoption Agreement.

Lansing Board of Water and Light
(Name of Employer)

(Name of authorized representative)

(Title)

(Signature)

(Date)

TRUST DECLARATION

This Trust Declaration may be used to identify and adopt the Trust associated with the Plan.

[Note: The Internal Revenue Service does not review the Trust Declaration, or the trust provisions associated with Pre-Approved Plans. Therefore, the provisions of the Trust Declaration, ASC Trust Agreement or any separate Trust agreement have not been approved by the IRS and the IRS opinion letter does not cover such Trust Agreement. The Provider, the Trustee and the adopting Employer should review the applicable Trust provisions, and any modifications thereto, with legal counsel to ensure the provisions are appropriate for the Plan and consistent with Employer elections.]

Name of Plan. Lansing Board of Water and Light Defined Contribution Plan and Trust 2

Name of Employer. Lansing Board of Water and Light

Effective date of Trust Agreement: 4-25-2021

(a) **The Trust terms are:**

☐ (1) **Determined under the Trust provisions contained in the ASC Trust Agreement - Standard.**

[Note: Trustee must complete the Trustee Signature section under Section (b) below.]

☐ (i) **Directed Trustee.** The Trustee may only invest Plan assets as directed by the Plan Administrator, the Employer, an Investment Manager or other Named Fiduciary or, to the extent authorized under the Plan, a Plan Participant.

☐ (ii) **Discretionary Trustee.** The Trustee has discretion to invest Plan assets, unless specifically directed otherwise by the Plan Administrator, the Employer, an Investment Manager or other Named Fiduciary or, to the extent authorized under the Plan, a Plan Participant.

[Modification of ASC Trust Agreement Provisions. The Employer may amend the Trust provisions as provided under Section 1.18 of the ASC Trust Agreement. Plan provisions will override any conflicting provisions in the Trust Agreement, including any modification thereto. The Provider and the adopting Employer should review any modifications of the ASC Trust Agreement with legal counsel to ensure the provisions are appropriate for the Plan and consistent with Employer elections.]

☒ (2) **Determined under a separate Trust agreement(s).** The Trust provisions are contained in a separate Trust Agreement that has been furnished to the Employer. Notwithstanding the terms of the Plan, the terms of the Trust Agreement shall control the rights and responsibilities of the Trustee with respect to the Trust and the assets held in such Trust.

Name of Trustee. Board of Trustees

Title of Trust Agreement. Trust Agreement for the Lansing Board of Water and Light Defined Contribution Plan and Trust 2

Address of Trustee. P.O. Box 13007

Lansing, Michigan, 48901

[Note: In using a separate Trust Agreement, the Trustee may adopt such Trust Agreement by either completing the Trustee Signature section under Section (b) below or may execute the separate Trust Agreement. In either case, the information above – Name of Trustee, Title of Trust Agreement and Address of Trustee – must be completed.]

☐ (3) **Plan is funded with custodial accounts, annuity contracts and/or insurance contracts.** There is no Trust associated with the Plan because the Plan is funded exclusively with custodial accounts, annuity contracts and/or insurance contracts.

[Note: No signature is required under this Trust Declaration if the Plan is funded exclusively with custodial accounts, annuity contracts and/or insurance contracts. The Employer or Plan Administrator may enter into a separate agreement with the custodian or insurance company. Such separate agreement must be consistent with the terms of the Plan.]

CARES/SECURE ACTS INTERIM AMENDMENT ELECTIVE PROVISIONS

These Elective Provisions provide for elections related to the Interim Amendment. If the adopting Employer agrees to the default for a particular provision or the provision does not apply to the Employer's Plan, the adopting Employer does not need to make an election for that provision. If the adopting Employer wishes to override any of the defaults, the adopting Employer should make the appropriate

election(s) in the Elective Provisions below. If the defaults are not used, the adopting Employer will need to execute these Elective Provisions.

CS-1. TEMPORARY WAIVER OF REQUIRED MINIMUM DISTRIBUTIONS FOR 2020 (See IA §3.03)

[Note: Do not complete these Elective Provisions if the Plan was not in existence during 2020 or if the temporary waiver otherwise did not apply to the Plan.]

(a) **Default if Participant fails to elect.** For purposes of applying the required minimum distribution rules for the 2020 calendar year, effective January 1, 2020 (or such later date as designated below), a Participant (including an Alternate Payee or beneficiary of a deceased Participant) who was eligible to receive a required minimum distribution for the 2020 calendar year could elect whether to receive the 2020 RMD or 2020 Extended RMD (as defined in IA §3.03). If a Participant did not specifically elect to take the 2020 RMD or 2020 Extended RMD from the Plan, such distribution was not made for the 2020 calendar year. The Employer may modify this default rule below, provided such modification satisfies the requirements under Code §401(a)(9)(I) and any applicable IRS guidance.

- ☐ (1) **2020 RMDs and 2020 Extended RMDs were made.** 2020 RMDs and 2020 Extended RMDs were made to Participants who were otherwise required to receive a required minimum distribution for the 2020 calendar year, unless the Participant elected to not receive such distribution.
- ☐ (2) **2020 RMDs were not made, but 2020 Extended RMDs were made.** 2020 RMDs were not made for the 2020 calendar year, but 2020 Extended RMDs were made for the 2020 calendar year, unless the Participant elected otherwise.
- ☐ (3) **2020 RMDs were made, but 2020 Extended RMDs were not made.** 2020 RMDs were made for the 2020 calendar year, but 2020 Extended RMDs were not made for the 2020 calendar year, unless the Participant elected otherwise.

(4) **Direct Rollovers.** Unless elected otherwise below, the Plan offered a Direct Rollover only for distributions that were Eligible Rollover Distributions in the absence of Code §401(a)(9)(I).

Instead of the default above, the following were treated as Eligible Rollover Distributions in 2020:

- ☐ (i) 2020 RMDs
- ☐ (ii) 2020 RMDs and 2020 Extended RMDs
- ☐ (iii) 2020 RMDs, but only if paid with an additional amount that is an Eligible Rollover Distribution without regard to Code §401(a)(9)(I)
- ☐ (iv) Describe: _____

☐ (5) **Describe other modifications of the default participant election rules:** _____

☐ (6) **Effective date.** Instead of January 1, 2020, the effective date of the amendment providing for a choice of whether a Participant or beneficiary could receive 2020 RMDs was effective: _____

☐ (b) **Describe any special rules, including any special effective dates, the Plan applied to required minimum distributions for 2020:** _____

CS-2. REQUIRED MINIMUM DISTRIBUTION ELECTIONS (IA §5.02(b)(1)(ii)). Effective for distributions with respect to Participants who die after December 31, 2019 (or such later effective date applicable to the Plan. See IA §5.02(b)(1)(v)) and before the applicable Required Beginning Date, the Plan's Cycle 3 elections with regard to required minimum distributions continue to apply to **Eligible Designated Beneficiaries**, except that the 10-year rule will be substituted for the 5-year rule, as appropriate. In addition, the Cycle 3 default applicable to a Participant or Designated Beneficiary who fails to make an election continues to apply. **To override this default provision, complete (a) and/or (b) below.**

☒ **Default** (a) **Application of life expectancy and 10-year rules to Eligible Designated Beneficiaries.** Instead of the default, the Plan will apply the following rule:

- ☐ (1) Effective _____, the life expectancy rule applies to all Eligible Designated Beneficiaries.
- ☐ (2) Effective _____, the 10-year rule applies to all Eligible Designated Beneficiaries.
- ☐ (3) Effective _____, the entire interest of an Eligible Designated Beneficiary will be distributed by the end of the _____ calendar year [may not be greater than 9th] following the year the Participant dies.

☒ **Default** (4) Effective November 8, 2022, the Participant or Eligible Designated Beneficiary may elect to apply either the 10-year rule or the life expectancy rule to determine the required minimum distributions when the Participant dies before his/her Required Beginning Date. If no election is timely made:

☒ **Default** (i) the life expectancy rule applies

☐ (ii) the 10-year rule applies

☐ (iii) the 10-year rule, reduced to _____ years applies

☐ (5) Describe the manner (including effective date) in which the 10-year rule and life expectancy rule apply to Eligible Designated Beneficiaries: _____

☐ (b) **Special rules.** Describe any special rules that apply for purposes of the required minimum distribution rules under Code §401(a)(9): _____

[Note: Any special rules for determining required minimum distributions for calendar years beginning on or after January 1, 2022 (or such later date as specified in applicable regulations or guidance) must comply with proposed Treas. Reg §§1.401(a)(9)-1 through 1.401(a)(9)-9 issued on February 24, 2022 (or subsequent applicable final regulations).]

CS-3. DELAYED ADOPTION OF SAFE HARBOR 401(k) PLAN (IA §5.06)

(a) **Amendment into a 3% nonelective Safe Harbor 401(k) Plan accounts (See IA §5.06(a)).** Unless an election is made below, the Plan is not amended and the current Plan provisions will continue to apply. [Do not complete if Plan will not provide for a Safe Harbor contribution.]

☐ (1) The Plan is amended to add a _____% [insert amount of at least 3%] Traditional Safe Harbor 401(k) Plan Employer Contribution, effective for the _____ [insert applicable Plan Year] Plan Year. The elected percentage will continue to apply for future Plan Years, unless otherwise provided in CS-3(a)(3) or by a subsequent Plan amendment.

☐ (2) The Plan is amended to add a _____% [insert amount of at least 3%] QACA Safe Harbor 401(k) Plan Employer Contribution, effective for the _____ [insert applicable Plan Year] Plan Year. The elected percentage will continue to apply for future Plan Years, unless otherwise provided in CS-3(a)(3) or by a subsequent Plan amendment.

☐ (3) Describe any special provisions applicable to the adoption of a 3% nonelective Safe Harbor 401(k) Plan: _____

(b) **Amendment into a 4% nonelective Safe Harbor 401(k) Plan accounts See IA §5.06(b).** Unless an election is made below, the Plan is not amended and the current Plan provisions will continue to apply.

☐ (1) The Plan is amended to add a _____% [insert amount of at least 4%] Traditional Safe Harbor 401(k) Plan Employer Contribution, effective for the _____ [insert applicable Plan Year] Plan Year. The elected percentage will continue to apply for future Plan Years, unless otherwise provided in CS-3(b)(3) or by a subsequent Plan amendment.

☐ (2) The Plan is amended to add a _____% [insert amount of at least 4%] QACA Safe Harbor 401(k) Plan Employer Contribution, effective for the _____ [insert applicable Plan Year] Plan Year. The elected percentage will continue to apply for future Plan Years, unless otherwise provided in CS-3(b)(3) or by a subsequent Plan amendment.

☐ (3) For Plan Years following the effective date stated under CS-3(b)(1) or CS-3(b)(2), the Safe Harbor Employer Contribution will be _____ [insert amount of at least 3%].

☐ (4) Describe any special provisions applicable to the adoption of a 4% nonelective Safe Harbor 401(k) Plan: _____

CS-4. QUALIFIED BIRTH OR ADOPTION DISTRIBUTIONS (“QBADs”). (See IA §5.08)

Unless an election is made below, the Plan does not allow for QBADs.

☐ (a) Qualified Birth or Adoption Distributions are available from the following sources to Plan Participants as of _____ [insert date no earlier than the first day of the Plan Year beginning after December 31, 2019]: *[Note: May be checked even if no in-service distributions are otherwise permitted under the Plan.]*

☐ (1) All available sources

- ☐ (2) Pre-Tax Deferral Account
- ☐ (3) Roth Deferral Account (including In-Plan Roth Conversion Account)
- ☐ (4) Matching Contribution Account
- ☐ (5) Qualified Matching Contribution (QMAC) Account
- ☐ (6) Employer Contribution Account
- ☐ (7) Qualified Nonelective Contribution (QNEC) Account
- ☐ (8) Safe Harbor Contribution Account(s)
- ☐ (9) Rollover Contribution Account
- ☐ (10) After-Tax Employee Contribution Account
- ☐ (11) Transfer Account
- ☐ (12) Describe available sources: _____

(b) If CS-4(a) is elected, QBADs are available to all Participants who have the applicable Account(s), unless otherwise indicated below.

- ☐ (1) QBADs are not available to terminated Participants.
- ☐ (2) QBADs will only be permitted if the Participant is 100% vested in the source from which the withdrawal is taken.
- ☐ (3) Describe the Participants who may receive QBADs: _____

☐ (c) Describe any special rules related to QBADs: _____

CS-5. INCREASE OF CAP FOR QACA SAFE HARBOR 401(k) PLAN. (See IA §5.09)

Unless an election is made below, the Employer does not elect to increase the cap for its QACA Safe Harbor 401(k) Plan. [Do not complete if plan does not provide for a QACA Safe Harbor contribution.]

- ☐ (a) The cap on the automatic increase of the automatic deferral amount as specified under AA §6C-3(c)(2)(ii) is increased to _____% [insert number greater than 10, not more than 15], effective as of _____ [insert date no earlier than the first day of the Plan Year beginning after December 31, 2019].
- ☐ (b) Describe any special rules related to the increase of cap for QACA Safe Harbor 401(k) Plan: _____

CS-6. IN-SERVICE DISTRIBUTIONS FOR MONEY PURCHASE PENSION PLAN OR TRANSFERRED ASSETS. (See IA §5.11)

Age 59 ½ in-service distributions. Unless an election is made below, the Employer does not elect to change the Plan's in-service distribution options under AA §10-1 of its money purchase pension plan (or with respect to assets transferred from a money purchase plan).

- ☐ (a) Effective _____ [insert date no earlier than the first day of the Plan Year beginning after December 31, 2019], a Participant may withdraw all or any portion of his/her vested Account Balance, upon the attainment of age _____ [may not be earlier than age 59 ½].
- ☐ (b) Describe any special rules related to the in-service distributions: _____

CS-7. LONG-TERM PART-TIME EMPLOYEES ("LTPT Employees"). (See IA §5.12)

LTPT Employees will participate under the Plan, as of the appropriate effective date, as required under IA §5.12. The Employer may make elections in the Adoption Agreement consistent with the requirements of IA §5.12. In addition, the Employer may describe any provisions relating to the participation of LTPT Employees below.

- (a) **Other contributions.** In addition to the ability to make Salary Deferrals, LTPT Employee may receive or make the following in the same manner and under the same conditions as other Eligible Employees under the Plan:
 - ☐ (1) All available Employer and Employee Contribution sources
 - ☐ (2) Employer Contributions (including Qualified Nonelective Employer Contributions)
 - ☐ (3) Matching Contributions (including Qualified Matching Contributions)
 - ☐ (4) Safe Harbor Contributions
 - ☐ (5) Rollover Contributions

☐ (6) After-Tax Employee Contributions

☐ (7) Describe: _____

(b) **Eligibility, Entry Date and minimum age rules.** Instead of the Plan rules for Eligibility Computation Period, Entry Date and minimum age rules applicable to Eligible Employees who are not LTPT Employees, the following rules apply to LTPT Employees:

☐ (1) The Eligibility Computation Period for LTPT Employees is based on Anniversary Years and will not switch to the Plan Year.

☐ (2) Describe Eligibility Computation Period for LTPT Employees: _____

☐ (3) The Entry Dates for LTPT Employees will be the first day of the 1st and 7th month of the Plan Year.

☐ (4) The Entry Dates for LTPT Employees will be _____. (Must satisfy Entry Date requirements under BPD §2.03(b).)

☐ (5) The minimum age requirement for LTPT Employees is:

☐ (i) Age 21

☐ (ii) No minimum age for eligibility

☐ (iii) Age _____ [not later than age 21]

(c) **Collectively Bargained Employees and non-resident aliens.** If Collectively Bargained Employees and/or non-resident aliens who receive no compensation from the Employer that constitutes U.S. source income are otherwise eligible for the Plan, the Employer may elect to exclude such Employees from the LTPT Employee rules of IA §5.12 below:

☐ (1) Collectively Bargained Employees are excluded from eligibility as LTPT Employees.

☐ (2) Non-resident aliens who receive no compensation from the Employer that constitutes U.S. source income are excluded from eligibility as LTPT Employees.

☐ (3) In addition to any election made in CS-7(c)(1) or (2) above, Employees who are otherwise considered Excluded Employees under the Plan will also be excluded from eligibility as LTPT Employees.

(d) **Other provisions.** To the extent the following provisions or options apply to Eligible Employees who are not LTPT Employees, such provisions do not apply to LTPT Employees:

☐ (1) The opportunity to make Roth Deferrals

☐ (2) The automatic contribution arrangement provisions under AA §6A-8

☐ (3) Describe Plan provisions that do not apply to LTPT Employees: _____

☐ (e) Describe any special rules related to the participation of LTPT Employees under the Plan: _____

CS-8. PLAN ADOPTED BY FILING DUE DATE. (See IA §5.13)

☐ The Employer elects to treat the Plan as having been adopted as of the last day of its taxable year ending _____. (See IA §5.13 for rules relating to the timing of this election.)

CS-9. SPECIAL PROVISIONS.

If the Employer wishes to provide additional or clarifying provisions to this Interim Amendment, the Employer may include such provisions below.

☐ Describe any special rules related to this Interim Amendment: _____

APPLICATION OF INTERIM AMENDMENT

Pursuant to Revenue Procedure 2017-41 and Section 14.01(a) of the Plan (Section 11.01(a) in the Owners-Only Plan), to the extent this Interim Amendment has been adopted by the Pre-Approved Plan Provider on behalf of its adopting Employers, the Employer does not need to sign these Elective Provisions. If the Employer wishes to override the Provider's (default) elections, or adopt as an Employer-level amendment, the Employer (or the authorized representative of the Employer) must execute this Interim Amendment by signing below. This amendment applies to the Employer and all Participating Employers under the Plan.

Lansing Board of Water and Light Defined Contribution Plan and Trust 2
Name of Plan

Lansing Board of Water and Light
(Name of Employer)

(Name of Authorized Representative, if applicable) *(Title)*

(Signature) *(Date)*

Lansing Board of Water and Light Defined Contribution Plan and Trust 2

Addendum 1

Nationwide-Sponsored Non-Standardized Governmental Money Purchase Plan

The following provisions are incorporated into Section 6 of the Adoption Agreement as of January 1, 2025:

Section 6-2(b) – Employer Contribution Formula shall be updated to reflect the following:

The Fixed Employer Contribution equal to 8% of each Participant's Compensation shall be calculated as the product of an employee's hourly wage on the last day of the applicable pay period, contribution eligible hours, as determined by the current BWL wage type inclusion chart, worked in the applicable pay period (capped at 80 hours per pay period), and applicable contribution percentage.

Employer Contribution = (Hourly Wage¹ X Contribution Eligible Hours² X Contribution %)

- 1 Employee's hourly wage on the last day of the applicable pay period
- 2 Employee's contribution eligible hours, as determined by the current BWL wage type inclusion chart, worked in the applicable pay period will be capped at 80 hours per pay period

SUMMARY PLAN DESCRIPTION FOR

**Lansing Board of Water and Light Defined
Contribution Plan and Trust 2**

January 1, 2025

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Lansing Board of Water and Light Defined Contribution Plan and Trust 2

SUMMARY PLAN DESCRIPTION

ARTICLE 1 INTRODUCTION

Lansing Board of Water and Light has adopted the Lansing Board of Water and Light Defined Contribution Plan and Trust 2 (the “Plan”) to help its employees save for retirement. If you are an employee of Lansing Board of Water and Light, you may be entitled to participate in the Plan, provided you satisfy the conditions for participation as described in this Summary Plan Description.

This Summary Plan Description (“SPD”) is designed to help you understand the retirement benefits provided under the Plan and your rights and obligations with respect to the Plan. This Summary Plan Description contains a summary of the major features of the Plan, including the conditions you must satisfy to participate under the Plan, the amount of benefits you are entitled to as a Plan participant, when you may receive distributions from the Plan, and other valuable information you should know to understand your Plan benefits. We encourage you to read this SPD and contact the Plan Administrator if you have any questions regarding your rights and obligations under the Plan. (See Article 2 below for the name and address of the Plan Administrator.)

This SPD does not replace the formal Plan document, which contains all of the legal and technical requirements applicable to the Plan. However, this SPD does attempt to explain the Plan language in a non-technical manner that will help you understand your retirement benefits. If the non-technical language under this SPD and the technical, legal language under the Plan document conflict, the Plan document always governs. If you have any questions regarding the provisions contained in this SPD or if you wish to receive a copy of the legal Plan document, please contact the Plan Administrator.

The Plan document may be amended or modified due to changes in law, to comply with pronouncements by the Internal Revenue Service (IRS) or due to other circumstances. If the Plan is amended or modified in a way that changes the provisions under this SPD, you will be notified of such changes.

This SPD does not create any contractual rights to employment nor does it guarantee the right to receive benefits under the Plan. Benefits are payable under the Plan only to individuals who have satisfied all of the conditions under the Plan document for receiving benefits.

ARTICLE 2 GENERAL PLAN INFORMATION AND KEY DEFINITIONS

This Article 2 contains information regarding the day-to-day administration of the Plan as well as the definition of key terms used throughout this Summary Plan Description.

Plan Name: Lansing Board of Water and Light Defined Contribution Plan and Trust 2

Plan Number: 001

Employer:

Name: Lansing Board of Water and Light
Address: P.O. Box 13007
City, State, Zip Code: Lansing, Michigan, 48901
Telephone number: (517) 702-6287
Employer Identification Number (EIN): 38-6005774

Plan Administrator:

The Plan Administrator is responsible for the day-to-day administration and operation of the Plan. For example, the Plan Administrator maintains the Plan records, provides you with forms necessary to request a distribution from the Plan, and directs the payment of your vested benefits when required under the Plan. The Plan Administrator may designate another person or persons to perform the duties of the Plan Administrator. The Plan Administrator or its delegate, as the case may be, has full discretionary authority to interpret the Plan, including the authority to resolve ambiguities in the Plan document and to interpret the Plan's terms, including who is eligible to participate under the Plan and the benefit rights of participants and beneficiaries. All interpretations, constructions and determinations of the Plan Administrator or its delegate shall be final and binding on all persons, unless found by a court of competent jurisdiction to be arbitrary and capricious. The Plan Administrator also will allow you to review the formal Plan document and other materials related to the Plan.

The Employer listed above is acting as Plan Administrator. The Plan Administrator may designate other persons to carry on the day-to-day operations of the Plan. If you have any questions about the Plan or your benefits under the Plan, you should contact the Plan Administrator or other Plan representative.

Trustee:

All amounts contributed to the Plan are held by the Plan Trustee in a qualified Trust. The Trustee is responsible for the safekeeping of the trust funds and must fulfill all Trustee duties in a prudent manner and in the best interest of you and your beneficiaries. The Employer has designated a separate Trustee to hold the assets under the Plan. The trust established on behalf of the Plan will be the funding medium used for the accumulation of assets from which Plan benefits will be distributed.

The following is the name and address of the Plan Trustee(s):

- **Name:** Board of Trustees
Address: P.O. Box 13007
Lansing, Michigan, 48901

Service of Legal Process:

Service of legal process may be made upon the Employer. In addition, service of legal process may be made upon the Plan Trustee or Plan Administrator.

Effective Date of Plan:

This Plan is an amendment of a prior Plan that was originally effective January 1, 1988. The amendment of the Plan is effective as of January 1, 2025. Unless designated otherwise, the provisions of the Plan as set forth in this SPD are effective as of January 1, 2025.

Plan Year:

Many of the provisions of the Plan are applied on the basis of the Plan Year. For this purpose, the Plan Year is the calendar year running from January 1 – December 31.

Plan Compensation:

In applying the contribution formulas under the Plan (as described in Section 5 below), your contributions may be determined based on Plan Compensation earned during the Plan Year. However, in determining Plan Compensation, no amount will be taken into account to the extent such compensation exceeds the compensation dollar limit set forth under IRS rules. For 2024, the compensation dollar limit is \$345,000 (\$350,000 in 2025). Thus, for Plan Years beginning in 2024, no contribution may be made under the Plan with respect to Plan Compensation above \$345,000 (\$350,000 in 2025). For subsequent plan years, the compensation dollar limit may be adjusted for cost-of-living increases.

For purposes of determining Plan Compensation, your total taxable wages or salary is taken into account including any pre-tax salary reduction contributions you may make under any other plans we may maintain, which may include any pre-tax contributions you make under a medical reimbursement plan or "cafeteria" plan. However, for purposes of determining contributions under the Plan, Plan Compensation does not include the following types of compensation:

- Bonuses
- Overtime payments
- All compensation that is paid after you terminate employment, including "regular" pay
- Compensation shall exclude the following categories of pay: payouts or lump sums, non-work related time, premium pay, and other excluded types of pay as determined by the current BWL wage type inclusion chart

Generally, all includible compensation you earn will be taken into account for purposes of determining Plan Compensation, including any compensation you earn while you are not a participant in the Plan.

Normal Retirement Age:

You will reach Normal Retirement Age under the Plan when you turn age 55.

Disabled:

You generally will be considered Disabled for purposes of certain Plan rules, such as those that may apply to Plan distributions, vesting and allocations, under the following hierarchy:

- You are determined to be Disabled by the Social Security Administration under Section 223(d) of the Social Security Act for purposes of determining eligibility for Social Security benefits.
- You are unable to engage in any substantial gainful activity by reason of a 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 Plan Administrator may establish reasonable procedures for determining whether you are disabled for purposes of applying the provisions of the Plan.

ARTICLE 3 DESCRIPTION OF PLAN

Type of Plan. This Plan is a special type of retirement plan commonly referred to as a money purchase plan. A money purchase plan allows you to receive Employer Contributions, which we make on your behalf to the Plan, without having to include such amounts in income. If you have satisfied all of the eligibility conditions described in Article 4 for receiving an Employer Contribution, we will deposit such contribution directly into the Plan on your behalf. Because this money is not reported as income, you do not have to pay any income tax while the money is held in the Plan, and any earnings on such contributions are not taxed while they stay in the Plan. (See Article 5 below for a description of the Employer Contributions authorized under the Plan.)

This money purchase plan is a defined contribution plan, which is intended to qualify under Section 401(a) of the Internal Revenue Code. As a defined contribution plan, it is not covered under Title IV of ERISA and, therefore, benefits are not insured by the Pension Benefit Guaranty Corporation.

ARTICLE 4 ELIGIBILITY REQUIREMENTS

This Article sets forth the requirements you must satisfy to participate under the Plan. To qualify as a participant under the Plan, you must:

- be an Eligible Employee
- satisfy the Plan's minimum age and service conditions and
- satisfy any allocation conditions required under the Plan.

Eligible Employee

To participate under the Plan, you must be an Eligible Employee. For this purpose, you are considered an Eligible Employee if you are an employee of Lansing Board of Water and Light, provided you are not otherwise excluded from the Plan.

Excluded Employees. For purposes of determining whether you are an Eligible Employee, the Plan excludes from participation certain designated employees. If you fall under any of the excluded employee categories, you will not be eligible to participate under the Plan (until such time as you no longer fall into an excluded employee category). [See below for a discussion of your rights upon changing to or from an excluded employee classification.]

The following categories of employees are not eligible to participate in the Plan:

- Any Employee who does not serve as the Corporate Secretary on July 1, 2020 and any other Employee who on or after July 1, 2020 has not entered into a written agreement with the Employer pursuant to which the Employee participates in this Plan

Minimum Age and Service Requirements

In order to participate in the Plan, you must satisfy certain age and service conditions under the Plan.

- **Minimum age requirement.** There is no minimum age requirement for participation in the Plan.
- **Minimum service requirement.** There is no minimum service requirement to participate under the Plan. Thus, you will be eligible to participate in the Plan (provided you are an Eligible Employee) as of the first Entry Date following your date of employment.

Entry Date. Once you have satisfied the eligibility conditions described above, you will be eligible to participate under the Plan on your Entry Date. For this purpose, your Entry Date is the first day of the payroll period coinciding with or next following the date you satisfy the eligibility conditions described above. For

example, if you satisfy the Plan's eligibility conditions during a payroll period, you will be eligible to enter the Plan on the first day of the next payroll period.

Crediting eligibility service. In determining whether you satisfy any minimum age or service conditions under the Plan, all service you perform during the year is counted. In addition, if you go on a maternity or paternity leave of absence (including a leave of absence under the Family Medical Leave Act) or a military leave of absence, you may receive credit for service during your period of absence for certain purposes under the Plan. You should contact the Plan Administrator to determine the effect of a maternity/paternity or military leave of absence on your eligibility to participate under the Plan.

Eligibility upon rehire or change in employment status. If you terminate employment after satisfying the minimum age and service requirements under the Plan and you are subsequently rehired as an Eligible Employee, you will enter the Plan on the later of your rehire date or your Entry Date. If you terminate employment prior to satisfying the minimum age and service requirements, and you are subsequently rehired, you will have to meet the eligibility requirements as if you are a new Employee in order to participate under the Plan.

If you are not an Eligible Employee on your Entry Date, but you subsequently change status to an eligible class of Employee, you will be eligible to enter the Plan immediately (provided you have already satisfied the minimum age and service requirements). If you are an Eligible Employee and subsequently become ineligible to participate in the Plan, all contributions under the Plan will cease as of the date you become ineligible to participate. However, all service earned while you are employed, including service earned while you are ineligible, will be counted when calculating your vested percentage in your account balance.

Allocation Conditions

If you are an Eligible Employee and have satisfied the minimum age and service requirements described above, you are entitled to share in the contributions described in Article 5, provided you satisfy the allocation conditions described below.

Employer Contributions. You will be entitled to share in any Employer Contributions we make to the Plan if you satisfy the eligibility conditions described above. You do not need to satisfy any additional allocation conditions to receive an Employer Contribution. You will receive your share of the Employer Contributions regardless of how many hours you work during the year or whether you terminate during the year.

ARTICLE 5 PLAN CONTRIBUTIONS

The Plan provides for the contributions listed below. Article 4 discusses the requirements you must satisfy to receive the contributions described in this Article 5. Article 7 describes the vesting rules applicable to your plan benefits. Special rules also may apply if you leave employment to enter qualified military service. See your Plan Administrator if you have questions regarding the rules that apply if you are on military leave.

Employer Contributions

We are authorized under the Plan to make Employer Contributions on behalf of our employees. In order to receive an Employer Contribution, you must satisfy all of the eligibility requirements described in Article 4 for Employer Contributions. If you do not satisfy all of the conditions for receiving an Employer Contribution, you will not share in an allocation of such Employer Contributions for the period for which you do not satisfy the eligibility requirements.

Employer Contribution Formula. Employer Contributions will be contributed to your Employer Contribution account under the Plan at such time as we deem appropriate. Generally, Employer Contributions may be contributed during the Plan Year or after the Plan Year ends. Any Employer Contributions we make will be made in accordance with the following Employer Contribution formula.

- **Employer Contribution based on collective bargaining or other agreement.** We will make a matching contribution based on a collective bargaining or other agreement as follows: See Addendum 1

Rollover Contributions

If you have an account balance in another qualified retirement plan or an IRA, you may move those amounts into this Plan, without incurring any tax liability, by means of a “rollover” contribution. You are always 100% vested in any amounts you contribute to the Plan as a rollover from another qualified plan or IRA. This means that you will always be entitled to all amounts in your rollover account. Rollover contributions will be affected by any investment gains or losses under the Plan.

You may accomplish a rollover in one of two ways. You may ask your prior plan administrator or trustee to directly rollover to this Plan all or a portion of any amount which you are entitled to receive as a distribution from your prior plan. Alternatively, if you receive a distribution from your prior plan, you may elect to deposit into this plan any amount eligible for rollover within 60 days of your receipt of the distribution. Any rollover to the Plan will be credited to your Rollover Contribution Account. See Article 9 below for a description of the distribution provisions applicable to rollover contributions.

Generally, the Plan will accept a rollover contribution from another qualified retirement plan or IRA. The Plan Administrator may adopt separate procedures limiting the type of rollover contributions it will accept. For example, the Plan Administrator may impose restrictions on the acceptance of After-Tax Contributions or Salary Deferrals (including Roth Deferrals) or may restrict rollovers from particular types of plans. In addition, the Plan Administrator may, in its discretion, accept rollover contributions from Employees who are not currently participants in the Plan. You also must be a current Employee to make a Rollover Contribution to the Plan. Any procedures affecting the ability to make Rollover Contributions to the Plan will not be applied in a discriminatory manner.

If you have questions about whether you can rollover a prior plan distribution, please contact the Plan Administrator or other designated Plan representative.

ARTICLE 6 LIMIT ON CONTRIBUTIONS

The IRS imposes limits on the amount of contributions you may receive under this Plan, as described below.

IRS limit on total contributions under the Plan. The IRS imposes a maximum limit on the total amount of contributions you may receive under this Plan. This limit applies to all contributions we make on your behalf, all contributions you contribute to the Plan, and any forfeitures allocated to any of your accounts during the year. Under this limit, the total of all contributions under the Plan cannot exceed a specific dollar amount or 100% of your annual compensation, whichever is less. For 2025, the dollar limit is \$70,000. For years after 2025, this amount may be increased for inflation. For purposes of applying the 100% of compensation limit, your annual compensation includes all taxable compensation, increased for any pre-tax contributions you may make to any other plan we may maintain, such as a cafeteria health plan.

Example: Suppose in 2025 you earn compensation of \$60,500. The maximum amount of contributions you may receive under the Plan for 2025 is \$60,500 (the lesser of \$70,000 or 100% of \$60,500).

ARTICLE 7 DETERMINATION OF VESTED BENEFIT

Vested account balance. When you take a distribution of your benefits under the Plan, you are only entitled to withdraw your *vested* account balance. For this purpose, your *vested* account balance is the amount held under the Plan on your behalf for which you have earned an ownership interest. For this purpose, you are

always 100% vested in your Employer Contributions. Thus, you have complete ownership rights to your Employer Contributions immediately after such amounts are contributed to the Plan on your behalf.

- **Employer Contributions.** You are always 100% vested in your Employer Contributions. Thus, you have complete ownership rights to your Employer Contributions immediately after such amounts are contributed to the Plan on your behalf.
- **Rollover Contributions.** If you rollover amounts from an IRA or another qualified plan to this Plan, you will be 100% vested in such amounts. Thus, you will never lose your rollover contributions once they are rolled over to this Plan. If your rollover contribution account decreases because of investment losses, you will only be entitled to the amount in your rollover contribution account at the time of distribution.

Protection of vested benefit. Once you are vested in your benefits under the Plan, you have an ownership right to those amounts. While you may not be able to immediately withdraw your vested benefits from the Plan due to the distribution restrictions described under Article 9 below, you generally will never lose your right to those vested amounts. However, it is possible that your benefits under the Plan will decrease as a result of investment losses. If your benefits decrease because of investment losses, you will only be entitled to the vested amount in your account at the time of distribution.

Special vesting provisions. In applying the vesting rules under the Plan, the following special rules apply: Service credit for vesting does not apply since all Participants are immediately 100% vested

ARTICLE 8 PARTICIPANT LOANS

The Plan does not permit Participants to take a loan from the Plan. To access Plan assets, you must be eligible to receive a distribution from the Plan, as described in Article 9.

ARTICLE 9 PLAN DISTRIBUTIONS

The Plan contains detailed rules regarding when you can receive a distribution of your benefits from the Plan. As discussed in Article 7 above, if you qualify for a Plan distribution, you will only receive your vested benefits. This Article 9 describes when you may request a distribution and the tax effects of such a distribution.

Distribution upon termination of employment. When you terminate employment, you may be entitled to a distribution from the Plan. The availability of a distribution will depend on the amount of your vested account balance.

- **Vested account balance in excess of \$5,000.** If your total vested account balance exceeds \$5,000 as of the distribution date, you may receive a distribution from the Plan within a reasonable period following your termination of employment. If you do not consent to a distribution of your vested account balance, your balance will remain in the Plan. If you receive a distribution of your vested benefits when you are only partially-vested in your Plan benefits, your non-vested benefits will be forfeited.

You may elect to take your distribution in any of the following forms. Prior to receiving a distribution from the Plan, you will receive a distribution package that will describe the distribution options that are available to you. If you have any questions regarding your distribution options under the Plan, please contact the Plan Administrator.

- **Lump sum.** You may elect to take a distribution of your entire vested account balance in a lump sum. If you take a lump sum distribution, you may elect to rollover all (or any portion) of your distribution to an IRA or to another qualified plan. See the *Special Tax Notice*, which you

may obtain from the Plan Administrator, for more information regarding your ability to rollover your plan distribution.

- **Installment payments.** You may elect to receive a distribution in the form of a series of installment payments. If you elect distribution in the form of installments, your vested benefit will be paid out in equal annual installments over a set number of years. If the installment period is 10 years or greater, you may not rollover any of the installment payments into an IRA or into another qualified plan. The Plan Administrator will provide you with forms necessary to elect an installment distribution under the Plan.
- **Special distribution provisions.** In applying the distribution provisions under the Plan, the following special rules apply: Any other sequence as requested by the Participant
- **Vested account balance of \$5,000 or less.** If your total vested account balance under the Plan is \$5,000 or less as of the distribution date, you will be eligible to receive a distribution of your entire vested account balance in a lump sum within a reasonable period following your termination of employment. If you receive a distribution of your vested benefits when you are partially-vested in your Plan benefits, your non-vested benefits will be forfeited.

You may elect to receive your distribution in cash or you may elect to rollover your distribution to an IRA or to another qualified plan.

If your total vested benefit under the Plan is between \$1,000 and \$5,000 as of the distribution date and you do not consent to a distribution of your vested account balance, your vested benefit automatically will be rolled over to an IRA selected by the Plan Administrator. If your total vested benefit exceeds \$5,000, no distribution will be made from the Plan without your consent. If your total vested benefit is \$1,000 or less as of the distribution date, your entire vested benefit will be distributed to you in a lump sum, even if you do not consent to a distribution.

If your benefit is automatically rolled over to an IRA selected by the Plan Administrator, such amounts will be invested in a manner designed to preserve principal and provide a reasonable rate of return. Common types of investment vehicles that may be used include money market accounts, certificates of deposit or stable value funds. Reasonable expenses may be charged against the IRA account for expenses associated with the establishment and maintenance of the IRA. Any such expenses will be no greater than similar fees charged for other IRAs maintained by the IRA provider. For further information regarding the automatic rollover requirements, including further information regarding the IRA provider and the applicable fees and expenses associated with the automatic rollover IRA, please contact the Plan Administrator or other designated Plan representative.

In-service distributions. You may withdraw vested amounts from the Plan while you are still employed with us, but only if you satisfy the Plan's requirements for in-service distributions. In addition, you may withdraw amounts attributable to Rollover Contributions at any time.

Under the Plan, you may take an in-service distribution upon any of the following events:

- You have reached the Plan's Normal Retirement Age at the time of the distribution.

Required distributions. If you have not begun taking distributions before you attain your Required Beginning Date, the Plan generally must commence distributions to you as of such date. For this purpose, your Required Beginning Date is April 1 following the end of the calendar year in which you attain age 70½ (age 72, if you were born after June 30, 1949), or terminate employment, whichever is later.

Once you attain your Required Beginning Date, the Plan Administrator will commence distributions to you as required under the Plan. The Plan Administrator will inform you of the amount you are required to receive once you attain your Required Beginning Date.

Distribution upon disability. If you should terminate employment because you are disabled, you will be eligible to receive a distribution of your vested account balance under the Plan's normal distribution rules.

Distributions upon death. If you should die before taking a distribution of your entire vested account balance, your remaining benefit will be distributed to your beneficiary or beneficiaries, as designated on the appropriate designated beneficiary election form. You may request a designated beneficiary election form from the Plan Administrator.

If you are married, your spouse generally is treated as your beneficiary, unless you properly designate an alternative beneficiary to receive your benefits under the Plan. The Plan Administrator will provide you with information concerning the availability of death benefits under the Plan and your rights (and your spouse's rights) to designate an alternative beneficiary for such death benefits. For purposes of determining your beneficiary to receive death distributions under the Plan, any designation of your spouse as beneficiary is automatically revoked upon a formal divorce decree unless you re-execute a new beneficiary designation form or enter into a valid Qualified Domestic Relations Order (QDRO).

Default beneficiaries. If you do not designate a beneficiary to receive your benefits upon death, your benefits will be distributed first to the default beneficiaries identified under the Plan. Generally, distribution will be made first to your spouse and, if you have no spouse at the time of death, then equally to your surviving children and then to your estate. However, the following special rules apply in determining the default beneficiaries under the Plan: 1.) Surviving Spouse 2.) Participant's Estate

Taxation of distributions. Generally, you must include any Plan distribution in your taxable income in the year you receive the distribution. More detailed information on tax treatment of Plan distributions is contained in the "Special Tax Notice" which you may obtain from the Plan Administrator.

Distributions before age 59½. If you receive a distribution before age 59½, you generally will be subject to a 10% penalty tax in addition to regular income taxation on the amount of the distribution that is subject to taxation. You may avoid the 10% penalty tax by rolling your distribution into another plan or IRA. Certain exceptions to the penalty tax may apply. For more information, please review the "Special Tax Notice," which may be obtained from the Plan Administrator.

Rollovers and withholding. You may "roll over" most Plan distributions to an IRA or another qualified plan and avoid current taxation. You may accomplish a rollover either directly or indirectly. In a direct rollover, you instruct the Plan Administrator that you wish to have your distribution deposited directly into another plan or an IRA. In an indirect rollover, the Plan Administrator actually makes the distribution to you and you may rollover that distribution to an IRA or another qualified plan within 60 days after you receive the Plan distribution.

If you are eligible to directly rollover a distribution but choose not to, the Plan Administrator must withhold 20% of the taxable distribution for federal income tax withholding purposes. The Plan Administrator will provide you with the appropriate forms for choosing a direct rollover. For more information, see the "Special Tax Notice," which may be obtained from the Plan Administrator.

Certain benefit payments are not eligible for rollover and therefore will not be subject to 20% mandatory withholding. The types of benefit payments that are not "eligible rollover distributions" include:

- annuities paid over your lifetime,
- installments payments for a period of at least ten (10) years,
- minimum required distributions at age 70½ (age 72, if you were born after June 30, 1949),
- hardship withdrawals, and
- Certain "corrective" distributions.

[Note: *All of the above distribution options may not be available under this Plan.*]

Non-assignment of benefits and Qualified Domestic Relations Orders (QDROs) Your benefits cannot be sold, used as collateral for a loan, given away, or otherwise transferred, garnished, or attached by creditors, except as provided by law. However, if required by applicable state domestic relations law, certain court orders could require that part of your benefit be paid to someone else—your spouse or children, for example.

This type of court order is known as a Qualified Domestic Relations Order (QDRO). As soon as you become aware of any court proceedings that might affect your Plan benefits, please contact the Plan Administrator. You may request a copy of the procedures concerning QDROs, including those procedures governing the qualification of a domestic relations order, without charge, from the Plan Administrator.

ARTICLE 10 PLAN ADMINISTRATION AND INVESTMENTS

Valuation Date. To determine your share of any gains or losses incurred as a result of the investment of Plan assets, the Plan is valued on a regular basis. For this purpose, the Plan is valued on a daily basis. Thus, you will receive an allocation of gains or losses under the Plan at the end of each business day during which the New York Stock Exchange is open.

Plan fees. There may be fees or expenses related to the administration of the Plan or associated with the investment of Plan assets that will affect the amount of your Plan benefits. Any fees related to the administration of the Plan or associated with the investment of Plan assets may be paid by the Plan or by the Employer. If the Employer does not pay Plan-related expenses, such fees or expenses will generally be allocated to the accounts of Participants either proportionally based on the value of account balances or as an equal dollar amount based on the number of participants in the Plan. If you direct the investment of your benefits under the Plan, you will be responsible for any investment-related fees incurred as a result of your investment decisions. Prior to making any investment, you should obtain and read all available information concerning that particular investment, including financial statements, prospectuses, and other available information.

In addition to general administration and investment fees that are charged to the Plan, you may be assessed fees directly associated with the administration of your account. For example, if you terminate employment, your account may be charged directly for the pro rata share of the Plan's administration expenses, regardless of whether the Employer pays some of these expenses for current Employees. Other fees that may be charged directly against your account include:

- Fees related to the processing of distributions upon termination of employment.
- Fees related to the processing of in-service distributions.
- Fees related to the processing of required minimum distributions at age 70½ (age 72, if you were born after June 30, 1949), or termination of employment, if later.
- Charges related to processing of a Qualified Domestic Relation Order (QDRO) where a court requires that a portion of your benefits is payable to your ex-spouse or children as a result of a divorce decree.

If you are permitted to direct the investment of your benefits under the Plan, each year you will receive a separate notice describing the fees that may be charged under the Plan. In addition, you will also receive a separate notice describing any actual fees charged against your account. Please contact the Plan Administrator if you have any questions regarding the fees that may be charged against your account under the Plan.

ARTICLE 11 PLAN AMENDMENTS AND TERMINATION

Plan amendments. We have the authority to amend this Plan at any time. Any amendment, including the restatement of an existing Plan, may not decrease your vested benefit under the Plan, except to the extent permitted under the Internal Revenue Code, and may not reduce or eliminate any "protected benefits" (except as provided under the Internal Revenue Code or any regulation issued thereunder) determined immediately prior to the adoption or effective date of the amendment (whichever is later). However, we may amend the Plan to increase, decrease or eliminate benefits on a prospective basis.

Plan termination. Although we expect to maintain this Plan indefinitely, we have the ability to terminate the Plan at any time. For this purpose, termination includes a complete discontinuance of contributions under the Plan or a partial termination. If the Plan is terminated, all amounts credited to your account shall become 100% vested, regardless of the Plan's current vesting schedule. In the event of the termination of the Plan, you are entitled to a distribution of your entire vested benefit. Such distribution shall be made directly to you or, at your direction, may be transferred directly to another qualified retirement plan or IRA. If you do not consent to a distribution of your benefit upon termination of the Plan, the Plan Administrator will transfer your vested benefit directly to an IRA that we will establish for your benefit. Except as permitted by Internal Revenue Service regulations, the termination of the Plan shall not result in any reduction of protected benefits.

A partial termination may occur if either a Plan amendment or severance from service excludes a group of employees who were previously covered by this Plan. Whether a partial termination has occurred will depend on the facts and circumstances of each case. If a partial termination occurs, only those Participants who cease participation due to the partial termination will become 100% vested. The Plan Administrator will advise you if a partial termination occurs and how such partial termination affects you as a Participant.

Lansing Board of Water and Light Defined Contribution Plan and Trust 2

Addendum 1

Nationwide-Sponsored Non-Standardized Governmental Money Purchase Plan

The following provisions are incorporated into Section 6 of the Adoption Agreement as of January 1, 2025:

Section 6-2(b) – Employer Contribution Formula shall be updated to reflect the following:

The Fixed Employer Contribution equal to 8% of each Participant's Compensation shall be calculated as the product of an employee's hourly wage on the last day of the applicable pay period, contribution eligible hours, as determined by the current BWL wage type inclusion chart, worked in the applicable pay period (capped at 80 hours per pay period), and applicable contribution percentage.

Employer Contribution = (Hourly Wage¹ X Contribution Eligible Hours² X Contribution %)

- 1 Employee's hourly wage on the last day of the applicable pay period
- 2 Employee's contribution eligible hours, as determined by the current BWL wage type inclusion chart, worked in the applicable pay period will be capped at 80 hours per pay period

**Lansing Board of Water and Light Defined Contribution Plan and Trust 2
Transfer of Benefit Addendum**

Effective on or about April 27, 2021, the assets associated with the participant accounts listed on Exhibit 1, attached hereto, were 100% fully vested and were, along with their corresponding liabilities, transferred from the Lansing Board of Water and Light Defined Contribution Plan and Trust 2 to the Lansing Board of Water and Light Defined Contribution Plan and Trust 1, (Plan 2 and Plan 1, respectively). Such accounts were also frozen under Plan 2 so that no new contributions are permitted to be made to these accounts ("Frozen Accounts").

With respect to the Frozen Accounts, pursuant to Internal Revenue Code Section 401(a)(12), each participant identified on Exhibit 1 or their beneficiaries, in the event Plan 1 terminates immediately after the transfer, is guaranteed to receive a benefit immediately after the transfer equal to or greater than the benefit the participant would have been entitled to receive immediately before the transfer out of the Plan 2. Once the Frozen Account is transferred, the participants or their beneficiaries will have no further rights or benefits under this Plan 2.

Exhibit 1

Exhibit 1 - Participant Accounts Transferring from Plan 2 to Plan 1	
AHMED, JAMALUDDIN	MAIER, WILLIAM
ARIZA, JOSE	MALOUIN, JOHN
BACHMAN, KARL	MEATON, BRIAN
BASHORE, DAVID	PALACE, JOSEPH
BEAUCHAINE, WILLIAM	PALMER, TIMOTHY
BOLAN, DAVID	PHILLIPICH, RAYMOND
BOWES, JAMES	PHILLIPS SR, GERALD
BRINK, DALLAS	ROOST, RANDALL
CARIANO, ROBERT	ROSSI, JOHN
COLLINS, MAYNARD	ROWDEN, TIMOTHY
COOK JR, WILLIAM	ROWSE, LYNN
CROSS, DEAN	RUCKLE, DALE
ERSKINE, WILLIAM	SHAFFER, JACK
FUNK, PATSY	SIVARAMAN, NARAYANAN
HAYNES, BRUCE	TAYLOR, CHADWIN
JUSICK, RAYMOND	VANDER JAGT, MARK
KOHON, JOHN	WEST, DONALD
KOKOCZKA, PHILIP	WOOD, DOUGLAS
KRAWCZYK JR, WILLIAM	WOODARD-YAUK, JOETTE
KREMSREITER, NANCY	

RESOLUTION 2025-XX-XX
Restated DC Plan 2

WHEREAS, the Lansing Board of Water & Light (the “Sponsor”) sponsors the Lansing Board of Water and Light Defined Contribution Plan and Trust 2 (the “DC Plan 2”); and

WHEREAS, the Sponsor uses the Internal Revenue Service preapproved prototype plan documents of Nationwide Retirement Solutions, Inc. (“Nationwide”), the third party administrator for the DC Plan 2; and

WHEREAS, Nationwide migrated to a new plan document service provider, Actuarial Systems Corporation, while at the same time adding provisions related to the SECURE Act of 2019, the CARES Act of 2020 and the SECURE 2.0 Act of 2022, with provisions being mapped from the previous plan document and adoption agreement to ensure consistent operation of DC Plan 2 under the new documents; and

WHEREAS, the Sponsor desires to amend and restate the DC Plan 2 effective January 1, 2025; and

WHEREAS, the Sponsor has received and reviewed copies of the proposed DC Plan 2 Adoption Agreement, Basic Plan Document and Summary Plan Description (collectively “Plan Documents”); and

WHEREAS, the Sponsor desires to approve and adopt the restated DC Plan 2 Plan Documents.

NOW THEREFORE, it is:

RESOLVED, that the restated DC Plan 2 Plan Documents are hereby approved and adopted, effective January 1, 2025;

FURTHER RESOLVED, that any member of the Board of Commissioners, on behalf of the Sponsor, is authorized to execute the restated DC Plan 2 and any other documents that are necessary to implement the foregoing resolutions.

Motion Commissioner _____, Seconded by Commissioner _____, to approve and adopt Restated DC Plan 2 at a Board Meeting held on March 25, 2025.

Yeas:

Nays:

Action: Motion Carried.

Board of Commissioners DEI Landscape Update

March 11, 2025



HOMETOWN PEOPLE. HOMETOWN POWER.

Objective

- Update On The Changing DEI Landscape As A Result Of The New Executive Orders

DEI EOs Affecting Federal Agencies

- **EO 14148.** “Ending Illegal Discrimination And Restoring Merit-Based Opportunity”
- **EO 14151.** “Ending Radical and Wasteful Government DEI Programs and Preferencing”
- **EO 14168.** “Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government”

EO Impacting All Organizations

- **EO 14173. “Ending Illegal Discrimination and Restoring Merit-Based Opportunity”**
 - Revoked 1965 EO 11246 which mandated affirmative action on federal government contractors and subcontractors
 - Directs all federal agencies to investigate “DEI discrimination” in private industry
 - Encourages private sector to end “**Illegal DEI Discrimination and Preferences**”

What is Illegal DEI Discrimination & Preferences?

- **Policy or action that violates the Civil Rights Act of 1964**, which prohibits discrimination based on race, color, religion, sex, national origin or any other protected category
- **Examples:**
 - Hiring someone just because they are of a particular race, sex, color, religion or nationality
 - Providing professional development opportunities or resources to persons from one protected category, but not others
 - Excluding some protected categories of people from company sponsored groups or organizations

How Does the EO Affect DEI at BWL?

- **BWL Has No Illegal DEI Discrimination Or Preferences Practices:**

- BWL does not hire, evaluate, promote, exclude or provide opportunities to employees based on their race, color, religion, sex or national origin or any other protected category
- BWL does not set quotas for hiring or advancement within the organization
- BWL defines diversity inclusive of all “backgrounds, experiences and perspectives”
- RESPECT is a corporate value – “We celebrate everyone's differences, perspectives and traditions”
- BWL’s efforts to increase diversity focus on recruiting a larger pool of highly qualified applicants in more places than we have before, which is recommended by the EEOC
- BWL’s DEI practices have been vetted by internal and external legal advisors, and we are following all state and federal laws

What Happens Going Forward?

- We will continue to monitor changes at the federal and state government to ensure that we remain in compliance with all laws
- We will continue to attract and retain a highly-skilled diverse workforce
- We will continue to uphold BWL corporate values

Thank You

Questions?



HOMETOWN PEOPLE. HOMETOWN POWER.

DEI Learning Opportunities

Empowering Skills to Contribute to, and Lead a Diverse Workplace

- **New Hires** – DEI Foundations for New Employees
- **Management** – DEI Foundations for Inclusive Management
- **Emerging Leaders** – DEI Foundations for Emerging Leaders
- **Executive Team** – Continuing Education & Organizational Initiatives
- **Continual Learners** – **Lunch & Learn with OD&T:**
 - Bystander to Upstander: 5Ds Model for Responsive Allyship
 - Fostering & Sustaining an Inclusive Culture

RESOLUTION 2025-03-XX
Lansing Board of Water & Light
Resolution Honoring Tracy Thomas

WHEREAS, it is a pleasure to extend this expression of our thanks and best wishes to Tracy Thomas for his service as a Commissioner of the Board of Water & Light; and,

WHEREAS, Tracy Thomas was appointed as an At-Large Commissioner of the Board of Water & Light on July 12, 2008, to represent the City of Lansing; and

WHEREAS, He last served as a member of the Committee of the Whole and as Chairperson of the Human Resources Committee; and

WHEREAS, Tracy has served 4 terms which encompassed 16 years and has served as Board Vice-Chairperson, Human Resources Committee Chairperson, Nominating Committee Chairperson and as a member of the Executive Committee; and

WHEREAS, Tracy is a retired administrator of Waverly Community Schools; and holds a bachelor of science degree in Secondary Education and a master's degree in K-12 Educational Administration from Michigan State University, East Lansing, Michigan; and has been involved in numerous leadership positions in the community; and

WHEREAS, on behalf of his colleagues, employees of the Board of Water & Light and the citizens of Lansing, we offer our sincere gratitude for the time, energy, and talent he devoted as an At Large Commissioner of the Board of Water & Light.

NOW THEREFORE BE IT RESOLVED, That the members of the Board of Commissioners, hereby honor and commend Tracy Thomas for his years of distinguished service in Regular Board Meeting this 25th day of March, 2025. We sincerely wish Tracy continued success in all his future endeavors and achieving that which is in the best interest of our community.

David Price, Chairperson

Semone James, Vice Chairperson

J. R. Beauboeuf

Stuart Goodrich

Beth Graham

DeShon Leek

Tony Mullen

Dale Schrader

Robert Worthy

Sandra Zerkle

Motion by Commissioner _____, **Seconded** by Commissioner _____, to approve the resolution of tribute for the outgoing Commissioner Tracy Thomas at a Board meeting held on March 25, 2025.

Yeas: Commissioners

Nays: None

Action: Motion Carried.